

Introduction

PAJ Waddington

This volume was intended to break new ground in several directions not all of which have been realised. In this introduction, I want to describe what the volume was intended to achieve and the changes that it has undergone in the process of its production.

Police Culture

I have long been a vocal critic of how 'police culture' is conceptualised by academic criminology (Waddington, 1999a, 1999b, 2008, 2012), not because I find the chatter of the police canteen or personnel carrier edifying, but because this concept has been used as a lazy way of explaining police (mis)behaviour. If officers act improperly it is tempting to attribute it to the malign influence of their culture and demand that it should change. It is another incarnation of what Wilson once described as the 'good man' theory of policing—this notion insisted that in order for policing to change 'good people' should be recruited and trained, and their virtue should be defended by strict rules backed by threats of draconian punishment (Wilson, 1968). One need not even apologise for the sexism of the phrase, since it is still male police officers who are seen as perpetuating a masculine ethos that often serves to exclude and marginalise their female peers. I have never been persuaded that this was an accurate portrayal of policing. Some might say that I am betraying the fact that I began my working life as a police officer, but others who did the same and followed the same course into academic life were not so afflicted. Ad hominem criticism is the academic equivalent of 'playing the man, not the ball' in soccer. My background may have disposed me to look kindly on my former colleagues, but what really impressed me was the dedication and quality of the young people whom I accompanied on routine patrol as part of my research fieldwork. They loved policing and wanted to do a good job.

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Denunciation is easy, but police culture is not easily changed, indeed it persists quite tenaciously. One of the few research projects that did not succumb to lazy theorising about police culture suggests why police culture is so immutable. Janet Chan studied closely the New South Wales police during a period of radical reforms following a scandal that claimed the careers of many of its most senior officers (Chan, 1996, 1999, 2003, 2009). A new Commissioner was appointed with a wholly new mandate for the organisation. Commissioner Avery was a prominent advocate of community policing and his goal was to instil in the NSW police this ethos. One obvious means of doing so was to recruit and train the right people to do the right thing. The training regime was thoroughly overhauled and infused with the values of community policing. The trainers were carefully selected from those committed to the Commissioner's vision. The first cohorts of recruits were selected from the 'brightest and best' of their generation: liberally minded young people from diverse ethnic backgrounds and gender balanced—a reformer could not wish for more! During the first month at the police academy the liberal values and commitment of these recruits to the community policing ethos not only remained undimmed, but was enhanced. After completing a month's initial training, the recruits were entrusted to field training officers who had been equally carefully selected to introduce the recruits to the realities of police work. At the conclusion of that first period of police work, these young people returned to the academy with attitudes and inclinations indistinguishable from generations of hard-bitten veteran cops.

What had gone wrong? How did Chan explain it? Using the conceptual framework of Pierre Bourdieu she distinguishes between the 'field' and 'habitus' within which Australian police officers work. She concluded that the origins of the culture lay less inside the police station, canteen, or personnel carrier than it did in Australian society into which its colonial heritage was deeply etched, not least in the treatment afforded to the Aboriginal population (Chan, 1997). This created a 'field' in which conflicts were played out and dilemmas created to which the 'habitus' of assumptions, beliefs, stereotypes, and much else were an adaptation. I don't find the 'field'-'habitus' conceptualisation particularly helpful, however I do agree entirely with the underlying proposition that police culture, like other cultures, represents collective attempts to resolve recurring problems, issues, dilemmas, and conflicts. The implication is that Commissioner Avery tried to wish away the culture he had inherited, without being able to change the underlying conditions that gave rise to it.

When it was first coined by academic researchers, 'police culture' was seen as an adaptation to the realities of police work, and there was also tacit acknowledgement that those realities of police work are not capable of being wished away at all. Classical research (Skolnick, 1966; Manning, 1997; van Maanen, 1978; Bittner, 1970, 1985, 1990; Punch, 1979; Rubenstein, 1973) emphasised how the culture emerged out of the fundamentals of police work: the need to be suspicious and peer beyond surface appearances; to dissemble and lie so as to manipulate the behaviour of others; and perhaps most fundamental of all, to use force as an

instrument of one's work. Yet, in some respects there were, even in this early work, striking disconnections between the realities of policing and the rhetoric of police officers. Punch and Naylor (1973) drew attention to the indefinitely wide role of the police, which effectively meant that they were a 24/7 multi-functional social service, but few police officers were prepared to embrace such a conception of themselves. Indeed, they saw 'do-gooders' such as social workers to be interfering and naïve 'challengers' who thought they knew better how to deal with criminals and ne'er-do-wells than did the police (Holdaway, 1983). An even more striking disconnection is the contradiction between most police officers' commitment to 'crime-fighting' and the reality of policing in which only a minority of tasks conform to this image and those that do are often lengthy, tedious, and unrewarding, such as processing a juvenile shoplifter through the system that concludes with a formal warning (Waddington, 1993). Such realities are often dismissed by officers as mere distractions from the 'real job' of catching criminals. However, denial is as much a cultural coping strategy as many others. John Brewer described how officers of the Royal Ulster Constabulary culturally inoculated themselves against the threat that they would be killed or mutilated by terrorists (Brewer, 1990) and Malcolm Young showed how officers ward off the psychological implications of close encounters with death, especially gruesome deaths, by the adoption of 'black humour' (Young, 1995; Henry, 2004).

Denial comes at a price, however, for it impedes the development of more effective ways of coping with the awkward realities of police work. It allows fictions to be maintained despite daily experience to the contrary. It can even foster mental ill-health, as when the 'John Wayne syndrome' prevents officers admitting that they have been disturbed by their experience and do not seek counselling. Most of all, it discourages officers from confronting the dilemmas and difficulties that their work imposes. Policing is erected on a lie and buttressed by elaborate rhetorical support. The 'lie' is that policing is fundamentally about law enforcement, which protects the wholly innocent from the depredations of depraved criminals who are clearly and unambiguously guilty of the crimes of which they are accused, even if the perversity of the criminal justice system obstructs their conviction. Such a view denies the realities that police do many more tasks than enforce the law; that victims of crime are often also offenders and, if not, are legally, morally, and socially tainted; that the obligation to act on the basis of suspicion entails 'reading between the lines', 'joining the dots', and 'putting two and two together' and all of it in a hurry—a recipe for error; and that the criminal justice process demands that all doubt must be extinguished before conviction can be secured. Taken together policing is institutionally conducive to what the 19th century pioneering sociologist, Emile Durkheim, described as 'anomie': an aversive condition associated with social dysfunction and personal distress. The culture that officers create is institutionalised denial of the anomic nature of their calling.

Those who have written about police culture or simply employed it as a ready explanation for their critical observations often do so from an explicitly normative

stance: police culture is to be deplored and changes demanded. I share many of their aspirations. Having spent a career studying police officers from the relative comfort of the ‘groves of academe’, I have now committed the autumn of my career to making a small contribution to the professionalisation of policing through establishing a three-year undergraduate university degree in policing. However, change cannot be achieved simply as an act of will. If police culture is to change then the circumstances that encourage it must change. Yet, the fundamentals of policing cannot easily be changed, if at all. What point is there in a police officer who does not ‘read between the lines’ and act on suspicion? The task then is to help the police to confront the realities of their work and construct a professional culture that enables them to cope with those realities. This means identifying the cultural challenges found, not in the canteen or the personnel carrier, but on the streets and in dealing with sometimes difficult people in ambiguous and threatening conditions.

Ethics and Values

Rules

When reformers prescribe changes to the culture of policing, they often do so in terms of infusing officers with higher ethical awareness as an inoculation against wrongdoing. There is nothing at all wrong with ethical awareness: exemplary standards of conduct are the hallmark of professionalism. Police officers are often ready to point to the stringent disciplines under which they work: in England and Wales¹ the Police and Criminal Evidence Act and associated codes of practice prescribe in exquisite detail how officers must treat those they stop and search, arrest, charge, detain, interrogate, and much else. Internal disciplinary regulations stipulate the minutiae of how they conduct themselves. Also, it is often overlooked that whilst police officers have been described as merely ‘citizens in uniform’, they are required by law to conduct themselves in accordance with standards that do not apply to fellow citizens. As occupants of ‘public office’ they may commit offences of ‘mis-’ and ‘malfeasance’ and they are liable to the specific offence of ‘neglect of duty’.² Also, in the performance of their duties they are given exemption from some of the legal standards that would otherwise apply, for example, they are allowed to exceed the speed limit in the performance of their duties, but this is normally hedged around with legal interpretations of

¹ Whilst this collection of essays is written by and intended for a readership drawn from across the world, each of the contributors (including the editors) will, of necessity, be writing from a perspective coloured by the particular jurisdiction in which they work. The United Kingdom is an assemblage of jurisdictions, with some marked differences amongst them. In this chapter and other contributions throughout the text, I will be writing from the perspective of the jurisdiction of England and Wales.

² I am indebted to Martin Wright for this information.

what exactly is in the ‘performance of their duties’. More commonly officers must rely on having ‘lawful authority or excuse’ for performing acts that would otherwise violate the law. Officers can also expect not only to have their evidence tested in the witness box, but also to have their personal competence and integrity questioned. Whilst officers might rely on powers that are available to anyone, they can expect to be held to a higher standard of propriety and competence. For example, s 3 of the Criminal Law Act 1967 grants to ‘any citizen’ the power to use ‘such force as is reasonable’ to prevent crime and apprehend offenders. Police officers are afforded no special status in this legislation, but what does ‘reasonableness’ amount to? A frightened elderly person alone in their home at night and confronting a burglar will be regarded by the courts quite differently from officers who find themselves in an equivalent position. Ordinary people can be expected to panic in the face of such an unaccustomed threat, but a police officer is equipped with weaponry and trained in its use, and should be familiar with handling volatile people who might put others in fear of harm. Hence, officers can be expected and are required to act with more skill—‘who is the professional around here?’ Also, in their private lives, police officers find themselves being confined by expectations that do not apply to others. For instance, they must avoid excessive debt, lest they put themselves in a position where third parties (creditors) could exert undue influence over them—an obligation that extends to other members of their family. It is also the case that disreputable conduct that would otherwise not attract a criminal sanction, is more likely to be criminalised if committed by an officer. Plagiarism is a sin that offends academics, but few others. Students on vocational university courses designed to lead to policing careers may find that what the university regards as a ‘slap on the wrist’ internal matter, will be treated as ‘fraud’ by their current or prospective employer and that will result in their dismissal or obstruct their recruitment as a police officer.

Rule breaking and ‘bending’

One might imagine that given this dense web of restrictions and constraints there is no need to add yet another in the form of standards of professional ethics, but that would be wrong. First, despite such a plethora of rules and procedures, it does not prevent police officers ‘bending’ and ‘breaking’ them, indeed to some extent it encourages them to do so. Policing necessarily and unavoidably is an activity that is conducted in conditions of ‘low visibility’ (Goldstein, 1960). It is relatively invisible in several senses: police actions taken late at night in deserted locations are likely to be witnessed by no one other than those immediately involved. If an officer is alleged to have behaved badly, then it is usually the word of one person against another—a ‘swearing contest’ (Skolnick and Fyfe, 1993). Moreover, this ‘contest’ is an uneven one, because the officer is likely to be performing his or her duty, whereas those they are most likely to encounter in such circumstances are young men, intoxicated by alcohol or drugs, whose character is tainted by criminal convictions or some other discreditable features, such as

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homelessness, a history of mental illness, and so forth. As a result, officers find it easy to repel accusations of wrongdoing (Russell, 1976). Some locations that give rise to complaints may even be more shielded from view, for instance inside a patrol vehicle, or in the cells. Regulatory agencies have, over the years, tried to cast light into these dark corners, but the environment within which the police operate is replete with ‘dark corners’ that cannot so easily be illuminated. Also, whilst the *behaviour* of officers might be quite open to scrutiny, their motives for acting in a particular way will always be a matter for conjecture. A police officer was caught on video hitting a young woman on the leg with his baton and with his hand across the face during a protest that accompanied the G20 in London in 2009. The officer was prosecuted for assaulting the woman, but the judge dismissed the case on the grounds that the prosecution had not established that his undoubted use of force was *excessive* given the equally undoubted volatility and aggression being shown towards this officer and others by the crowd surrounding them, and the woman’s own provocative behaviour (Casciani, 2010). Police officers legitimately perform, as a matter of duty, actions that would in other circumstances be considered exceptional, exceptionable, or illegal (Waddington, 1999b). Arresting and handcuffing someone would be assault in most circumstances, *unless it was a police officer who was making the arrest and applying the handcuffs*.

Secondly, the dense web of rules and procedures tends to be overwhelmingly punitive—a ‘punishment-centred’ bureaucracy (Kelling and Kliesmet, 1996). Writing about the Metropolitan Police in the 1980s—an organisation that hardly enjoyed (at that the time) public acclaim for the standards of propriety exhibited by its officers, Smith and Gray observe:

It is important to recognise that these [internal disciplinary] rules are almost purely negative in their effect: that is, police officers may be disciplined, prosecuted or otherwise get into difficulties if they are seen to break the rules, but they will not necessarily be praised, enjoy their work or achieve their career objectives if they keep to them. (1983: 169)

It is also a hypocritical bureaucracy (Ericson, 1982), because officers are tacitly encouraged to ‘sail close to the wind’ in dealing with crime and disorder until ‘they overstep the mark’ and wrongdoing is exposed, whereupon the organisation rejects them. This is what Punch observed during his fieldwork in Amsterdam, when a specialist drug squad that had been valorised for its successes, was revealed as having corrupt relationships with criminals (Punch, 1985). Punch takes the view that corruption in the police is not so much a problem of ‘rotten apples’, but is instead a symptom of a ‘rotten orchard’ (Punch, 2009). Just how expansive that ‘orchard’ can be has been highlighted by Jyoti Belur’s research on lethal ‘encounters’ between police and suspected criminals in Mumbai. She describes how many of those amongst senior officers, the judiciary, politicians, and even human rights campaigners subscribe to a culture in which the summary execution of suspects accused of serious criminality is tolerated (Belur,

2010). From the comfort of the developed world, one might imagine that such an affliction is not something that the police of England and Wales share. However, the tragic killing by armed police of Jean Charles de Menezes suggests otherwise. He was mistaken for a wanted terrorist in the immediate aftermath of the failed bombing of London underground trains and a bus on 21 July 2005. Without warning, he was shot repeatedly in the head at close range—a tactic then known by the codename ‘Kratos’. The Independent Police Complaints Commission conducted an inquiry, which whilst it was critical of the police operation, did not recommend any action against the officers who fired the fatal shots. The IPCC relied upon the advice of HM Government’s ‘Treasury Counsel’ who concluded that such a tactic was, within strict limits, ‘lawful’ (IPCC, 2007: section 9, especially paragraph 9.2). In other words, and to put it bluntly: if the police form the suspicion, on incredibly slender evidence, that someone is about to commit a ‘suicide bombing’, it is perfectly permissible in law to sneak up behind them and, as Americans so indelicately put it, ‘fill their head with lead’. This seems to be tantamount to saying that when protection of human rights becomes seriously inconvenient, they are not worth the paper they are written on. This isn’t only true for the extreme circumstances of suicide terrorism, as Article 15 of the European Convention on Human Rights makes clear:

In time of war or *other public emergency* threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law. (Italics added)

Of course, the Convention is no more than an international treaty from which any state can derogate at will. Hypocrisy reigns!

It is not only a matter of hypocrisy, which after all oils the machinery of government. The dense web of rules and procedures that surround policing make wrongdoing more, rather than less, likely. How can that be? Because it is so difficult for officers to comply strictly with all the rules that supposedly govern them, this encourages the use of expedients that subvert those rules. Such expedients are actually directly encouraged by the operation of the criminal justice process. When officers present evidence, either in court or statements of arrest and similar documents, they swear that they are not only truthful, but also exhaustive; otherwise, a suitably edited version of events could easily give the appearance of criminality. Hence, officers are bound (as are all witnesses) to tell the ‘*whole truth*’. However, if they do so, then every prosecution of every minor offender would demand huge investigative effort and soak up resources (for an example, see Waddington, 1999b: 133–4). Moreover, the legal process also entices officers to tell untruths. Research on police use of force, especially lethal force (Manolias and Hyatt-Williams, 1988; Burrows, 1992; Klinger, 2004; Lewinski and Grossi, 1999; Lewinski and Hudson, 2003a; Lewinski, 2008) emphasises how perception is distorted by the stress that officers experience in such life-or-death

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struggles. Yet, officers are required, when giving evidence, to recount in detail and accurately what exactly happened and in what order. To be exposed as less than entirely certain, would be to jeopardise a prosecution, or indeed in some circumstances an officer's own defence. This problem is simply the most acute end of a much broader spectrum. As Dixon (1997) points out, the criminal justice process involves creating a 'paper reality' and this is conducive to cynicism and tolerance of wrongdoing, such as enhancing evidence to secure a conviction—'gilding the lily'. Since cynicism and low-level manipulation of evidence is ubiquitous, there is no 'moral high ground' for officers to occupy when deploring the excesses of others, because everyone is tainted, delinquency is a matter of degree. Everyone is also at risk of exposure and so this breeds a culture of solidarity in which it is in each person's self-interest not only to passively tolerate wrongdoing by others, but actively to connive in covering it up.

This may appear an excessively bleak picture, but it is precisely what has come to light in the aftermath of causes célèbres in which wrongdoing has become endemic (Punch, 2009). However, there is a *much bleaker* picture. The pioneering sociologist, Robert Merton (Merton, 1957) developed Durkheim's earlier conception of 'anomie', which he re-defined as a conflict between institutionally approved ends and institutionally approved means. This applies perfectly to police officers who are enjoined to prosecute criminal wrongdoers through a criminal justice process that by design makes conviction difficult to achieve. Merton went on to examine different ways in which people strive to overcome this conflict, one of which he called 'ritualism'—substituting means for ends. This is the disease that infects bureaucracies: it does not matter what is achieved, only that the rules are correctly applied. Such 'ritualism' is actually what the rules and procedures approach mandates. It reached its full malign absurdity during the years of performance management, when officers were instructed to maximise the number of 'sanctioned detections' for specified offences, which encouraged them to make needless arrests for trivial infractions.

Professional standards

Despite the plethora of rules and procedures that govern policing, this still does not impose on police officers standards of conduct that are high enough. The reason is that such rules can only stipulate minimum standards, which if an officer falls below will merit his or her punishment. They are also externally imposed standards, which police officers do not *own* either psychologically or culturally. Such impositions are notoriously ineffectual: people 'jump through hoops' with reluctance, often for the very good reason that the 'hoops' are at best purposeless and may even be counter-productive. Even scrupulous adherence to rules and procedures cannot guarantee a satisfactory level of performance. A pioneer of police research, Egon Bittner, observed:

The prevalence of regulatory supervision, that is, control that merely measures performance against formulated norms of conduct, can only produce judgement

that the assessed person did nothing wrong. Insofar as this is the case, an incompetent, ineffective, and injudicious officer could remain in good standing in his department provided it cannot be shown by any accepted method of proof that he has violated some expressly formulated norm of conduct. This comes very close to saying that an officer who shows up for work, does what he is told to do and no more, and stays out of trouble meets the criterion of adequacy demanded of him. (Bittner, 1983: 5)

In a revealing piece of research, Bullock and Johnson (2012) examine police compliance with the Human Rights Act (1998), which incorporates into English law the European Convention on Human Rights. What they discovered was that compliance was what might be called 'procedural-ised'; that is, when planning an operation, senior officers would explicitly check off that they had fulfilled their obligations under the Act and often used stock phraseology with which to do so. This was not the internalisation of a human rights consciousness, but an exercise in 'covering one's back' in case of allegations of wrongdoing.

No one can credibly object to organisations explicitly avowing virtue, but equally it is naïve to imagine that the profession of virtue is an effective shield against temptation. Organisations whose primary, in some cases, sole function is the profession of virtue, can and have nonetheless been riven with corruption. The scandals that have rocked the Roman Catholic Church worldwide pay handsome testimony to the frailties of all people no matter what their calling. Successive generations of members of the 'mother of parliaments' were implicated in systematic inflation of their supposed 'expenses', which in some cases represented a clear breach of the criminal law, for which a few were prosecuted and found guilty. Even medicine has played host to some of the vilest criminals on the planet. Harold Shipman has the distinction of being amongst the most prolific and sustained serial killers the world has seen. Suspicions about the deaths amongst his elderly patients were voiced and disregarded, until the accusations became irrefutable (Smith, 2005). The retention of human organs of children who died in the Royal Liverpool and other hospitals, without the consent of the next of kin, was a systematic abuse that continued over a protracted period of time and involved the participation of numerous individual medical practitioners and support staff (Redfern et al, 2001).

What is the alternative? Tom Tyler has recently argued (Tyler, 2011) that in all manner of organisations, people cooperate and strive to fulfil their tasks, not in anticipation of rewards and penalties, but because they are 'self-motivated' by the belief that what they are doing is 'the right thing', which in turn, Tyler argues, is fostered by personnel being treated fairly and with respect. He cites evidence that in commercial organisations, when people are treated fairly and with respect, productivity increases and cooperation with even unpopular decisions of management is secured. The imposition of a plethora of rules and procedures is the opposite of Tyler's prescription. It is the adoption of what he refers to as an 'instrumental' regime in which attempts are made to influence behaviour by the threats of punishment and promises of reward. Instead of being

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trusted, mistrust is elevated to an organising principle (see O’Neill, 2002 for an excoriating critique of this approach to ethical behaviour). Social psychologists have long been aware that in laboratory experiments subjects can be induced to behave badly—cheat in games or inflict gratuitous pain via electric shocks—by suffering even mild reductions in self-esteem, but are more resilient to such inducements when they are encouraged to feel good about themselves. Police organisations are an egregiously perverse version of this model, since even as ‘instrumental’ regimes, they are unbalanced—‘*punishment-centred bureaucracies*’ (Kelling and Kliesmet, 1996). Still more perverse is the chorus of civil libertarian critics who demand ever greater stringency in the investigation of police wrongdoing and severity of punishment! All this succeeds in achieving is reinforcing solidarity coupled with defensiveness, which serves to tolerate poor practice and shield delinquent and incompetent officers. We need to reverse this emphasis and encourage officers to recognise the nobility of their calling; the opportunity they are offered to influence lives for the better; and the extent to which they can be relied upon when ‘the going gets tough’, so that they aspire to live up to the values they espouse.

Trust cannot just be demanded; trustworthiness must be earned and the route to that taken by other occupational groups is to become recognised as truly professional. Professionals are trusted because they *hold themselves and their colleagues to a higher ethical standard* than those that are externally imposed. Medical doctors are bound by the civil and criminal law not to be negligent in their treatment of patients, neither to kill nor injure them needlessly. However, they impose upon themselves a much higher duty to ‘do *no* harm’. There are surprising similarities between the practice of medicine and the duties of police officers. Both entail inflicting harm in order to do good. The drugs that physicians prescribe are invariably toxic, hence the care that is taken to avoid overdosing, and surgery is inevitably injurious. Doctors must live with the prospect that the treatment they prescribe might do serious harm to some—possibly causing death—albeit to a small minority of their patients. We trust them to do this because we believe that they will be genuinely devoted to maximising the patients’ best welfare and not simply trying to avoid penalties for poor practice. Medical ethics committees and practitioners generally agonise about the dilemmas that advances in medicine seem to bring in their wake.

Police officers do harm to some—those they suspect of wrongdoing—in order to safeguard the welfare of others, and their practice too involves ethical dilemmas aplenty. However, there is a significant discontinuity between medicine and policing, which is that whereas medical practitioners overwhelmingly inflict the harm of medication or surgery only with the express consent of the patient (or their guardian) who will suffer it, police officers often act *without the consent* of those who are the most immediate recipients of their actions. It seems to me that this places an additional ethical burden on the police. They must ensure that in exercising *all* their constabulary duties, they do so in accordance with the highest ethical standards. Foremost amongst those must be to avoid any needless

trampling on the rights of others. However, this must come from and be owned by the police themselves, for only then will officers aspire to achieve the highest standards when dealing with people whose behaviour can be extraordinarily challenging, even frightening; in circumstances that might be complex and uncertain; and in a context that is morally depraved. This is no small demand, but it is one that I believe police officers would embrace. The point of this collection of essays is not to prescribe what officers must do in any given situation, but to stimulate debates about appropriate courses of action, to encourage greater reflection upon what are all too frequently dismissed as mere routine, and to value the contribution that police officers can make to the well-being of others.

Practice

Competence

Are ethics enough? Policing, like any other profession, must be *practised* in a particular context. An equally important hallmark of professionalism is competence in the purely instrumental requirements of fulfilling one's duties. A surgeon who has imbibed medical ethics would still be less than professional if he or she was unable to use surgical instruments effectively! Policing too involves many practical skills and knowledge. Officers need to be well versed in the law, for whilst policing cannot be defined purely in terms of law enforcement, the law remains a vital component of the 'toolkit' available to officers in dealing with the multifarious problems that they are asked to deal with. When crimes are committed officers need to understand how their duties interrelate with other agencies in the criminal justice system. Statements may need to be taken from witnesses and victims that are literate and fit for the legal purposes for which they will be used. Crime scenes need to be recognised as such and preserved for forensic examination. Physical evidence needs to be recovered and treated appropriately. The police serve not only the criminal justice process, but also a host of other legal institutions to which they might find themselves accountable. Coroners' courts have quite different functions and procedures from those of criminal courts, so do the civil courts, and administrative tribunals of bewildering variety. Neither is the police the only organisation with responsibility for maintaining order and security. The size of the private security industry eclipses that of the police and its operatives have overlapping, yet different, responsibilities, functions, and legal powers.

Officers need also to be aware of the cultural backgrounds of those whom they encounter. A firm hearty handshake may be acceptable to men from a western cultural background, but not necessarily to people from other cultures or indeed to women from any culture. Cultural understanding is just one aspect of wider police intelligence, so that officers can accurately 'read between the lines' to ascertain what is happening, but there should be much more to 'police

intelligence' than that. It should include an understanding of the causes and consequences of behaviour, some of which may be aberrant. For instance, police frequently encounter people suffering mental ill-health and should be aware of how various conditions present themselves. Officers should not confuse medical conditions, such as insulin overdose, with offending behaviour, such as drunken disorderliness, even though the presenting symptoms are very similar. Policing is often team-work and it is important that officers understand how their organisation functions so that they can best enlist various specialist services as and when necessary.

Most of all, officers need to use force and weapons effectively, proportionately, and with *controlled* aggression. This is a visceral activity, but it too should rely on a clear understanding of the physical, psychological, and socio-political implications of its use. Officers who have been involved in life and death conflicts, such as lethal encounters, express surprise at the sensory and perceptual distortions they experience—time appearing to slow down, hearing impairments, colour draining from their sight, and tunnel vision (Manolias and Hyatt-Williams, 1988; Klinger, 2004). They should not be surprised: officers should be educated about such matters and be familiar with the implications of combat (Lewinski, 2002a, 2002b; Lewinski and Grossi, 1999; Lewinski and Hudson, 2003a, 2003b; Lewinski, 2008). Because modern western societies tend to abhor violence (Pinker, 2012), police organisations tend to de-emphasise its centrality to the police function, preferring instead to redirect attention to more 'cosy' aspects of policing, such as 'community policing'. However, the use of force is prominent amongst the most controversial and damaging behaviour that has attracted public criticism of the police in all western jurisdictions. Attitudes of some officers towards the use of force tend to bring discredit to the police when they leak into the public domain.

Discretion

In the face of such complexity the exercise of discretion becomes central to the police role. Officers exercise both *de facto* and *de jure* discretion. The common law of England and Wales imposes a duty on officers to exercise their constabulary powers with discretion. Legislation is normally couched in terms of 'a constable *may*' rather than a 'constable *must*'. The constabulary powers exercised by an officer are 'original', which in this context means that they *originate* from within the officer: his or her judgement. Again, this is something that the police have institutionally ignored: focusing instead upon officers' grasp of the legal requirements once those powers are invoked. For example, police in England and Wales are granted powers to stop and search fellow citizens subject to various provisos and procedures. However, Code A of the Police and Criminal Evidence Act makes it plain that people are free to consent to be stopped and searched, provided that the legal provisos exist for a formal legal stop and search should it be necessary—consensual stop and search cannot be used as a means to subvert the restrictions

on its use. Automatic recourse by officers conducting stops and searches to a formal script might unnecessarily transform what is bound to be a sensitive encounter into an adversarial confrontation. Yet, it has become a common *modus operandi* amongst inexperienced officers who are encouraged to stop and search people so as to gain experience in using their powers. Certainly, the research evidence suggests strongly that whereas even amongst those who have been stopped and searched there are few who dispute that the police should possess and exercise this power. What they object to (and do so with disturbing frequency) is the *manner* in which it is done (Miller et al, 2000a; Quinton et al, 2000; Miller et al, 2000b). I suspect that this is because many officers seek to hide behind the formal strictures to protect themselves from complaint. However, ‘going through the motions’ is hardly a recipe for effective policing. It would surely always be preferable to assess the situation and act accordingly. This, of course, is what acting with discretion entails. Discretion is sensitive to the circumstances, weighing up the merits of the case and dealing with it appropriately. Discretion also means responding to the sensitivities of others. Officers tacitly recognise this: a joke (in very poor taste) that circulated in police circles long ago depicted an officer delivering a ‘death message’ by asking the woman who answers their knock at the door with the question, ‘Are you the widow Jones?’ This is the humour that makes one squirm with embarrassment, so egregious is the inappropriateness of the behaviour—it is catastrophically *indiscreet*.

Discretion poses a problem for the police educator: it excludes prescribing *any* course of action in advance, because what is appropriate in one instance may not be appropriate in another. How, then, can the skilled use of discretion be developed? The answer, I think, lies in the notion that every situation needs to be assessed on its merits. An experienced officer, skilled in the use of discretion, does not know what the next situation into which he or she is about to intrude will hold for them. What experience has given them is exposure to many such encounters each of which has been unique. Hence, they expect the unexpected, are alive to the subtleties that indicate the particularities of the circumstances, and are knowledgeable about a variety of strategies and the consequences they have produced in the past. They are equipped to deal with uniqueness and they can enjoy it as one of the challenges and delights of police work—never a dull moment!

However, all of this is predicated not only on exposure, but also upon reflection. The professional officer does not discard experiences as being irrelevant to future events because they are each unique. The professional officer savours those experiences to consider the ‘what ifs...?’ ‘I did X, but what if I had done Y?’ This is learning and acquiring skills that can be employed in the next encounter and others beyond.

One learns most from those situations that are most challenging: so far beyond anything else one has encountered that they test one’s responses to the full. What challenges police officers repeatedly are dilemmas: how to act appropriately when any course of action conflicts with other desirable goals? This involves the careful weighing of various elements and the more acute the dilemma the

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more weighing has to be done. It is also an intrinsically intellectual process—not something normally associated with police work, which tends all too readily to be dismissed as requiring no more than the application of ‘common sense’. However, adjudicating between mutually exclusive options requires analysis and is admirably well suited to deliberative reflection. Hence, this book was envisaged as a series of challenges, by presenting each contributor with a dilemma that was as irresolvable as I could make it, and inviting them to negotiate a path through the maze.

Only a few accepted the challenge. Thankfully, those most willing to do so were serving or retired police officers. From the academics that were approached only very few were prepared to pick up the gauntlet and Jenny Fleming, Monique Marks, and Vern Redekop are to be congratulated for their intellectual courage. Campaigners and activists—individuals and organisations—were also invited to participate in the hope of stimulating discussion and debate, but none were willing to do so—most of them did not acknowledge receipt of the invitation. I leave readers to draw their own conclusions.

Scenarios

What were the dilemmas with which our contributors were faced and why were they selected? Dealing with the ‘why?’ first: the decision to formulate fictionalised dilemmas was guided by a series of academic considerations. The conventional method of eliciting views and attitudes is one that provides as little information as possible. For example, an interviewer’s questionnaire will ask something like the following.

Overall, were you satisfied or dissatisfied with the way the police handled this matter?

IF SATISFIED ASK:

Very satisfied or just fairly satisfied?

IF DISSATISFIED ASK:

A bit dissatisfied or very dissatisfied?

(Home Office, 1992: V. 104)

In other words, the aim is for the interviewer to say as little as possible and leave it to the person to autonomously convert what might have been a complex interaction that included aspects with which they were satisfied and dissatisfied into a composite response. This is not necessarily invalid; after all if we are asked our opinion about a movie, concert, restaurant, or holiday destination, we often compress lengthy and complex experiences into a summary. Voting for a political party at an election comes down to a single choice.

The problem with this methodology is that whilst it might reflect the general mood of how people feel about something—the police—it does little to guide how one might effect change. How should an officer behave in any set of

circumstances so as to leave those with whom he or she has had contact with a generally satisfied feeling? The 1992 British Crime Survey, from which the question is taken, goes on to ask questions about the amount and quality of information provided by the police about progress of any investigation and/or prosecution. This may be informative: it reveals that people often feel that they are left in the dark about such matters and they find that dissatisfying. But is that all? If the police and other agencies in the criminal justice system were to keep victims better informed about how their case is progressing, would this transform dissatisfaction into a satisfied response? We do not know.

Over the past half a century an alternative methodology has developed virtually unnoticed and certainly without the obsessive attention that has been given to questionnaire design. It approaches the problem from the opposite direction, providing the interviewee with as much information as possible. Although, he may not have been the first to do so, it was the pioneering child psychologist, Jean Piaget, who popularised the technique with his book *The Moral Judgement of the Child* (1932, see also Kohlberg, 1968). He told children of different ages stories that incorporated a moral dilemma and examined the type of reasoning they employed in coming to their conclusions. He found that as children grew older they tended to use more sophisticated reasoning. In the 1960s Stanton Wheeler (1961) did much the same, but this time with prisoners serving sentences for serious crimes. For example he asked interviewees to imagine that they were passengers in a friend's car, which whilst exceeding the speed limit is involved in a serious accident. Should the interviewee tell the police that their friend was driving in excess of the speed limit? To do so would be a clear violation of the 'no rat' rule amongst prisoners, but Wheeler found that as prisoners approached the end of their sentence, so they began to adjust their normative standards and revise (however rhetorically) their allegiance to the 'no rat' rule. More recently, Vanessa Munro and her colleagues (Finch and Munro, 2005, 2006, 2007; Ellison and Munro, 2009a, 2009b, 2009c) have shown 'mock juries' details of rape cases and asked them to adjudicate on the guilt of the accused. This has produced disturbing evidence that ordinary people apply stereotypical criteria of what constitutes 'normal sex' to the advantage of the accused and disadvantage of the alleged victim.

The advantage of vignettes or scenarios is that they approximate more closely the circumstances in which moral or legal rules are necessarily applied. Frequently, a set of moral or legal principles will prove in practice to be internally contradictory: the rights of one individual or group might, and often do, come into conflict with the rights of others. Inevitably, those who sit in judgement about such rules—such as the law courts—must *balance* one set of precepts against another. How do they do so? How should they? It is difficult to answer these questions save in the context of a particular set of circumstances. The scenario methodology provides those particular circumstances.

There is a related, but distinct, strand of academic thinking that is relevant here and that is that people's decisions generally appear not to be guided by sets of rules. Clifford Shearing and Richard Ericson (1991) argue—using police officers

as an example—that cultures contain more ‘figurative’ than categorical imperatives and the authors emphasise how stories are important in capturing those elusive notions of what is acceptable or not. Rom Harré and Paul Secord (1972) describe human beings as ‘rhetoricians’, because we habitually offer narratives of our actions: ‘Had a nice day at the office, dear?’, ‘Yes! You’ll never guess who walked in today...’. Richard Ericson (2007) argues that there is an inevitable gulf between the rules that dominate an occupation such as policing and the realities of how people—police officers—actually think and act. The result is that officers are condemned to struggle to fit the facts into a rule-based schema—a process which looks awfully like ‘anomie’.

Police officers, it is often observed by researchers, just love telling stories—‘war stories’. These are the backbone of the police culture, depicting venality on the part of criminals, gullibility on the part of the public, and heroism by police officers. The approach taken here is to ‘go with the flow’ of policing. To tell stories and then to examine those stories very closely and ask, what should be done?

The advantage of fictionalising the dilemmas of policing is that it makes them ‘safe’. Contributors can free themselves from the shackles of compliance with rules and procedures, and discuss how situations must be negotiated and principles balanced. I believe that it is the beginning of the development of a genuine body of practice knowledge. It is designed to be of assistance to police educators, who we hope will pose these scenarios to their students and then compare student responses with the responses of contributors. However, it is imperative that no one assumes that these contributors are offering a definitive solution to these imagined dilemmas. The notion that there are, or could be, such definitive solutions is utterly alien to the approach that this book is taking.

Structure of the Book

The contributions are organised around a set of five scenarios, each of which poses distinctive dilemmas, not just ethical but also legal and political. To the best of my ability, the dilemmas are as irresolvable as they could be made. As explained earlier, whilst police officers were eager to participate in this venture, academics and especially campaigners and activists were less so. The original aim was to have a police officer’s, an academic’s, and a campaigner’s view of each scenario, so as to engender discussion and debate. Sadly, that was frustrated: only two scenarios have more than a single contribution. Hence, responsibility for stimulating discussion and debate falls to the editors to provide and so following the reflections of our contributors to each scenario there is a commentary that is designed to engender discussion. We wish to make it clear that in doing so, we are not criticising our contributors—that would be impolite! What we are doing is to highlight issues.

In devising the scenarios it was our intention to go well beyond the normally quite cryptic accounts that are used to elicit attitudes and opinions from samples

of the population. So, each scenario paints a relatively detailed picture. It also paints a picture that deliberately avoids casting any of the participants in the guise of 'evil', 'venal', or 'deranged' individuals. It is too easy to say, as police officers are often prone to do, that a problem has arisen because of the incompetence or corruption of a particular individual. I was one of that legion of damned, compelled to stay awake late into the night watching successive series of the hugely successful American television programme, *The Shield*. This depicted a squad of LAPD cops who policed the gangs dealing in drugs and vice in a dilapidated, ethnically mixed area of Los Angeles. These cops were also corrupt, indeed their depravity was such that the lead character, 'Vic Mackey', wilfully shot and killed another cop who was trying to infiltrate the squad with a view to exposing them and having them prosecuted. Yet, like millions of other faithful viewers, I sat on the edge of my seat as the noose seemed to tighten progressively around Vic's neck, willing him to find a way of escaping justice. Why? Because, Vic was not wholly bad, nor were those pursuing him beyond blemish. They were all flawed human beings, as we all are. So, in these scenarios pains have been taken to populate each of them with characters who are dedicated cops trying to do the right thing in circumstances that pose irreconcilable dilemmas.

The chapter that follows this introduction considers the utility of scenarios as a means of posing and discussing professional ethics, written by one of the foremost police ethicists, John Kleinig. He reviews the various scenarios and considers the ethical issues that they raise.

Thereafter, the book is organised into five sections, each of which contains the scenario, the contribution(s), and an editorial commentary. Since contributors are drawn deliberately from different jurisdictions, there will inevitably be differences of law and practice amongst them, and some contributors have found it necessary to vary the scenario so that it fits more neatly with the circumstances with which they are most familiar. We welcome this. Policing, because it is so jurisdictionally based, can all too easily become parochial. When the cultural defensiveness of police officers is added to the mix, then there is the danger that any discussion of practice simply re-affirms whatever current practice may happen to be. Hence, we look at some scenarios through the lens of jurisdictions other than those with which we are familiar and that gives greater perspective.

The body of the collection begins with a scenario, at the heart of which are issues of loyalty and suspicion amongst colleagues, as well as issues of rank. Very usefully, we have two quite different perspectives from contributors: one from the perspective of a former English chief officer (Peter Neyroud, assisted by Chief Inspector Colin Paine) and the other from a serving officer in the Australian Federal Police (Juani O'Reilly) aided by one of the few academics willing to grasp an intellectual nettle (Jenny Fleming). The contrast between the top down and bottom up views will, we hope, illustrate nicely the extent to which these issues do not appear the same from different positions within the hierarchical structure of police organisations.

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This is followed by a perennial dilemma: managing relations with key figures in communities. For much of its history, the British police generally tried to keep officers apart from the public. The notion that ‘community policing’ is a return to a style of policing hallowed by tradition could not be further from the truth. Most police forces possessed disciplinary codes that forbade officers from ‘idling and gossiping’ with the public and ‘fraternisation’ was frowned upon, for fear that officers would become ensnared in relationships that could prove corrupting. ‘Idling and gossiping’ is now valorised as ‘community policing’ and ‘gathering intelligence’, but it continues to pose the danger that officers might stray into a corrupting relationship. Feldberg coined the phrase the ‘free cup of coffee’ problem (1985, see also MacIntyre and Prenzler, 1999), but in this scenario it turns out to have been a free cup of very sweet tea! An officer in the New Zealand Police, Sarah Stewart, agreed to take on this challenge at very short notice after another contributor withdrew. Fortune smiled on us, because Sarah has direct experience of participating in an overseas policing mission in which she encountered cultural conflicts of the kind envisaged in the scenario.³

Community relations issues are also explored in the next section, where the scenario envisages a conflict amongst different sections of the community that appears to be irreconcilable. Vern Redekop is an advisor to the police in Ottawa and has advised other police forces in various Canadian provinces. He is the author of several books aimed at promoting amongst practitioners a method of negotiating conflicts arising from public protest and similar events. We thought it helpful to pose an acute example to test how this approach would be applied in such challenging circumstances!

The next section addresses one of the most iconic issues of contemporary policing—terrorism. It also explores the difficulties that accompany one of the most favoured police responses to terrorism, the collection of intelligence. It envisages a situation in which the police have secured a covert human intelligence source (a CHIS or informant) within a terrorist network, but one whose ‘price’ for continued participation as an informant entails that a line of enquiry in a murder investigation should not be pursued. What should the police do when faced with the prospect that investigating properly a high-profile murder threatens to turn off the tap of useful intelligence about the intentions and actions of dangerous terrorists? This challenge was accepted by Steve Darroch, again from the New Zealand Police, who should be congratulated for pointing out that the scenario as originally formulated was *not challenging enough* and who encouraged the editors to revise it in order to make the dilemma more acute!

Terrorism is more than a threat to individuals who might be killed or injured in terrorist attacks, it is a direct threat to the state itself, but it is not the only threat to state interests. Privately owned and run power stations are essential parts of

³ The editors are also grateful to Steve Darroch who recommended Sarah and persuaded her to contribute.

the ‘critical national infrastructure’. If the power stops flowing, the pumps cease to work and pretty soon there will be sewage in the streets. So, what should the police do when people wish to protest about plans to build a private power station using technologies of which those protesters disapprove?⁴ Protest is more than a right in a democracy, it is positively virtuous, since citizens are actively participating in the process of government. However, suppose that the power company makes it clear that if the protest is allowed to interfere with the operation of the controversial site, then they will withdraw plans for other sorely needed power stations? This is a dilemma that creates a toxic mix of ethics, rights, and politics. To ponder it we have two contributions: first from Monique Marks from the University of Zwazulu Natal and Sean Tait, from the African Policing Civilian Oversight Forum. South Africa is, of course, a country with a very troubled history of policing under the apartheid regime, especially public order policing, so it is particularly welcome to have a contribution from that country. The second contribution is from a former senior officer with long experience of policing all forms of protest in central London (some which were highly controversial and sensitive)—Mick Messinger. What may surprise and delight readers is that contributions from two countries with such different histories of public order policing essentially concur on the main issue.

Conclusion

The editors hope and expect that readers will find this volume interesting, but most of all we hope that you will be stimulated to discuss and debate the issues we raise. We hope that in training and during professional development exercises officers will devise their own irresolvable dilemmas in order to challenge themselves as much as they might challenge colleagues. We also hope that by drawing our contributors from different jurisdictions, this volume might make a small contribution to building an international professional policing consciousness.

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⁴ In this case the technology is nuclear power, but it could be fossil fuel or wind or tidal power—all have their opponents.

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