UNIVERSITY OF SOUTHAMPTON

ABSTRACT

FACULTY OF SOCIAL SCIENCE

POLITICS

Master of Philosophy

POLICING SERIOUS PUBLIC DISORDER: THE SEARCH FOR PRINCIPLES, POLICIES AND OPERATIONAL LESSONS

by Tony Michael Moore

The paper examines the influence of central government on the police response to serious public disorder; the effectiveness or otherwise of the law and the way in which it is used by the police in their response to such disorder, and searches for some principles which need to be followed if the police are to maintain the general support of the communities in which they are required to act.

Some comparisons are made, and differences highlighted, between the police commander in his response to serious public disorder, once it has broken out, and the military commander in battle. But, guided by lessons from history, the paper principally concentrates on the environment in which the operational police commander is required to act in responding to actual or potential serious public disorder, pointing out that he is dependant for his success on firstly, an effective system of command and control; secondly, on an intelligence system which feeds relevant and accurate information on which he can make sound and informed decisions; and thirdly, the physical resources, e.g. personnel and equipment, and the approved tactics which enable him to restore public tranquility once disorder has broken out. But before he can use the physical resources effectively, he must have a sound strategy for dealing with actual or potential disorder.

UNIVERSITY OF SOUTHAMPTON

POLICING SERIOUS PUBLIC DISORDER: THE SEARCH FOR PRINCIPLES, POLICIES AND OPERATIONAL LESSONS

VOLUME 1 OF 2 VOLUMES

by

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POLICING SERIOUS PUBLIC DISORDER: THE SEARCH FOR PRINCIPLES, POLICIES AND OPERATIONAL LESSONS

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ACKNOWLEDGEMENTS

This paper addresses one of the most controversial issues in modern policing - the response to threatened or actual outbreaks of serious public disorder. Despite my own practical experience in the policing of serious public disorder, gained whilst serving with the Metropolitan Police, and the theoretical experience, gained primarily whilst on the staff at The Police Staff College, Bramshill, the research on which it is based would not have been possible without the help of a number of serving and retired police officers.

I am particularly grateful, therefore, to the Chief Constable of Hampshire, John Hoddinott, who invited me to visit the Public Order Training Centre of the Hampshire Constabulary and talk to his Chief Instructor, David Holt; also to Chief Superintendents George Crawford and Roger Barr, who allowed me to visit the Metropolitan Police Public Order Training Centre at Hounslow on two occasions, after my retirement from the police.

I also had meetings with Assistant Chief Constable Malcolm Popperwell (now retired) and some of his senior officers in the Avon and Somerset Constabulary, about the 1980 Bristol riot; with Deputy Chief Constable Paul Leopold (now retired) and some of his senior officers in the West Midlands Police, about the 1985 Handsworth riot; with Assistant Chief Constable Terry Watson (now retired) and some of his senior officers in the South Yorkshire Police, about the miners' strike of 1984/85; and with Commander Alex Marnoch (now retired) and some of his senior officers in the Metropolitan Police, about the 1985 Brixton riot. Insofar as the 1985 Tottenham riot was concerned, I had meetings with Chief Superintendents David French and William Sinclair, and lengthy correspondence with Commander David Polkinghorne and Chief Superintendent Mike Jeffers (both

now retired). More generally, I have been in correspondence with former Commander Leonard Adams, and had meetings with former Deputy Assistant Commissioners John Cracknell and George Rushbrook, all of the Metropolitan Police, and all of whom were immensely experienced at public order policing. To all of them, I am grateful for the contribution they have made.

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I must thank Susan King and her staff in the Library at the Police Staff College, particularly, during the early stages, Pat Mullender, and more latterly, Juliet Davis, who acquired a range of books, articles from journals and newspaper extracts, without which this paper would not have been so detailed. Finally, I must thank my supervising tutor at Southampton University, Frank Gregory, who pointed me in the right direction at the very commencement of this project.

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POLICING SERIOUS PUBLIC DISORDER: THE SEARCH FOR PRINCIPLES, POLICIES AND OPERATIONAL LESSONS

INTRODUCTION

Serious public disorder and riot, or the threat of it, has been a feature of this country for centuries. People have been killed and many have suffered serious injuries. Thousands more have been affected in less traumatic ways. Millions of pounds worth of property has been destroyed; indeed, on occasions, the destruction has been compared with that which takes place during war.(1)

It follows that preserving or restoring public tranquility, or "the Queen's Peace" as it is often known, has been, and indeed remains, one of the most important and difficult functions required of the modern police service, since its inception in 1829. Indeed, Stead describes it as perhaps "the gravest of the problems that beset the police authorities and police executives in all ages."(2) It seems strange, therefore, that the study of riot and serious disorder, its causes, its effects and above all the policing of it, has until recently been regarded by many within the police service as a rather perverse and not-to-be encouraged pursuit. And yet, with all the examples behind them there really is no excuse for the failure of senior police officers to respond positively to the challenges they faced, particularly during the last decade.

It would be useful at this point to define what is meant by serious public disorder and riot. There are, of course, legal definitions for riot and violent disorder(3) but they are more appropriate to criminal prosecutions than providing this paper with a relevant 'working' definition. Gregory describes a riot as generally "occurring when people

in large numbers, and over a prolongued period break a variety of laws, attack the police trying to restore order, loot and damage property." He compares this with "a demonstration which is generally peaceable but which may produce a short-term violent clash with the police."(4) Applying modern-day examples to Gregory's suggestions, the inner-city disorders of 1980, 1981 and 1985, and possibly the Poll Tax demonstation in Central London on 31st March 1990, were riots. On the other hand, Red Lion Square (1974), Orgreave (1984), Stonehenge (1985) and Wapping (1987) were outbreaks of serious disorder because the violence was short-lived and there was minimum damage to property. But, in the case of Orgreave, the police, no doubt having sought legal advice, brought riot charges against a number of those who had been arrested, albeit no-one was convicted. Similarly, after the inner-city disorders in Bristol, in 1980, riot charges were brought against some of the arrested persons, but again no-one was convicted;(5) and where does that leave the Southall disturbances in April 1979 where the violence was over a fairly prolongued period but there was minimum damage to property, other than to show how difficult it is to attempt to separate the two.

Therefore, throughout this paper, the terms 'riot' and 'serious public disorder' are inter-changeable. It is the large-scale use of force by one section of the community against property, or against other sections of the community, or against the forces of law and order, to the extent that the normal police resources in the affected area are unable to cope, and special arrangements either have to be made in anticipation, in the case of planned demonstrations and industrial disputes, or have to be implimented, in the case of sudden outbreaks of disorder. Emphasis is placed on the words 'large-scale' and, despite the fear and concern it often engenders in a community, serious public disorder does not therefore include what has recently become known as urban disorder, i.e., fights between groups of youths, often under the influence of alcohol, which occur all too frequently in many towns and cities, particularly at week-ends.

There is, however, one exception. Serious public disorder is sometimes associated with sporting events, particularly association football. Although the general laws relating to public order apply, there

is a range of specific legislation which controls behaviour at sporting events and it is a form of violence that has tended to be examined separately. For this reason, disorder associated with sporting events has not been considered or commented upon in this paper.

In his first report as Commissioner of the Metropolitan Police, Sir Robert Mark said -

> "Public order is a matter of constant concern. Not only is it difficult to maintain the nice balance between freedom and restriction ... but there is ... the constant strain on the tolerance of police officers in dealing with those who seek to achieve political objectives by coercion and force."(6)

As one might expect, Peter Hain saw the problem from a different perspective. Writing in 1980 before the inner-city riots and the industrial conflict that has been a hallmark of the last ten years, he suggested that "in the context of deepening economic recession, growing unemployment and political crisis, the police will inevitably be called upon to pursue with still greater vigour their traditional function of controlling political and industrial dissent." And he forewarned that "the curbs on 'secondary picketing' and other limitations on trade union rights supported by the Conservatives could thrust the police into even greater confrontation with trade unionists than occurred over the Saltley, Shrewsbury and Grunwick cases."(7)

A major problem during the 1980s was the development of appropriate strategies(8) and tactics(9) needed to combat increasingly violent disorder. It was, it will be recalled, a period which started with rioting in Bristol and ended with serious disorder in central London at a demonstration against the introduction of the Poll Tax. In between, there was serious disorder in a number of inner-cities in 1981, a year-long strike involving the miners, the co-called battle of Stonehenge, yet more inner-city riots in 1985, and another year-long industrial dispute, this time involving the printers.

In the discussions that took place during this period, many police officers were unable to differentiate between strategy, which can be described as the science of planning large-scale police operations, grand tactics, which is the execution of those plans, and tactics, which can be described as the art of handling police officers on the ground during actual or potential disorder. So, in attempting to develop appropriate strategies and tactics, it became clear how little thought had gone into the policing of public disorder over the years, particularly at a strategic level, and how little written material was available to senior officers who wished to improve their skills in this area of policing.

Is it, for instance, an art or a science? What were the guiding principles for policing serious public disorder? Had the important lessons from history been learned, or were the operational commanders making mistakes similar to those made by their predecesors?

Science can be described as the application of knowledge acquired by observation and experiment, critically tested, systematised and brought under general principles. Many of the incidents that occur during an outbreak of serious public disorder can be predicted. For instance, the use of petrol bombs and firearms; the push in an industrial dispute; rioters using the balconies and walkways of a large block of flats from which to attack the police; the building of barricades; and so on. It should be possible to observe these events, and to experiment and critically test police responses to them to discover which are the most effective, before incorporating them into some system and forming some general principles for their use.

An art, on the other hand, can be described as the application of practical skills guided by principles. The operational commander requires practical skills, in attempting to prevent serious public disorder, in the execution of plans and the deployment of resources should disorder occur, and in his efforts to return an area to normality once disorder has been restored. It follows, therefore, that the policing of serious public disorder can be described as an art, because effectiveness in this area of

policing is only likely to be achieved by the practical application of skills.

So it can be argued that the policing of serious public disorder is both a science and an art. It is a science in that it must be studied theoretically by operational commanders, and an art because the theory must then be put into practical use. The first is always possible and there is no excuse for its neglect; the opportunity for the second may not often arise.

Both make reference to principles. But what is a principle? For the purposes of this paper, a principle is defined as a guide to possible conduct. But what are the principles for policing serious public disorder or, indeed, the threat of such disorder? There are, of course, some general principles of policing, but even here, there is no general agreement on how many there are or precisely what they are. Reith, for instance, lists nine - prevention; public approval; willing co-operation of the public; the use of force and compulsion reduces co-operation; impartiality; minimum force; the maintenance of the historic tradition that the police are the public and the public are the police; strict adherence to police-executive functions; and finally, the efficiency of the police will be judged by the absence of crime and disorder. (10) Scarman, on the other hand, referred to only two - consent and balance, and independence and accountability. (11) Prevention, recognised by a number of police historians, as a principle is referred to by Scarman, as a "function"; (12) Pike, who arguably has written the most recent authoritive book on the principles of policing, refers to five - police discretion, sense and sensitivity, minimum force, prevention, and independance and accountability. (13)

The principles tend to be inter-related. For instance, if the police fail to act with minimum force, or with a perceived impartiality, they are unlikely to receive the consent of the community. Similarly, if they merely re-act to events as they occur in society without making any attempt to prevent them from happening in the first place, they are more likely to become involved in using force which is seen by some to be

excessive. In this paper three general principles of policing have been identified as being relevant in the policing of public disorder - prevention, minimum force, and consent and balance. This does not ignore what other writers have said but it is not intended to enter into lengthy discussion about what is and what is not a principle; suffice to say, that it can be argued that using discretion, and sense and sensitivity are functions by which the principle of "consent and balance" is achieved. Similarly, consent and balance will not be achieved if the police are seen to be influenced or controlled by the national or local government of the day, to the detriment of the community as a whole. However, the extent to which the police are independant of such control, and are influenced by what government ministers, in particular, say and do, is discussed in Chapter 2.

All three principles can be applied to the policing of serious disorder, particularly in the period before disorder occurs, but, with the exception perhaps of the principle of minimum force, about which much has been written, there are no recognised principles for responding to the violence once it has broken out. Consequently, in the main, the literature, which is reviewed in Chapter 1, does not address the problems operational commanders are likely to face once serious public disorder is imminent or has actually broken out.

In a book, entitled "Strategy: The Indirect Approach",(14) the eminent military historian, B H Liddell-Hart suggests that there are two forms of practical experience, direct and indirect. Direct experience is self-explanatory. In public order terms it is actually policing public disorder. But there are two major problems in relying on direct experience alone. Firstly, it can be very expensive in human terms, as it was at Tottenham in 1985. Secondly, whilst it may appear that serious public disorder has been a fairly common occurrence in Great Britain,(15) particularly since 1968, to the individual police commander it is a rarity. Consequently, the opportunities for direct experience are extremely limited. Indeed, evidence suggests that police commanders are likely to have, at the most, only one opportunity to show their skill at handling serious public disorder.

Indirect experience, on the other hand, is acquired by studying history and, in a public order context, examining how the police responded to past disorders. The policing of serious public disorder can no longer be approached in an emotional, rather haphazard manner, involving only a few hours of training every year, as was the case up until the beginning of the 1980s. It has been the subject of intense debate during the last fifteen years, a period which has seen the provision of an increasing amount of para-military equipment and, more latterly, the implimentation of vigorous training programmes.

After three years research into the Metropolitan Police, during which he was given unprecedented access to the problems of policing serious public disorder, Waddington came to the conclusion that the police, generally, had failed "to appreciate the nature of the task of quelling serious disorder." He went on to suggest that the police, and many others, -

> "remain blinded by their traditional image of policing public order without recourse to overtly aggressive tactics. From the vantage-point of 1990, the development of police public-order tactics is confused and out of touch with reality." (16)

Few police officers, even at senior level, have a firm grasp of the history of public disorder, mainly, one suspects, because of their many and varied commitments. But this situation exists also, in part, because of a lack of available material caused by the reticence of many senior police officers in the past and their failure to adopt a constructive approach in which errors of judgement made in the spirit of professionalism during serious public disorder are readily conceeded.

This paper is an attempt to rectify this omission. It is also an attempt to emphasise the important of adopting a realistic approach to the problems of responding to serious public disorder. But it is a vast and intricate subject; indeed, so vast and intricate that this study can be no other than an imperfect and a tentative one. In order to bring it within the scope of a paper of medium length such as this, it has not been possible to examine all developments; rather the paper concentrates on

those which appear to have been under-researched. For instance, although it is useful to identify the various types of disorder (Appendix A) the paper avoids a detailed examination of the underlying causes of public disorder because that has already been done, with varying degrees of success, by a variety of judges, police officers, politicians, academics and journalists. Nevertheless they are extremely relevant and senior police officers, indeed all officers, need to take notice of the social and economic conditions that exist in their particular areas, and act with sensitivity to those conditions. But the conditions themselves do not generally have a direct bearing on the police response to potential or actual disorder.

The key person in the response to actual or threatened disorder is the operational commander. His actions and leadership are crucial during such a period. But in taking action, he must be aware of the national strategy. In the context of serious public disorder, national strategy includes the development of all the resources of a country - political, social and economic - in their widest terms, towards providing the greatest possible support for firstly, preventing disorder and secondly, restoring public tranquility, should disorder occur. But, whilst "justice, law enforcement, liberty and the peaceful handling of problems which cause unrest" are the concern of the police and the judiciary, Lord Scarman suggests that "the political or social answers to problems which provoke lawlessness, threaten liberty, good order and peace are for society as a whole acting through its representative institutions and the media of communication." (17)

Included in the national strategy are three areas which have a direct bearing on the police response to serious public disorder, viz:

1. The attitude of and actions taken by the Government and its ministers;

2. The amount of control exercised by the Home Secretary and his officials over operational matters, particularly in relation to approved tactics, equipment and training; and

3. The criminal law as it relates to industrial disputes and to the prevention, control and restoration of serious public disorder.

Therefore, Chapters 2 and 3 concentrate on these three areas.

The remainder of the paper concentrates more specifically on the environment in which the operational commander is required to act in responding to serious disorder, or the threat of such disorder. But the absence of any serious thought on this subject until now has meant that the search for a model on which to base the role of the operational commander has had to be made elsewhere. Although Rowan and Mayne, the first Commissioners of the Metropolitan Police, made strenuous efforts to avoid comparisons between the police and the military, the police were, and, indeed, remain organised along military lines for some duties. Indeed, police operations to deal with serious public disorder necessitate a response which has military organisational and operational characteristics. This is inevitable because, as has been pointed out elsewhere, "the military model was the only one available to give the necessary command and control structures."(18) Thus this study has, on occasions, adopted terminology, such as strategy and tactics, in a way more associated with military doctrine, as a framework for analysis; this framework enables the existing material on serious public disorder to be examined from this new perspective.

There will, of course, be those who will recoil with horror at any comparison between the military and the police but, insofar as terminology is concerned, there is nothing new in this approach, for the police response to serious public disorder has been compared with military operations on a number of occasions by people across the whole political spectrum. The word 'battle' or 'battleground" is regularly used. For instance, the events in East London on 5th October 1936, when a proposed march by the British Union of Fascists was stopped by a huge crowd of anti-fascists, are often referred to as The Battle of Cable Street.(19) Clutterbuck refers to The Battle of Saltley in describing events outside a coke depot in Birmingham in 1972,(20) and a London magistrate described Southall as being "a battleground of police and demonstrators" in April

1979.(21) In her description of the events at Brixton, in April 1981, Lucy Hodge, at one stage describes how "battle lines were being drawn up."(22) Later, she describes the attempts by the police to protect the fire brigade in Effra Road, as being "the most ferocious battle of the night".(23) The events outside the Coke Depot at Orgreave on 18th June 1984, are regularly referred to as 'The Battle for Orgreave',(24) and those which took place just short of Stonehenge on 1st June 1985, are often referred to as 'The Battle of the Beanfield".(25) The serious disorder in and around Trafalgar Square on 31st March 1990, on the occasion of a huge demonstration against the Poll Tax, is frequently referred to as the Bloody Battle of Trafalgar(26) or simply as The Battle of Trafalgar.(27) Finally, in his description of the current system of command and control, Waddington talks about "fighting the battle", albeit he places the phrase in inverted commas.(28)

Serious public disorder has been compared with war. For instance, Arthur Scargill, has talked about targeting "points of energy" during the 1972 miners' strike and claims that "we (the miners) had to declare war on them and the only way you could declare war was to attack the vulnerable points ... the power stations, the coke depots, the coal depots, the points of supply."(29) Later, the Communist Party District Secretary for the Birmingham area, Frank Watters, claimed that Scargill arrived "like the general" and, referring to Yorkshire miners who had descended on the area, that "his army had now arrived".(30) In the aftermath of the events at Lewisham, in August 1977, one newspaper reported that "predictably, war came to Lewisham",(31) and Sir David McNee, Metropolitan Police Commissioner at the time of the serious rioting in Brixton, in April 1981, later referred to it as being "much like a war", insofar as the police were concerned.(32)

The events at Orgreave prompted a number of comments which have military analogies. Stan Orme, a Member of Parliament and Labour's spokesman on energy at the time, wrote in his diary after seeing a film of the events, made by the National Union of Mineworkers, that it reminded him "of Henry V with armies ranged up on different sides facing one another."(33) And two journalists, both, at that time, working for the

British Broadcasting Corporation, suggested that the two groups (police and pickets) facing each other were reminiscent of armies and the "charges across open fields against fixed positions" had "a curious symmetry with a nineteenth-century pitched battle."(34)

In his description of the events in Handsworth in September 1985, the Chief Constable, Geoffrey Dear, describes one of the first police objectives as the maintenance of "a sterile area which in military terminoligy would have been described as a bridgehead."(35) Later, he dscribes how the police had to fight "their way in, hand by hand, block by block" to retake Lozells Road. It was, he said, "like street fighting at its worst in Northern Ireland."(36)

When there have been serious outbreaks of looting, involving the destruction of property on a huge scale, comparisons have been made with the damage inflicted during the Second World War. William Whitelaw, Home Secretary at the time of the inner-city riots in 1981, found "scenes of appalling damage" when he visited Brixton and felt that he was "back in the war during the London blitz or fighting in a town in North-west Europe."(37) And McNee suggested it was "greater than anything London had seen since the days of the blitz."(38) In describing the events at Handsworth, in September 1985, Brent Sadlar told viewers of Independant Television News that "the orgy of destruction" that followed the outbreak of disorder "made it look like something out of the blitz."(39)

Nevertheless, despite all these examples, direct comparisons with the military have been kept to a minimum for a number of reasons. Whilst the similarity between an outbreak of serious public disorder to a pre-twentieth century battle is apparent, the police have to find their own principles, policies and methods of operation if they are to be effective and, at the same time gain the support of the general public. For there are two fundamental differences between the police response to disorder and the military response in times of war. Firstly, soldiers are trained, and invariably expected, to kill. With the exception of those trained in the use of convential firearms, policemen are not; neither are they expected to. Indeed, the difference between the two becomes more stark when it is

recognised that the soldier invariably fights to achieve his aim with maximum force whilst the police officer must achieve his aim using minimum force. Secondly, soldiers fight with the intention of defeating the enemy, in other words they fight to win and, if successful, they impose their will on the defeated enemy. Policemen, on the other hand, do not fight to win but merely to restore public tranquility and bring about an element of normality as soon as possible thereafter.

Serious public disorder is a complex activity. It takes police men and women from their everyday duties and requires them to dress in a manner, which, in 1980, was likened unto characters from a popular film of that time called Star Wars. In flame-proof overalls, and wearing and carrying various items of protective equipment, including a helmet and visor which makes them unrecognisable as individuals, they are deployed in para-military units, to respond with force, albeit minimum, in what is often violent, dangerous and frightening situations. It is essential, therefore, that the operational commander, on which so much depends, has the necessary ability and skill to deal with the situation as it unfolds. Consequently, the second part of the paper is devoted to him. In addition to his own skill and ability, he is dependant on firstly, an effective system of command and control (Chapter 4); secondly, an intelligence system which feeds in relevant and accurate information on which he can make sound and informed decisions (Chapter 4 & Appendix B); and thirdly, the physical resources, e.g. personnel and equipment, and the approved tactics which will enable him to restore public tranquility once disorder has broken out (Chapter 5).

But, before he can use these resources effectively, he must have a strategy or, in some cases, a series of strategies. In broad terms strategy can be described as the art of preventing disorder when tension is high, or if he fails in this area - and it may be through no fault of his that a particular strategy fails - the art of restoring public tranquility in the shortest possible time, with the minimum of damage to both people and property; once order has been restored it is the art of returning the community to normality, if that be possible after an outbreak of serious disorder. It appears simple and, in the aftermath of serious disorder,

people often feel they are able to say what an acceptable strategic solution would have been - in hindsight! However, strategy involves not only the development of a plan but the carrying through of that plan, which is an entirely different thing. The broad strategies that the operational commander should consider are discussed in Chapter 6.

Finally, he must consider the general principles of policing, for he ignores these at his peril. For instance, effective strategic plans to restore order, such as were arguably implimented at both Orgreave in 1984, and Wapping in 1987, were subjected to much criticism over the excessive force that was used, particularly by some individual police officers. Consequently, the failure, in the eyes of many people, to take action which conformed to the Principle of Minimum Force, deviated attention away from the overall success of the strategic plan. Therefore, the general principles which he must take notice of, if the police are to retain their present role in society, are discussed in Chapter 7, with specific reference to their application to the policing of potential and actual disorder.

Writing in 1964, Whitaker suggested that "most policemen stand too close to their work, and have so little time for detached reflection about it, that they find it difficult to consider their response to such problems."(40) A senior police officer's everyday commitments are such that Whitaker's comments remain largely true today. Serious public disorder may well be an infrequently encountered event for most police officers. However, the consequence of any real or perceived mishandling of an incident can have far-reaching effects on both the police, the community and sometimes, the government.(41) The policing of modern public disorder is a skill to be learned and success will go ultimately to those police commanders who have a sound understanding of all the factors involved and have prepared themselves accordingly to meet them.

Notes and References

1. For amplification of this claim, see later in this introduction.

2. Stead, Philip John. The Police of Britain. Macmillan, New York, 1985, p.25.

3. See Sections 1 & 2 of the Public Order Act, 1986.

4. Gregory, Frank. The British Police System - with special reference to Public Order. In Police and Public Order In Europe (Eds. John Roach & Jurgen Thomaneck). Croom Helm, London, 1985, pp. 54/55.

5. See Chapter 3 for further comments on the failure of the riot trails.

6. Metropolitan Police. Report of the Commissioner of Police for the Metropolis for the Year 1972. Cmnd 5331. Her Majesty's Stationary Office, 1973, p. 11.

7. Hain, Peter (Ed). Policing the Police (Volume 2). John Calder, London, 1980, p. 3.

8. A definition of strategy similar to that used by the police is to be found at the beginning of Chapter 6. Simpler definitions are referred to in this introduction.

9. A definition of tactics similar to that used by the police is to be found at the beginning of Chapter 5. Simpler definitions are referred to in this introduction.

10. For greater amplification of these principles, see The Blind Eye of History by Charles Reith (Faber & Faber Ltd, London (mcmlii)), pp.154-167.

11. Scarman, The Rt Hon The Lord. The Brixton Disorders 10-12 April 1981, Cmnd 8427. Her Majesty's Stationary Office, London, 1981, pp.62-64 (paras. 4.55 to 4.60)

12. Ibid, p.62, para.4.56.

13. For greater amplification of these principles, see The Principles of Policing by Michael S. Pike (Macmillan, Basingstoke (1985)).

14. Liddell-Hart, B H. Strategy: The Indirect Approach. Faber & Faber Ltd, London, 1967.

15. Because of the influence of terrorism on the response of the Royal Ulster Constabulary to serious public disorder, the events in Northern Ireland have been excluded from this paper. Also, although it is appropriate to refer to Great Britain in this particular instance, the contents of Chapters 2 and 3 are not wholly applicable to Scotland because Scottish police forces come under the Scottish Office, not the Home Office, police authorities are organised slightly

differently and there are a number of differences in the application of the criminal law in Scotland.

16. Waddington, P A J. The Strong Arm of the Law: Armed and Public Order Policing. Clarendon Press, Oxford, 1991, p.159.

17. Scarman, The Rt Hon Lord. The Role of the Police in a Situation of Political Confrontation. The Twelfth Frank Newsam Memorial Lecture given at The Police College, Bramshill on July 21. Subsequently published in The Police Journal, October, p.319.

18. Gregory, Frank, op. cit. 4, p.37.

19. For example, the title of Chapter 11 of The Fascists in Britain by Colin Cross (Barrie & Rockliff, London, 1961); also referred to as such in Beyond The Pale: Sir Oswald Mosley, 1933-1980, by Nicholas Mosley (Secker & Warburg, London, 1983).

20. The title given to Chapter 4 of Richard Clutterbuck's book, Britain in Agony: The Growth of Political Violence (Faber & Faber, London (1978)

21. Quoted in 'Southall, 23 April 1979: The Report of the Unofficial Committee of Enquiry' set up by the National Council for Civil Liberties (NCCL, London, 1980), p.36.

22. Kettle, Martin, & Lucy Hodges. Uprising! The Police, The People and The Riots in Britain's Cities. Penguin, Harmonsworth, Middlesex, 1982, p.111.

23. Ibid, p.113.

24. The title given to a book by one of the miner's arrested at Orgreave and subsequently charged with riot. See The Battle for Orgreave by Bernard Jackson & Tony Wardle (Vanson Wardle, Brighton, undated); see also The Miners' Strike 1984-5: Loss without limit, by Martin Adeney & John Lloyd (Routledge & Kegan Paul, London (1986)), p.113; it is also the title of Chapter 4 of a book by Peter Wilsher & Others, entitled Strike: Thatcher, Scargill and the Miners (Coronet, London, 1985).

25. See, for example, The Guardian, 17 October 1990 & 15 February 1991; Salisbury Journal 17 January 1991 and subsequent issues;

26. The Sunday Times, 1 April 1990.

27. The Sunday Correspondent, 1 April 1990; also the title of a television programme of the events shown on Channel 4 on 18 September 1990.

28. Waddington, op. cit. 16, pp.142/143.

29. Crick, Michael. Scargill and the Miners. Penguin, Harmonsworth, Middlesex, 1985, p.55.

30. Ibid, p. 58.

31. News of the World, 14 August 1977.

32. McNee, Sir David. McNee's Law. William Colins Sons & Co, Glasgow, 1983, p.112.

33. A comment attributed to Stan Orme, Labour's spokesman on energy at the time of the strike. Quoted in The Miners' Strike by Geoffrey Goodman (Pluto Press, London, 1985), p. 107.

34. Adeney & Lloyd, op. cit. 24, p.113.

35. Dear, Geoffrey J. Report of the Chief Constable West Midlands Police: Handsworth/Lozells - September 1985. West Midlands Police, 1985, p.64.

36. Quoted in The Times, 11 September 1985.

37. Whitelaw, William. The Whitelaw Memoirs. Headline, London, 1989, p.243.

38. McNee, op. cit. 32, p. 112.

39. During an Independant Television News broadcast on 10th September 1985.

40. Whitaker, Ben. The Police. Penguin Books, Harmonsworth, Middlesex, 1964.

41. Many people argue that it was the failure of the police to control the flying pickets at the Saltley Coke Depot in 1972 that was instrumental in bringing down Edward Heath's Conservative Government later that year.

CHAPTER ONE

A CRITIQUE OF THE PUBLISHED MATERIALS

Introduction

Rioting or serious public disorder - in the context of this paper, the two are interchangeable as has already been described in the introduction - has been of interest to politicians, police officers, journalists and academics from a variety of disciplines, for at least the last 160 years. Some have written specifically about public disorder, either in Great Britain generally (e.g. Williams 1967; Critchley 1970) or in a particular area of Great Britain (e.g. Thurmond-Smith 1985); others have touched upon issues of public order whilst discussing the wider role of police in society (e.g. Reith 1948 & 1956; Critchley 1978; Ascoli 1979). Some have written about one specific outbreak of disorder (e.g. Thurston 1967; Joshua et al 1980; Jackson (undated); Pilkington 1988), whilst others have written about a particular period (e.g. Mather 1984) or a particular type of disorder (e.g. Geary 1985; Morgan 1987). Some have written the account from an historical perspective (e.g. Reith 1948, 1952 & 1956; Critchley 1970 & 1978; Thurmond-Smith 1985); others from a sociological or criminoligical perspective (e.g. Cowell et al 1982; David Waddington 1989). Some, it could be argued, have tended to be purely descriptive (e.g. Thurston 1967; Laurie 1970; Moore 1988), others have provided a balanced analysis (e.g. Benyon 1984; Geary 1985; Wilsher 1985; Adeney & Lloyd 1986; Morgan 1987; Winterton 1989); whilst yet others have been purely subjective (e.g. Bowes 1966; Callinicos & Simon 1985; Reed & Adamson 1985).

Nineteeenth Century

There are a number of books of an historical nature which are regarded as essential reading for any person interested in tracing the development of the police service and its response to the various problems presented by the society in which it operates. The earliest of recognised police historians, Reith, traces the development of the police service, particularly through its early years, in two books, A Short History of the British Police(1948) and A New Study of Police History(1956). Whilst neither deals with public order in any great detail, he does place riots and outbreaks of disorder in an historical context within the whole range of police activities carried out through their history. So to, in more recent books, do Critchley(1978) and Stead(1985). However, in a second book, The Conquest of Violence(1970), Critchley concentrates more directly on the causes of disorder, in its widest sense, within society and on the police response. Whilst the book covers events up to the late 1960s, its main value is in gaining a better understanding of the police arrangements and responses to disorder, during the last century, particularly in relation to Hyde Park, 1855 and 1866, and the 'unemployed riots' of 1886 and 1887.

Another writer, Ascoli(1979), who was given what was regarded, at that time, as unprecedented access to both records and police personnel, concentrates on describing the growth and actions of the Metropolitan Police since its inception in 1829, in a book which was published to coincide with the 150th Anniversary of the formation of the Metropolitan Police. In it he mentions most of the major outbreaks of disorder in London between 1829 and 1979, but, like those before him, he merely places them in an historical context within the whole range of police activities carried out throughout that period. Whilst it can be argued that all police officers should have an understanding of these books, they are not, with the exception, perhaps, of Critchley (1970), of any great value to the police commander whose primary aim is to increase his awareness of how the police responded to serious public disorder or the threat of such disorder.

Drawing heavily from police reports held at the public record office and newspaper reports from the period, a number of writers (e.g. Stevenson 1978; Bailey 1981; Tichter 1981; Thurmond-Smith 1985), in addition to Critchley (1970), provide a general picture of disorder during the nineteenth century, at the same time giving fairly detailed accounts of the most serious outbreaks such as those that occurred in Cold Bath Fields in 1833; Hyde Park in 1855 and 1866; in Trafalgar Square in 1886 and 1887 and in the Yorkshire Coal Fields in 1893. They were helped by four government instituted inquiries during this period, three of which were directed at the Metropolitan Police. The first of these was in 1833 after the rioting in Cold Bath Fields had resulted in the death of Police Constable Culley (PP 1833); the second was in 1855, after rioting in Hyde Park (PP 1855). The third inquiry was ordered after a large crowd had charged through the streets of London's West End largely unchecked by the police, following a public meeting in Trafalgar Square (PP 1866).

The fourth inquiry, in 1893, which was, in fact, the first - and, indeed, remains the only inquiry - to be ordered into events outside London since the formation of the modern police service, arose mainly from the actions of the military, acting in support of the civil power, at a colliery just outside Featherstone in Yorkshire when two men were shot dead (PP 1893-4).

Additionally, Thurston(1967), gives a detailed account of the riot at Cold Bath Fields in 1833, and Mather(1984), provides a detailed description and analysis of the efforts made to maintain public order between 1837 and 1848, a period during which the Chartist movement were instrumental in creating "a powerful current of unrest."(1)

Twentieth Century until 1967

Between 1900 and 1967, there were three periods during which time serious public disorder occurred. The first was immediately before the first world war when there was widespread industrial conflict; the second was during the period immediately after the first world war, when industrial conflict continued, culminating in the General Strike of 1926;

and the third was in the period from 1927 to the outbreak of the second world war, which saw a growing number of clashes between the police and the unemployed, and the rise of facism.

There are two sources which provide fairly detailed accounts of industrial conflict during this period. The first, Geary(1985a), in fact, commences with the incident at Featherstone in 1893 and describes events upto and including the miners' strike in 1984/1985. Throughout, Geary concentrates quite extensively on police strategies and tactics , insofar as he is able, given the limited amount of information which is contained in official records, although it could be argued that he often confuses the two. In the period between 1900 and 1939, Morgan(1987) describes the police response to the problems created by industrial unrest and unemployment, but she is more concerned with the legal framework in which they operated and increasing Home Office influence over police forces outside London during this period, than with the strategies and tactics used by the police.

A first hand account of the government response to the industrial conflict in South Wales is provided by General Macready(1925), who was later appointed Commissioner of the Metropolitan Police. In 1910, whilst serving as a Major-General, Macready was sent by the then Home Secretary, Winston Churchill, to take command of the combined police and military response to the miners' strike. Whilst he does not mention, in any detail, police strategies or tactics in responding to the rioting, he does describe the various efforts he took, both with the trade union leaders and the owners of the mines, to minimise violence.

Bowes(1966) provides a rather one-sided account of the police response to the hunger marches and the rise of facism during the late 1920s and 1930s, accusing them of brutality and a total lack of insensitivity. His criticisms of police action, whilst no doubt justified in some cases, appear to border on paranoa, and other writers commenting on that period are less critical (e.g. Benewick 1972; Farmen 1972; Lunn & Thurlow 1980; Anderson 1983).

In addition to those in the nineteenth century, the Home Secretary has ordered three public inquiries into serious public disorder this century. The last two are mentioned later at the appropriate place but the first was undertaken by a London magistrate, Chester Jones, into the events at Rotherhithe on 11th June 1920, when the police dispersed a crowd of 3,000 people who were trying to prevent vans from leaving the docks (PP 1912-13).

In the period immediately before the second world war, the newly-formed National Council for Civil Liberties (now known as Liberty) instigated what has become an increasingly common practice of appointing a so-called independent inquiry if the government of the day refuses to order a judicial one. The first was held in 1936 after there had been criticism of police action in dispersing a crowd in London (NCCL 1936). It was quickly followed by a second, in 1937, after a series of complaints, alleging brutality and violence, had been made against the police during their handling of an industrial dispute at Harworth Colliery in Nottinghamshire (NCCL 1937).

O'Byrne describes the period immediately following the second world war as one in which "there was little serious unrest"(2) and there is nothing, relating to public order, worthy of note for this period.

Twentieth Century from 1968 until 1979

Like Ascoli(1979), Laurie(1970), in writing his account of how the Metropolitan Police operated and was organised during the late 1960s, was given considerable freedom by the force to go were he wanted and to speak to whom he chose. Laurie devotes a whole chapter to public order but, with the exception of the disturbances in the vicinity of the American Embassy in Grosvenor Square, it was a time of little violence and he describes the arrangements for the Remembrance Sunday parade and a pop concert in Hyde Park, together with the response of the police to football hooliganism before dealing, fairly briefly, with the anti-Vietnam protests. More detailed accounts of the events of 27th October 1968, by far the largest of the four Anti-Vietnam demonstrations in London, are to be found in Halloran et al(1970). Although the book is mainly an analysis of the

way in which newsmen forecast violent confrontation and, because it was relatively peaceful, were compelled to find incidents to fulfil their prophecies, Halloran et al do describe the sequence of events on that day, using videotapes of the ITN live coverage; the unedited wire copy of the Press Association; reports which appeared in two national newspapers, together with interviews with the reporters who made them; and written statements from observers from the National Council for Civil Liberties, students who took part in the demonstration and the police officer in overall charge of police arranagements that day, Commander Lawlor.

Clutterbuck(1978) focuses on political violence during the six years, 1971 to 1977. As such he ignores the serious disorder at London's 1976 Notting Hill Carnival, but, after interviewing witnesses and participants on all sides, Clutterbuck does describe what actually occurred at Saltley in 1972, Red Lion Square in 1974, Lewisham in 1977 and Grunwick in 1978. Analyising the causes and effects of each outbreak of disorder, he places them in their political context, before identifying the various disruptive groups of the time and discussing the rule of law.

The second Government instituted inquiry of the twentieth century was conducted by Lord Scarman(1975), into what became known as the Red Lion Square disorders. In addition to being a useful source of information in relation to the sequence of events and the conduct of both the police and the crowd, Scarman makes a number of recommendations as to the handling of similar incidents by the police. The report is Scarman's interpretation of what occurred having heard evidence from a variety of witnesses, including some of those who were on the march, police officers, journalists and members of the public who were merely onlookers. Much of the evidence itself is published verbatim in a book by Gilbert(undated).

Other than in Clutterbuck's book, and presumably in police reports which remain subject to the 30-year disclosure rule, the events at Lewisham in 1977 and the disorder at Grunwick in 1978 are not well documented and one is reliant, at this stage, on reports in newspapers or television extracts for a picture of what actually happened on the day.

After the violence in Southall, in 1979, however, the Metropolitan Police Commissioner, Sir David McNee, was ordered by the Home Secretary to personally carry out an investigation into the disorder, and, at the same time, the National Council for Civil Liberties set up an 'unofficial committee of enquiry' under the Chairmanship of Michael Dummett, who was then Wykeham Professor of Philosophy and Logic at the University of Oxford. McNee had an advantage over Dummett in that he saw both police officers and members of the Southall community in conducting his inquiry.(3) In his report, which not unatuarally, perhaps, is supportive of the action the police took, McNee(1979) attempts not only to describe the sequence of events, but also to analyse the reasons for the disorder and answer some of the criticisms made of the police. But in this respect, the report does suffer from one glaring ommission; he makes no comment on the widespread allegations that the police used excessive force in dispersing some crowds. The Dummett Report(NCCL 1980), on the other hand, whilst accepting that those protestors "who used violence against the police must carry their share of the responsibility for what happened", is highly critical of the police, describing their action on the day as being "misconceived" and "disastrous"(4) although it has to be said that some of the criticisms of the police were justified.

The private views of senior police officers on serious public disorder have rarely been expressed. There were two major outbreaks of disorder during the time Sir Robert Mark was Commissioner of the Metropolitan Police, from 1972 to 1977, but he mentions them only briefly in writing about his whole career as a policeman(Mark 1978). Even then he concentrates more on the aftermath of the disorder, e.g. the futility and cost of the public inquiry which was subsequently held into the Red Lion Square incident in 1974(Scarman 1975) and, in his view, the wholly inadequate punishments imposed on those who were arrested, both at Red Lion Square and the Notting Hill Carnival in 1976, rather than on the police response to the disorder and the preceeding arrangements. However, whilst still Commissioner, Mark did comment quite widely on the role of the police in handling political demonstrations in London (see, particularly, Mark 1977).

Sir David McNee, on the other hand, is more forthcoming. Commissioner during a period in which there were a number of clashes between the National Front and various left-wing groups opposing them, most noteably, at Lewisham and Southall, and serious industrial conflict at Grunwick, he gives some insight into the conflicting pressures and conflicts in maintaining free speech in a democratic society and of the role of the police in keeping the peace during industrial conflict(McNee 1983).

Twentieth Century from 1980 to 1990

Up until 1980 there had been a reluctance for the police to give any details, other than perhaps a press release which would give the barest details, e.g. number of arrests, number of injuries, damage to property, etc., on which journalists could base their stories. Some reports of earlier disturbances (e.g. Dudley Constabulary 1962; Hastings Constabulary 1964; Birmingham Constabulary 1972) can be found in the library at The Police Staff College but they generally consist merely of a description of events and, in some cases (e.g. Dudley Constabulary 1962), a few rather obvious recommendations for the future. But, in the main, such reports that were made were submitted in confidence to the Home Office. However, immediately after the Bristol riot in 1980, the Chief Constable was required to submit a report to the Home Secretary which was widely published and a copy was subsequently lodged in the House of Commons Library (Weigh 1980). Following this, in 1981, both the Chief Constables of Greater Manchester (Anderton 1981) and Merseyside (Oxford 1981) submitted reports to their respective Police Authorities on the riots in Manchester and Liverpool respectively, during the summer. In 1985, four reports on serious disorder were made available. The Chief Constable of South Yorkshire submitted a detailed report to his Police Authority on the police actions taken during the year long miners' strike (Wright 1985). The Chief Constable of West Midlands also prepared a lengthy report for the Home Secretary and his Police Authority on the rioting in Handsworth (Dear 1985) and, for the first time, senior Metropolitan Police officers sent reports to the appropriate police/community consultative groups in relation to the rioting in Brixton (Marnoch 1985) and Tottenham (Richards 1985).

In addition, two further reports, one into the police action at Stonehenge (Wiltshire Constabulary 1985) and the other into the response of the police to the miners's strike in Kent (Kent County Constabulary 1985) appeared but were not widely circulated.

Subsequently, the Metropolitan Police published a review of their arrangements for handling public disorder (Metropolitan Police 1986a). Finally, the Metropolitan Police published a report (Metcalfe 1991), outlining the events and failings of their actions during the Poll Tax demonstration in Trafalgar Square in March 1990. Some of the reports are of a general nature, merely reporting the sequence of events and the activities of the various branches of the force (e.g. Oxford 1981); others give a slightly wider perspective of the police response, setting out the policies of the police from the outset (e.g. Wright 1985: Wiltshire Constabulary 1985; Kent County Constabulary 1985); others go further, describing, albeit sometimes briefly, the strategies and tactics adopted by the police in their response to the disorder (e.g. Weigh 1980; Anderton 1981; Dear 1985; Marnoch 1985; Richards 1985; Metropolitan Police 1986). In addition, articles, written by police officers who had a role to play in responding to disorder, began to appear (e.g. Brownlow 1980; Woodcock 1981; Leonard 1985).

In the aftermath of the serious disorder in Bristol on 2nd April 1980 and the subsequent trial, at which a number of people were unsuccessfully accused of taking part in a riot, Joshua and others(1983), drawing on the Chief Constable's report (Weigh 1980) and evidence given by police officers at the trial, provide a detailed description and analysis of the events of that day.

The inner-city riots during 1981 resulted in a proliferation of books, articles and the third government instigated inquiry to be held this century. The Scarman Report(1981) into the Brixton riots is regarded as one of the most comprehensive judicial investigations into rioting ever conducted in Great Britain, overcoming many of "the problems of perception and distortion which was evident in much of the media coverage"(5) and elsewhere at the time. Even so, it was suggested that the "inquiry

suffered from not hearing the views of rioters themselves."(6) Others, whilst accepting that Scarman's attempt to discover the background to the Brixton disorders was both conscientious and well-meaning, queried whether he had asked the right questions (Cowell et al 1982). Kettle and Hodge(1982), meanwhile, put the riots of 1980 and 1981 into a broad historical and social framework, but space clearly allowed them to give only a superficial account of the disorders themselves.

A number of people sought, with varying degrees of success, to examine the underlying causes (e.g. Commission for Racial Equality 1981; Winchester 1981; Hewitt 1982; Unsworth 1982) and, particularly after the publication of the Scarman Report, searched for ways of ensuring that it did not happen again. For instance, following a conference at Leicester University in April 1982, which was attended by some 260 people and addressed over three days by 23 speakers drawn from central and local government, churches, community groups, education, the media and the police service, Benyon produced a book of the proceedings. The result is, in the main, an exploration of the problems of policing multi-racial communities and an examination of Lord Scarman's findings and recommendations. Part 2 of the proceedings does contain personal accounts from eye-witnesses of the riots in Brixton and Moss Side but little mention is made of police strategy or tactics (Benyon 1984).

The 1981 riots resulted in yet another unofficial inquiry. On this occasion, Benet A. Hytner, a leading Queen's Counsel, was asked by the Greater Manchester Council to conduct an inquiry into the rioting in Moss Side. Like all those before, Hytner suffered because the police refused to participate. Whilst he made some attempt to compensate for this, the end product is a report (Greater Manchester Council 1981) which examines in some depth the causes of the disorder but, through no fault of Hytner, contains little detail of what actually happened during the rioting.

No industrial dispute has been examined more closely about the way it was policed than the Miners' Strike of 1984/1985. The views range from those which regard the dispute as an heroic struggle by oppressed people (Callinicos 1985; Reed & Adamson 1985) to those who regard the strike as

the brainchild of one man, Arthur Scargill (Crick 1985); others challenge the notion that it was Scargill's strike, claiming that, although nominally directed from above, it was determined from below (Samuel et al 1986). A number of writers describe the experiences of a single community such as Thurcroft, in Yorkshire (Gibbon & Steyne 1986) or of an area, such as South Wales (WCCPL (undated)). Two, the first by the Sunday Times Insight Team (Wilsher 1985), the second by Adeney & Lloyd (1986) are worthy of note as a record of the sequence of events, and in a study which traces the origins of the strike and analyses how it was mobilised, organised, maintained and ultimately defeated, Winterton(1989) claims that there were tensions between national and area officials, branch officials, activists and the wider membership. All of these should be of interest to senior police officers, if only to understand what is likely to be happening on the other side, and, in the case of the those written by the two journalistic teams (Wilsher 1985; Adeney & Lloyd 1986), as a record of what might be taking place in the political arena, during a lengthy industrial dispute.

According to some writers, the police discharged their duty with brutality, centralisation and class partiality, deploying riot squads on the picket lines on a large scale (e.g. Callinicos & Simons 1985; Fine & Millar 1985; Gibbon & Steyne 1986; Green 1990). Others were more constructive in their comments of the police role, placing a greater emphasis on the violence perpetrated by some of those on the picket lines (e.g. Wilsher 1985; Adeney & Lloyd 1986) and attempting to produce a balanced analysis (e.g. David Waddington et al 1989). The so-called "Battle for Orgreave", the largest set-piece confrontation during the whole dispute is outlined by a number of writers (e.g. Wilsher 1985; Adeney & Lloyd 1986; Collinicos & Simons 1985; David Waddington et al 1989); others recount the personal experiences of individual miners at Orgreave (Gibbon & Steyne 1986; WCCPL (undated)). The most detailed account is given by Jackson(undated); assisted by Tony Wardle, he gives a graphic account of the evidence given by police officers at the subsequent riot trial at which he was one of the defendants.

The three serious outbreaks of disorder in 1985 are all well documented. In addition to the police reports (Dear 1985; Marnoch 1985;

Richards 1985; Metropolitan Police 1986) two unofficial inquiries were also undertaken. The first, set up by the West Midlands Police Authority into the rioting in Handsworth, was conducted by Sidney Silverman (Birmingham City Council 1986). It was the first, and indeed remains the only, unofficial inquiry at which the police have given evidence. Silverman also had the benefit of being able to study the Chief Constable's very detailed report to the Home Secretary (Dear 1985). The result is a more balanced picture of the riot and the circumstances leading up to the rioting than many of the unofficial inquiries have been able to give.

However, the Metropolitan Police refused to co-operate with the second of these inquiries, ordered by Haringey Council into the Tottenham riot, and chaired by Lord Gifford, a well-known Queen's Counsel. Although he had the Richards' Report(1985) available to him, which in itself is lacking a detailed analysis of the police response, the final report (London Borough of Haringey 1986) tends to concentrate on the pre-riot and post-riot periods, giving only a brief outline of the rioting.

Following the 1985 riots, there were those who felt that the debate on inner-city rioting during the 1980s had tended to focus on immediate triggers and short-term remedies. Consequently, another conference was arranged during 1986, this time at the University of Warwick. With the help of Solomos, Benyon again produced a book of the proceedings (Benyon & Solomos 1987) which addressed the deep-rooted causes of inner-city rioting, such as social deprivation, policing practices, racial discrimination and disadvantage and unemployment - all of which had been identified by Lord Scarman in his initial report on the Brixton riots of April 1981 - and which made recommendations as to what needed to be done to remove these causes of unrest and attempted to forecast the prospects for the future.

Maintaining the Queen's Peace - The Police as an Agency of Government

The relationship between the Home Office, Local Authorities and chief officers of police has been described by a number of writers from an historical perspective. The early periods are covered by Pellow(1982), Troup(1926) and Dixon(1956), whilst Hart(1951) and Newsam(1955) have traced

the increasing influence of the Home Office over police matters in the immediate aftermath of the Second World War. More recently, politicians, both local and national, have either expressed their concern over this growing influence (e.g. Lyons 1981; Cunningham 1982; Hattersley 1982; Moores 1982; Simey 1988) or have supported it as being necessary for the efficient policing of the country (e.g. Whitelaw 1981; Griffiths 1982).

Police officers, too, entered the debate in the aftermath of the inner-city riots. Some (e.g. Anderton 1981b & 1982) took the view that the police authorities should be abolished; others (e.g. Pain 1982; Knights 1985) took a more pragmatic approach, calling for greater understanding.

Whilst much of the discussion has tended to concentrate on the relationship between the Home Office and the Local Authorities, some writers have sought to trace the development of the relationship between the Home Office and more specifically the Metropolitan Police Commissioner. Bailey(1981), for instance, assesses the response of the Home Office and the Metropolitan Police, between whom there was considerable conflict, to the unemployed disturbances of 1886 and 1887 using, as a basis for his assessment the parliamentary report into disorder on Monday 8 February 1886, and the accompanying Minutes of Evidence, police and other reports filed in the Public Record Office, newspaper reports and various other material written at the time or shortly afterwards. During the last twelve years there has been an increasing call for the formation of a Police Authority for London (e.g. Marshall 1965; Cunningham 1982; Hattersley 1982; London Strategic Policy Unit, 1986)

In addition Mark(1978) and McNee(1983) comment on their relationship with respective Home Secretaries and the Home Office during their terms of office as Commissioner.

At the heart of the debate about the actions of the police in responding to disorder has been a continuing debate about the independance of the police to take action free from political or other interference and the need to be accountable to the public. Morgan(1987) suggests it remains at the heart of present-day concerns about maintaining order in a

free society. A number of writers (e.g. Judge 1982; Newing 1987) have sought to strike a balance between the independence of operational decision-making and public accountability.

Criticism about the growth of Home Office power and the general lack of police accountability to local police authorities and local communities was most pronounced during the miners' strike of 1984/1985 with a number of writers suggesting that what small degree of accountabilty that remained was eroded even further as the dispute progressed (e.g. Spencer 1985; Fine & Millar 1985; McCabe et al 1988), suggesting that the whole police operation was master-minded centrally, at the National Reporting Centre (e.g. Spencer 1985; Loveday 1986). Others saw the growth of police independance in operational decision making, particularly as it related to public order, as the crux of the problem (Jefferson & Grimshaw 1984). Some went further, claiming that, because the relationship of the police with central government was complex and ill-defined, the powers and functions of the police, particularly in their handling of industrial disputes, lacked clear boundaries (Uglow 1988) or even that the police were beyond the control of democratic government (Scratton 1985).

Operating within the law

A number of books trace the law relating to public order. One of the earliest is Wise on Riots and Unlawful Assemblies. Originated by Edward Wise in the late 19th Century, it described the law as it then was. The fourth edition, edited by Bodkin and Kershaw and published in 1907, included the 1906 Trade Disputes Act, after which the statute law remained virtually unchanged until 1936. After the introduction of the 1936 Public Order Act, writers such as Baker(1937) sought to explain the new legislation in a more readable and workable form that that provided by the Act itself. The most recent Public Order Act, in 1986, also brought forth a number of books. One of the most useful is that by Card(1987). Written in such a way that it is of benefit to lawyers, police officers and lay people, he has included in many cases explanations of the legal background to the statutory provision. The book also includes legal provisions which are closely connected with public order legislation, such

as the Sporting Events (Control of Alcohol, etc) Act, 1985, which was aimed at the prevention of football hooliganism, and which was amended by the 1986 Act.

Because of the uncertainty which often surrounds it and the frequency with which changes in it have been made, the law relating to industrial disputes has been widely written about, particularly in recent years. Books vary from those which merely state and analysis the law (e.g. Perrens 1985; Drake 1985) to those which go on to discuss future trends, particularly in the response of the police, and various issues concerned with civil liberties (e.g. Kahn et al 1983; Fosh & Littler 1985)

A more general development of the law as it relates to public order and industrial disputes is to be found in Supperstone(1981) and Radzinowics(1968). Other books (e.g. Sherr 1989) seek to place the legislation in a more practical context. Using case studies, Sherr, for instance, sets out to convey an understanding of the law and practice of protest in the United Kingdom within the broader social and political context in which both law and practice are set.

The development and discussions that surrounded the changes in public order law can also be traced through various government Green (e.g. 1980) and White (e.g. 1985) papers, royal commissions (e.g. Donovan 1968), through reports of the House of Commons Home Affairs Committee (e.g. Session 1979-80) and from the submissions and comments of various pressure groups (e.g. Society of Conservative Lawyers 1970; Thornton 1986).

Command and Control

Bunker(1988) provides a detailed description of the development of communications within the police service but, whilst the importance of command and control is generally accepted, particularly as it relates to public disorder (see Metropolitan Police 1986a; Metcalfe 1991), little attempt has been made to articulate the component parts of such a system or to highlight the importance of the overall commander in making it work. Using the Brixton Report(Scarman, 1981) as a basis, Sherr(1989) has

attempted to identify the chain of command during outbreaks of so-called spontaneous disorder, but only in P A J Waddington(1991) and the Metropolitan Police (1986b) has a serious attempt been made to describe the command and control system necessary to ensure that the police "can effectively maintain or restore public order."(7)

Intelligence

There are two opposing views about the gathering of intelligence. The first, and most commonly expressed, is that intelligence gathering in situations which may result in disorder, particularly when it relates to industrial disputes or political dissent, is a serious threat to civil liberties (e.g. see Bowes 1966; Bunyan 1976; Manwaring Wright 1983;Fine & Millar 1985; BSSRS 1985; McCabe et al 1986). The alternative view is that it enables a more effective police response and avoids excessive policing (e.g. see Taylor 1984; Wright 1985; P A J Waddington 1991).

The methods used by the police throughout their history to obtain information (Clarkson & Richardson 1889; Bowes 1966; Critchley 1970; Bunyan 1976; Mather 1984; Thurmond-Smith 1985; Geary 1985; Morgan 1987) and the technology available to them to assist them in this function and in processing and storing the information (Manwaring-Wright 1983; BSSRS 1985) has also been widely discussed.

A number of books have been written specifically about the intelligence services, including Special Branch. Some are autobiographical but these tend to be concentrated in the period immediately before, during and after the First World War (Thomson 1922 & 1939; Macready 1925; Childs 1930); others are of a more historical nature, concentrating on the activities of the intelligence services in Great Britain as a whole(Allason 1983; Andrews 1985). However, with the exception of Macready, none are of any use in assessing the importance of intelligence gathering in responding to serious public disorder or the threat of such disorder.

During the miners' strike, the police did undertake a confidential review of intelligence gathering, particularly as they relate to industrial

disputes, and although this remains unpublished it does provide an accurate account of how intelligence gathering operations were organised at the time (Taylor 1984).

Tactical Options and Related Equipment

Predictably, given the increase in violence and the demand from certain sections of society for greater police powers amd equipment such as plastic bullets, water cannon and wider use of CS gas, there has been a drift towards paramilitarism. According to some (e.g. Northam 1988) this threatens the survival of Britain's unarmed police force and they see little chance of the trend being halted or reversed; others suggest it is all part of a move towards authoritarianism in contemporary policing. (e.g. Jefferson, 1990) The growth in police technology, particularly as it relates to public order policing, is also of concern (see Manwaring-White 1983; BSSRS 1985). Pointing out that rioters are the final proof of "social and political failure to solve problems such as alienation and unemployment" Manwaring-White concludes that "no amount of technology can replace the need to face up to this fundamental truth."(8) However, so long as the rioters resort to weapons such as firearms, petrol bombs and other missiles and it remains the duty of the police (as opposed to some other body) to suppress serious disorder, some writers suggest that a form of paramilitarism is inevitable (see Gregory 1985; P A J Waddington 1991).

Strategy

In the aftermath of serious public disorder and with hindsight, many writers have been only too prepared to comment on the strategic options available to a police commander during the lead up to the disorder, but few - Clutterbuck(1978), Gregory(1985) and P A J Waddington(1991) are noteably exceptions - have written about the strategic options available to the police commander once serious disorder has broken out. One reason for this has been identified by Sherr(1989), who points out that "it is not easy to discover police planning systems and strategies for dealing with demonstrations and protests".(9) Indeed, only P A J Waddington, deals with it in any detail and he claims the police confuse strategy with

general tactics. Unfortunately, however, in claiming that "the strategy is always fixed" in that "it is to maintain or restore order"(10), he, in turn, confuses strategy with the principle objective of the police, i.e. in the context of this paper, he confuses strategy with national strategy.

The fault for this lack of discussion on strategylies, in part, with the police, who, in the past, have been reluctant to make public their various strategic options, either, it is suggested, because they failed to consider what the strategic options were or, if they were considered, from an almost inherent fear of being criticised. Only occasionally is it possible to acquire such information and this generally only after a public inquiry, e.g. Red Lion Square (Scarman 1975) or Brixton (Scarman 1981), or a well-documented court case, e.g. in the aftermath of Bristol (Joshua et al 1983) or Orgeave (Jackson (undated)). More recently, however, the police have begun to articulate the strategic options they felt were open to them at various times during the lead up to disorder and during the disorder itself (e.g. Dear 1985; Marnoch 1985; Richards 1985).

The search for policing principles

Early accounts of the search for principles are to be found in Reith(1952) but the most detailed and up-to-date analysis has been conducted by Pike(1985). The first principles were laid down in 1829 by Richard Mayne, one of the two Commisioners of the newly created Metropolitan Police, who wrote:

> It should be understood at the outset that the principal object to be attained is the prevention of crime. To this great end every effort of the police is to be directed. The security of person and property, the preservation of public tranquility and all other objects of a police establishment will thus be better effected than by detention and punishment of the offender after he has succeeded in committing the crime.(11)

Although the precise wording changed over the next one hundred and fifty years, the principles remained broadly the same. Indeed, in The Principles of Policing and Guidance for Professional Behaviour to the Metropolitan Police in 1985, Sir Kenneth Newman, the then Commissioner,

suggested that the above statement remained "a valid description of the police function and one which will continue to guide the Metropolitan Police."(12) He pointed out, however, that "in the light of rapid social and cultural changes in recent years", there was a need "to expand the statement and to develop the interpretation of the 'prevention of crime' and the 'preservation of public tranquillity'"(13) and this development is discussed in Chapter 7.

But the emphasis placed on the prevention of crime as being the most important of the principles in 1829 simply does not equate with the facts. It was "an age of riots"(14) and, in reality, whilst there was a fear of crime, the "police forces emerged out of the demand for order in civil society".(15) According to Radzinowics, it was "keeping the peace, rather than the growth of crime" that "was the most urgent challenge" to the Metropolitan Police immediately after its formation. Describing how "the force found itself at the centre of bitterness between Parliament and people" before "it had time to consolidate its position or develop appropriate measures of control" Radzinowicz suggests that the Metropolitan Police would "stand or fall" by the way in which it kept the peace.(16) The police service has always been, and remains, inextricably linked with the story of civil disturbance, protest and demonstration in Britain (Manwaring-White 1983). And yet, despite all this, when presenting the necessary legislation to Parliament that would provide for the formation of the Metropolitan Police, the Home Secretary of the day, Sir Robert Peel, made no mention of the fact that the police would be responsible for the control of disorder.

Much has been written about the three principles of policing public disorder identified in this paper. The principal of preventing disorder, normally by concentrating a large body of police in the area where disorder is anticipated, was identified amongst many of the early police operations (see Reith 1948 & 1956; Williams 1967; Mather 1984; Thurmond-Smith 1985). More recently, whilst not abandoning the practice of concentration (see, for instance, Wilsher 1985; Adeney & Lloyd 1986), the police have sought to prevent disorder either by banning an event (see McNee 1983; Home Office White Paper 1985), or by imposing conditions on marchers, demonstrators or

pickets (see Fine & Millar 1985; Wilsher 1985; Adeney & Lloyd 1986; Ewing & Gearty 1990), or, in the case of spontaneous disorder, by mediation (see Scarman 1981; Marnoch 1985; Richards 1985).

The principal of minimum force can also be traced back to the early days of the Metropolitan Police and beyond (see Reith 1948; Critchley 1970; Pike 1985) and most writers agree that, although there were exceptions (see Mather 1984; PP 1855), the police generally acted with restraint (see Mather 1984; Critchley 1970). From the turn of the century, however, the police were increasingly accused of over-reaction, particularly in their handling of industrial disputes (see Williams 1967; PP 1912-13; Geary 1985 NCCL 1937) and in their dealings with groups opposing the rise of facism in the 1930s (see NCCL 1936; Bowes 1966; Williams 1967) There is little doubt that in any outbreak of serious disorder a minority of police officers invariably over-react in their response (see Scarman 1975 & 1981; Police Complaints Authority 1987 & 1990) However, other writers (e.g. Evelegh 1978; Pike 1985; Gregory 1986; P A J Waddington 1990 & 1991) place these accusations into perspective.

Although it has always been said that the police in Great Britain can only successfully operate with the consent of the public (e.g. see Reith 1948; Whitaker 1964: Stead 1985) the principal of consent and balance has only recently been articulated (see Scarman 1981). Much of the debate relating to consent and balance revolves round two specific areas - the contrast between so-called 'soft' and 'hard' policing (see Scarman 1981; Alderson 1982; Newman 1984; Metropolitan Police 1986; Graef 1989) and police discretion (see Scarman 1981; Alderson 1979; Pike 1985). Consent and balance is often particularly difficult to achieve during industrial disputes (see Macready 1925; Leonard 1985; Wright 1985; Fine & Millar 1985; Graef 1989)

Conclusion

Despite what, on the surface, appears to be a wealth of material, much of it is of only passing interest to senior officers who wish to increase their ability to handle serious public disorder or the threat of such

disorder. Nowhere, for instance, has any attempt been made to trace the influence of political pressures on operational decision-making during times of serious public disorder. And, whilst the Association of Chief Police Officers produced the highly controversial Manual on Tactical Options and Related Matters in 1983 (see Northam 1988; P A J Waddington 1991) and police tactics are frequently mentioned by writers (e.g. Geary 1985; Morgan 1987; P A J Waddington 1991) very little has been written specifically about strategy.

Similarly, whilst the principles of general policing have been developed and refined, little attempt was made, until the Scarman Report(1981) on Brixton, to relate these principles more specificially to public order policing; rather they tended to relate to the prevention and detection of crime but, whilst crimes are invariably committed during serious public disorder, it is arguably the collective disorder that an operational commander must aim his actions at, rather than individual crimes. Neither, with very few exceptions, has there been any attempt to stress the importance of either command and control or intelligence in restoring public tranquility once disorder has broken out. Indeed, insofar as the latter is concerned, it has invariably been portrayed as a rather unsavoury activity.

This paper sets out to rectify these omissions. It will be seen, for instance, that operational decision-making in relation to serious public disorder has often been influenced, either by the public pronouncements of government ministers, or at meetings between chief officers and Home Office officials. Another way in which the government has influenced operational decision-making is through the law. Although advice is taken from a wide variety of different bodies, ultimately, it is the government that dictates the laws under which the police will operate in times of serious disorder.

Throughout, this paper stresses the vital role played by the operational commander. For the first time, an attempt has been made to describe the strategic options available to him at various phases of the disorder and the paper highlights how three of the general principles of policing relate spcifically to potential or actual disorder. And, whilst

much has been written about the tactics used by the police, particularly those of an offensive nature, much of it has tended to be of a critical nature; it has to be said, rightly so, in some cases. This paper sets out to provide a balanced look at the tactical options available to the police, to examine the equipment which is related to those options and to describes why it is necessary to use appropriate offensive tactics to respond to serious public disorder.

Notes and References

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POLICING SERIOUS PUBLIC DISORDER: THE SEARCH FOR PRINCIPLES, POLICIES AND OPERATIONAL LESSONS

SECTION A

NATIONAL STRATEGY

CHAPTER TWO

MAINTAINING THE QUEEN'S PEACE - THE POLICE AS AN AGENCY OF GOVERNMENT

The Queen's Peace

Before one can begin to discuss the policing of serious public disorder in Great Britain, it is necessary to have some understanding about the position of the police in society and the relationship between the Home Office, individual chief constables and local authorities. The ultimate aim of any democratic society is the preservation of the peace, in Britain's case, the Queen's Peace. But what is meant by the Queen's Peace? According to Newsam "it is more than the mere prevention of crime and disorder". It is -

> 'the maintenance of conditions under which the normal functions of civilized government can be carried on, where obedience to the law is adequately served, and the people are free to pursue their lawful ends without threat of interference."(1)

The ultimate responsibility for maintaining the Queen's Peace falls on Government Ministers and, in particular, the Home Secretary. The principle agents in carrying out this task are the police.

The Early Years

The Metropolitan Police Act, passed in 1829, provided for the formation of a regular police force in London under two commissioners to be appointed by the Home Secretary. Under the Municipal Corporations Act, passed in 1835, borough councils were required to form police forces, but, although counties were empowered to do so in 1839, it was not until 1856,

with the passing of the County and Borough Police Act, that every county finally had its own constabulary.

With the exception of the metropolitan area of London, the various Acts allowed for the setting up of police authorities, a body of local people who would be responsible for providing an efficient police force for their respective areas.(2) The Home Secretary himself was the police authority for the Metropolitan Police. Therefore, with the exception of the metropolitan area of London, the maintenance of the police force was primarily a local responsibility. The police authority in the counties was, until 1888, the County Justices of the Peace in Quarter Sessions but thereafter the responsibility was given to a body called the Standing Joint Committee, composed of an equal number of elected representatives (county councillors) and justices of the peace.(3) In boroughs it was a sub-committee of the whole borough council, known as the Watch Committee; the members were therefore all elected representatives.(4)

In order that the Home Secretary would have some control over police forces other than the Metropolitan Police, albeit covertly, the County and Borough Police Act, 1856, enabled him to authorise the Treasury to give a grant which would cover a quarter of the cost of police pay and clothing. During the next sixty years the Treasury contribution was increased until it reached fifty per cent of all approved police expenditure. The Act also provided for the appointment of Inspectors of Constabulary whose task it was to report to the Home Secretary on the efficiency of all police forces, with the exception of the Metropolitan Police.(5) On the basis of these reports, the Home Secretary authorised the Treasury to give the grant.(6)

Metropolitan Police

In the case of the Metropolitan Police, the Home Secretary is, and always has been, the Police Authority. The Commissioner, Deputy Commissioner and the four Assistant Commissioners, who are in executive control of the force, and the Receiver, who is responsible for financial matters, are appointed by the Crown on his recommendation.

The precise degree of control exercised by the Home Secretary over the Metropolitan Police Commissioner is difficult to establish. According to Hart it can broadly be said -

> "that the Home Secretary is responsible for general policy, and the Commissioner for the detailed management of the force, but the Home Secretary can give the Commissioner instructions on any matter however detailed or technical."

She goes on to suggest that, in practice, the Home Secretary "will not concern himself with the technicalities of police work unless complaints have been made."(7)

This was the view put forward by a Joint Under-Secretary of State at the Home Office during a debate in the House of Commons in 1957. It was, he said -

> "the Secretary of State's sphere to prescribe and enforce general principles, and the Commissioner's sphere to apply them to individual cases, subject only to his general accountability to the Secretary of State as Police Authority."(8)

Sir David McNee, Metropolitan Police Commissioner from 1977 to 1982, does not see it as being quite so straightforward. He suggests that whilst the Home Secretary will expect to be kept informed "about the strategic plans for the force and about proposals for dealing with matters such as public disorder, demonstrations and racial problems" there is "scope for disagreement over plans and policies." There is also room for "dispute over the extent to which the Home Secretary and his department should be kept informed."(9)

According to Marshall, more than one Commissioner claimed "a degree of constitutional autonomy" during the mineteenth century.(10) For instance, in 1888, differences of opinion between the Commissioner, Sir Charles Warren, and the Home Secretary over the methods used by the police to suppress public disorder in London, led to the resignation of the former. During the debate that followed in the House of Commons, Sir William Harcourt said it was intollerable for a Commissioner to declare a condition

of independence, as Sir Charles Warren had done, and he went on to suggest that the Commissioner and the Home Secretary should act together as confidential colleagues. The Commissioner knew his force and it would be an unwise Home Secretary who tried to dictate how it might best accomplish its work. However, it was a matter entirely at the discretion of the Home Secretary how far the principle of responsible authority should interfere with executive action. "For the policy of the police", he concluded, "the Secretary of State must be solely responsible". (11)

Much does depend on the relationship between the Home Secretary and the Commissioner and the personalities of the two men. Emphasising that he had excellent relationships with the two Home Secretaries he dealt with - one Labour (Merlyn Rees) and one Conservative (William Whitelaw) - McNee pointed out that disagreements are bound to arise if the Home Secretary puts party political considerations before the policing of the metropolis. (12) Hart also suggests that the degree of control will vary "from time to time according to the personalities concerned." (13) But, whilst McNee felt his relationship with the two Secretaries of State had been excellent, he warned that if the long-established relationship between Commissioner and the Home Secretary was "to function with the greatest efficiency it is necessary for the Home Office to act more competently than in recent years." (14)

The Police Authorities outside London since 1964

In its final report published in 1962, The Royal Commission on the Police highlighted the diversity of police authorities and pointed out that their functions were not clearly defined. (15) Following the passing of the Police Act of 1964, therefore, all police committees in England and Wales consisted of two-thirds elected councillors and one-third Justices of the Peace, but Oliver points out that the introduction of Justices of the Peace on those committees, were formerly there had been none, "was a cause of grave concern to the elected members, and the matter is still the subject of debate." (16) The powers and functions of Police Authorities are laid down in various statutes, but it is important to emphasise that,

other than in cases of finance, the authority is not subordinate to the county council.

Amalgamations since 1964 have resulted in the formation of ten combined forces, covering more than one local council area. In these cases a separate body was set up as the Police Authority, consisting of two-thirds elected representatives of the various local councils covered by the police force and one-third magistrates, appointed by a joint committee of those magistrates. As far as possible the balance of political parties in the constituent councils should be reflected on the joint Police Authority. (17)

Tri-partite structure

The current relationship between the Home Office, police authorities and chief officers is now based on the Police Act of 1964. In what was to become known as the tri-partite structure, the Act defined the powers and responsibilities of each, broadly, giving "direction and control" of each force to the chief constable and making the authority responsible for securing the maintenance of an "adequate and efficient" force. (18)

Amplification of the relationship between the chief constable and his police authority can be found in the Report by the Royal Commission on the Police. A police authority, it suggested, should have four main duties. Firstly, to provide an efficient police force for their area; secondly, as a body of local citizens interested in the maintenance of law and order, they should be "able to give advice and guidance to a chief constable about local problems"; thirdly, "to appoint and, if necessary, discipline or remove the senior officers of the force"; fourthly, "to play an active role in fostering good relations between the police and the public." (19) Later in the report, the Commissioners elaborated on the second of these points -

> "The role of the police authority will be to advise the chief constable of general matters connected with the policing of the area, but decisions will be the responsibility of the chief constable alone." (20)

According to Spencer, police authorities were, for the most part, content to rubber stamp the decisions of their chief constables up until 1981, "partly because of their limited powers" and "partly because of a lack of political will to do otherwise."(21) But widespread Labour gains in the local elections of 1981 produced new authorities in a number of the large metropolitan boroughs, such as Merseyside and Manchester, the members of which were "committed to exercising their powers to exert some influence over their police forces and to call their chief constables to account."(22)

Operational indendepence - reality or myth?

Chief Officers of Police consistently claim that, in purely operational matters, they operate independently of any central or local government control. Sir Robert Mark, for instance, suggested that there had been a "long tradition of constitutional freedom from political interference" in the operational role of the police. Pointing out that "the police were not the servants of government at any level", he continued -

> "We do not act at the behest of a minister or any political party, not even the party in government. We act on behalf of the people as a whole."(23)

In theory this may well be the case; in practice, history suggests a somewhat different story.

Cold Bath Fields 1833

One of earliest examples of Government influence occurred in 1833 at Cold Bath Fields in London, only four years after the formation of the Metropolitan Police. Parliamentary wranglings over the Reform Bills focused the attention of the working classes on their total lack of representation in the government of the country. A National Convention was seen as the platform from which the working classes could demand the political reform which had been denied them in the Reform Act of 1832 and the National Union of Working Classes called a meeting in Cold Bath Fields

to "adopt preparatory measures for holding a National Convention as the only means of obtaining and securing the Rights of the People".(24)

Two days before the date of the meeting, the two Commissioners of Police, Lt Col Charles Rowan and Richard Mayne, were summoned to the Home Office to see the Home Secretary, Lord Melbourne. Initially, Melbourne suggested that the police should prevent the meeting from taking place but the Commissioners were against this for two reasons. Firstly, there were no legal grounds for doing so - under the law in existence at the time, the police could not interfere until the meeting was actually in progress - and secondly, if it became known that the police intended to prevent the meeting from taking place at Cold Bath Fields, the organisers would, in all probability, arrange on alternative venue. Melbourne is reported to have agreed with the views of the Commissioners and instructed them that, since the police knew most of the leaders of the Union, they should be arrested as soon as any of the speakers called for a National Convention. Nothing was put in writing and at the subsequent inquiry(25) there was disagreement as to whether Melbourne had told the Commissioners that the crowd was to be dispersed.

Later the same day a poster was delivered to the Headquarters of the Metropolitan Police by a messenger from the Home Secretary. The poster, unsigned but headed by the Royal Coat of Arms and issued by order of the Secretary of State, declared the meeting illegal and warned anyone attending the meeting that they would be liable to arrest. On the day, once the meeting had assembled, the police moved in to arrest the leaders and disperse the crowd as soon as the first speaker got up to speak. A number of policeman were injured and three were stabbed, one, Police Constable Culley, fatally. At the subsequent inquest into his death, the jury returned a verdict of justifiable homicide. This decision was later quashed by the High Courts but an inquiry was inevitable. In his evidence to the Select Committee, Lord Melbourne tried to place all the blame for the disorders on the Commissioners but this was rejected.

Hyde Park 1855

In 1855, Lord Grosvenor introduced a bill in Parliament with the intention of severely restricting the selling of goods on Sundays. The working classes saw it as a blatant piece of class legislation that would alter their way of life and attempts were made to organise a series of demonstrations against the bill. At one of these, on 24th June in Hyde Park, the police intervened when some people tried to address a large crowd that had assembled and there was some minor disorder. The following week, handbills and placards, calling upon persons to assemble in large numbers in Hyde Park on 1st July, were distributed around London.

The Home Secretary, Sir George Grey, took the view that the assembly had been arranged "with the evident intention of creating disturbances and disorder"(26) and, at a meeting at the Home Office on 29th June, he instructed the Commissioner of the Metropolitan Police, Sir Richard Mayne, to issue "a notice warning persons against assembly for the purposes contemplated".(27) This the Commissioner did but it had little effect.

A large crowd assembled in the Park on 1st July and, after some minor outbreaks of disorder, the senior police officer ordered his men to clear the road. It took some hours for them to do this and for part of the time "a state of tumult and disturbance prevailed."(28) As will be seen later,(29) the police action in this case was strongly criticised.

Hyde Park 1866

In July 1866, the Home Secretary, Spencer Walpole, decided to ban a demonstration by the Radical Reform League in Hyde Park, on the grounds that serious disorder was anticipated, and notices were issued accordingly, although there is no evidence that he consulted with the Commissioner of Police, Richard Mayne, before taking this course of action.(30) The notices announcing the ban had little effect, but as the Reform League procession, at this time quite peaceful, approached Hyde Park they found a strong cordon of police officers barring their way. Not wanting to confront the police, the leaders of the procession made their way to

Trafalgar Square but many of those on the march were looking for an opportunity to create disorder; it has to be said that they were probably not members of the Reform League but rather the equivilent of the modern-day rent-a-crowd. Before reaching Trafalgar Square, part of the crowd broke away and went on the rampage. A pitched battle, during which many police officers were injured, followed and Commissioner Mayne was forced to call for the assistance of troops for the first time in London since the formation of the Metropolitan Police, a decision for which he was strongly criticised.

The Home Secretary, meanwhile "received a deputation from the Reform League to whom he expressed his personal regrets for the events" that had taken place.(31) Mayne, who took the view that the principle cause of the riot had been the Home Secretary's decision to ban the meeting from Hyde Park, was disgusted and offered to resign. The offer was refused and the Home Secretary was criticised by Parliament for banning the meeting in the first place.(32) Later that year, the Home Secretary resigned when he tried to ban another meeting by the Reform League in Hyde Park, but was over-ruled by the Government, who allowed the meeting to take place. In the event there was no disorder.

Trafalgar Square 1886

In February 1886, after a meeting in Trafalgar Square organised by the Fair Trade League, to support protectionist tariffs, some of the demonstrators rampaged along Pall Mall, St James Street, South Audley Street and Oxford Street, smashing windows and generally damaging property. The disorder, which went unchecked by the police, sent "shock-waves through the nervous system of the propertied"(33) and the Home Secretary, Hugh Childers, responded by setting up a Committee of Inquiry.

In the immediate aftermath of the riots there were calls, during a Parliamentary debate, for the Metropolitan Police to be placed under Municipal control rather than the Home Office, but the Home Secretary resisted such a move. Answering criticisms about his role in the police response to the riot, Childers stated that whilst "there might be joint

discussion about the level of policing," the "responsibility for public order rested with the Commissioner", and he thought it "would be unwise to interfere in police arrangements".(34)

When it reported, the Committee, chaired by the Home Secretary himself, was highly critical of the police response and identified a number of defects in the way the Metropolitan Force was organised. The Committee's final proposal therefore was that a second inquiry should examine the adminstration and organisation of the Metropolitan Police Force. Not unaturally, the Metropolitan Police Commissioner, Henderson, took it as a criticism of his ability to run the force and he resigned. His replacement was Sir Charles Warren.

The second Committee of Inquiry into the police confirmed the views Childers had expressed in the House of Commons. "The primary responsibility for public order," it said, "rested with the Commissioner" but the Committee did recommend "that the Home Office ought to be kept informed of abnormal circumstances".(35) This was a direct reference to an incident which had occurred shortly after the mob had gone on the rampage. The Home Secretary received a message from his wife in Piccadilly which mentioned that houses had been damaged by the mob. He immediately asked his Private Secretary for clarification but the Home Office was totally unaware of what had taken place. Childers later told the House of Commons that it was usual for communications to pass between Scotland Yard and the Home Office during the course of a meeting.

It is interesting to note that during the huge anti-American demonstration in London on 27th October 1968, the then Home Secretary, James Callaghan, described how he first of all "walked along the Embankment where the demonstrators were assembling" before returning to the Home Office "in which a closed circuit television set had been installed, taking the same pictures as were reaching the police crowd control centre".(36)

Churchill as Home Secretary

During the South Wales coal strike of 1910-1911, Winston Churchill, then Home Secretary, responded to a request for troops to aid the local police by sending 100 mounted officers and 200 foot officers from the Metropolitan Police on 8th November. He also sent a senior army officer, General Macready, with instructions that he was only to deploy the military if the police re-inforcements were unable to cope with the situation. Macready noted that "during the first few days after arriving in the district" there was "an inclination to interfere from Whitehall in details which could only be gauged by the men on the spot."(37) This may have been partly due to the presence in South Wales of one of Churchill's staff at the Home Office, J.P. Moylan, who had been sent down to "co-ordinate" the intelligence system instituted by Macready in the area.(38) Unfortunately, serious rioting broke out before the police re-inforcements arrived and, as a result of a request from Captain Lindsay, the local chief constable, the Home Office authorised Macready to deploy the cavalry to restore order.

After discussions with McCready and Lindsay, in which he was told that the threat of disorder remained although the situation was currently under control, Churchill ordered the Commissioner of the Metropolitan Police to send a further 200 officers, who left London during the early hours of 9th November, and another 300 officers were sent later that same day.

Following further conversations with Moylan, Churchill instructed Macready and Lindsay to concentrate their attention on Tonypandy, where the rioting had occurred on 8th November, and Lindsay was ordered to deploy the whole of the last contingent of Metropolitan officers, 300 in all, in the town. Meanwhile, military re-inforcements were placed on standby in the area. In the event no disorder occurred but it was quite clear that Lindsay, if not tactically, was strategically under the control of the Home Secretary.

During a summer of considerable industrial unrest, Churchill ordered the Metropolitan Police Commissioner to send officers to a number of towns

and cities in England and Wales, in 1911. In June, a seamen's strike commenced in Liverpool and quickly spread to Bristol, Cardiff, Hull, Manchester and Southampton. At Hull, the local police were re-inforced by police officers from Birmingham, Nottingham, Sheffield and York, but after serious disorder, during which the police were stoned, Churchill ordered 500 Metropolitan officers be sent. The military were also placed on standby but the dispute was quickly settled and there was no further trouble. On 5th July, 200 Metropolitan officers, and troops, were dispatched to Salford but strikers settled and they were not deployed. On 18th July, Curchill ordered 300 Metropolitan officers to Cardiff, followed by another 100 the following week.

In Liverpool, meanwhile, where both dockers and railywaymen were on strike, there were riots. The local police were re-inforced by contingents from Birmingham and Leeds, and Churchill sent troops. The strike was quickly settled and the police re-inforcements and troops were immediately withdrawn.

It was clear that Churchill had been unimpressed with the way some Police Forces had responded to the strikes because, on 11th August 1911, after consulting with the Law Officers of the Crown, a two-page memorandum was sent to all Chief Constables, reminding them of the law on intimidation and molestation contained in Section 7 of the Conspiracy and Protection of Property Act, 1875, and Section 2 of the Trade Disputes Act, 1906. Alleging that, on occasions, "workermen were induced to leave their employment by intimidation and by fear of violence" the memorandum concluded by stating -

> "the police are bound to maintain order and to prevent riot and damage to property; and they are bound to protect from violence and molestation workmen who voluntarily continue to work, and to repress any proceedings on the part even of properly constitued pickets, which pass beyond peaceful persuasion and assume the form of intimidation". (39)

Morgan suggests that Churchill's actions during this period "completely overturned the existing procedure for riot control." For the first time,

disorder associated with industrial disputes was seen "as a national emergency" and one "that required a co-ordinated response" from the state.(40)

Between the Two World Wars

Dixon describes the years immediately following the end of the First World War as a period when "many home industries languished, the level of unemployment mounted and the general scramble engendered much ill-feeling, which often led to threats of industrial action or actual strikes or lock-outs". It was, he claimed, a period of "disillusionment, frustration and unrest". During such times, particularly when it is clear that essential services are likely to be disrupted, "the Government is bound to take action to maintain such services, and measures of this kind involve the Home Office and the Police". It will inevitably involve many other organisations but it is primarily the responsibility of the Home Office and the Police to ensure that the King's Peace, as it was then, is maintained.(41)

On 18th February and 7th March, 1919, selected Chief Officers were summoned to attend a meeting at the Home Office "at which the Government's general plans were explained, and the local arrangments which might be made in the event of a general strike of miners and transport workers were discussed in general terms".(42)

Following the meeting, the Home Office issued a circular to all Chief Officers which set out the procedures for requisitioning military aid and the arrangements for the protection of food convoys; at the same time they were instructed to forward 'daily intelligence reports to the Home Office by telephone or telegram'.(43) Similarly, when a National Rail Strike was declared on 27th September 1919, the police were again asked to forward "daily reports on the location situation" to the Home Office.(44)

On 15th October 1920, Chief Officers were urged to expand the Special Constabulary as the "likelihood of a national Coal Strike grew". The strike began on 1st April 1921, and lasted until 1st July. During it, the

Home Office made enquiry "of chief constables in the more rural areas as to the extent to which they would be able to lend police to chiefs of police in industrial areas",(45) and some forces instituted local agreements of mutual aid. Although there was little serious disorder, the Home Office did feel it necessary to circulate all Chief Constables on 5th May, calling their attention to the memorandum dealing with intimidation and molestation, issued in 1911. Pointing out that it had become aware of recent cases of intimidation, the Under Secretary of State, Edward Troupe, suggested, in the final paragraph of his letter, that "any pickets likely to cause intimidation by their number or otherwise should be broken up and full protection given to all members who are willing to work".(46)

A period of low wages and depression followed the stoppage in 1921 but by 1923 coal exports were on the increase and the advent of the first Labour Government in 1924 gave a glimmer of hope to the Trade Unions. It was not to last. By 1925, industry was again in decline and the miners were again in dispute with their employers. In anticipation of serious industrial unrest, the Home Office again circulated Chief Constables, on 30th December 1925, to remind them of their duties under the provisions of the law relating to intimidation and molestation. In general, the circular was a repetition of the two previous memoranda on the same subject, but the final paragraph was somewhat more directive -

> "It is essential ... that, in any future dispute in which the country may become involved, (the police) should take all possible steps, so far as their resources permit, to repress any proceedings on the part even of properly constituted pickets, which pass beyond peaceful persuasion and assume any form of compulsion".(47)

A Royal Commission, set up by the Government in an attempt to avert another strike, failed to resolve the situation and by 1st May 1926 there was a complete stoppage of coal production throughout Great Britain. On this occasion, the Trade Union Congress called for support and by 4th May many other unions had instructed their members to cease work. The General Strike had begun. An appeal for people to enrole in the Special Constabulary met with considerable success, and the Home Secretary

announced the formation of a full-time, paid body known as the Civil Constabulary Reserve (CCR). It was organised by the War Office, through Military Commands, and would consist of "members of the Territorial Army, senior contingents of the Officer Training Corps and ex-military men who could be vouched for at Territorial Army Headquarters".(48) About 17,000 had been recruited into the CCR by the 14th May and another 125,000 people had enrolled in the Special Constabulary, but the strike collapsed when other unions withdrew their support for the miners and returned to work.

On 8th October 1926, the Under Secretary of State, E. Blackwell, wrote to all Chief Constables, on behalf of the Home Secretary, drawing their attention to the disastrous consequences for the mines if "safety men" stopped work. Pointing out that unlawful acts might be directed against these men "with a view to compelling them to cease work" the letter impressed upon Chief Constables the need to be "prepared *beforehand* to deal with any situation that may arise and to forestall any attempt to bring violence or intimidation to bear on safety men who are willing to remain at work". The letter urged Chief Officers to strengthen their forces if available Police powers proved insufficient and reminded them that information about which forces were in a position to supply mutual aid could be obtained from the Home Office. The letter concluded by asking each Chief Constable to furnish a report, within 2 or 3 days, about the situation in their respective districts, including the measures they had taken or contemplated taking, to strengthen their Forces.(49)

The law relating to public order and industrial disputes is described in the following chapter; suffice to say, at this stage, that when during the 1930s, the growth of the Fascist movement led to outbreaks of serious disorder, particularly in London, it was the Home Secretary's responsibility to consider what needed to be done to meet the threat by way of legislation and, in pursuance of this duty, he introduced the bill which, when passed by Parliament, became known as the Public Order Act of 1936.

Dixon saw this as a period when existing links between the Home Office and the Police were developed and strengthened and suggested that the

experience gained by the Police placed them in a position in which they were "ready at call to guide, assist or restrain the civil population in a wide variety of ways". (50) He does not make it clear who's call but the inference is that it is the Home Office.

The immediate Post War period

Outbreaks of serious public disorder were rare during the first twenty years after World War II until the famous Tet offensive, mounted by North Vietnamese forces against American and South Vietnamese forces in January 1968, triggered off a number demonstrations in London in support of the North Vietnamese. In March, there were violent scenes outside the American Embassy in Grosvenor Square during which 250 people were arrested and over 140 police officers injured. In July, during a march to Grosvenor Square, demonstrators attacked the Hilton Hotel in Park Lane and other buildings in close proximity, after which the Home Secretary, James Callaghan, expressed his displeasure at the police response. Describing the scenes as "ugly", he suggested "the police had not been well prepared." (51)

There was then a huge build-up to October 27th to what the organisers hoped would be the biggest demonstration London had ever seen and there were fears that the disorder seen in March and July would be repeated. In the event, over 25,000 people took part but there was very little disorder. (52) Suggesting that there was evidence of "both a 'hard' and 'soft' police response to public order crises of various types" during the 1960s, Gregory queried "why there should be such a difference", adding "clearly political direction by the government in power could play a part." (53)

The government's response to the success of the miners in closing the Saltley Coke Depot in 1972 was to set up the National Security Committee under the chairmanship of the then Home Secretary, Robert Carr, with a view to reviewing all aspects of maintaining law and order. By the time it had completed its review, a Labour Government had been in power for a year, but its recommendations were accepted by the new government and the

Conservative Party, which was now in opposition. However, the Labour Government did make one change, re-naming it the Civil Contingencies Committee. Now known as the Civil Contingenies Unit, Scraton claims that part of its function from the outset has been to monitor and respond immediately "to union disputes in key industries" and it was clear that the Home Secretary, the National Reporting Centre and the Association of Chief Police Officers "would work closely together should there be a recurrence of the 1972-4 confrontation."(54)

In combatting the rise of the National Front and the disorder which accompanied many of their meetings and marches, the police generally received the support of the Government in power. However, after the death of a demonstrator at Red Lion Square in 1974, there were calls for a judicial inquiry into the handling of the demonstration and counter-demonstration. In appointing Lord Scarman to conduct such an inquiry, the Metropolitan Police Commissioner, Sir Robert Mark, suggested that "a weak minority government" was "hanging on to office by its eyelashes" at the time and accused the Home Secretary, Roy Jenkins, of being influenced by his desire not to risk offending the extreme left of the Labour Party "in case it should bring it down."(55)

The development of common minimum standards

In April 1980, serious rioting occurred in the St Paul's area of Bristol, during which the police withdrew for four hours. In the aftermath, the Home Secretary, William Whitelaw, announced to the House of Common's that he had asked -

> "senior officials in his Department and Her Majesty's Chief Inspector of Constabulary, in conjunction with the Commissioner of Police of the Metropolis and the Association of Chief Police Officers in England and Wales, to examine thoroughly and urgently the arrangements for handling spontaneous public disorder". (56)

The Training Committee of the Association of Chief Police Officers responded by setting up the Spontaneous Disorder Training Sub-committee which rapidly concluded that some common and minimum standards of training

in dealing with public disorder were neceesary. The review was completed by August when, in a written answer in response to a question from a Member of Parliament, Whitelaw said -

> "My officials and H.M. Inspector of Constabulary will, with chief officers of police and others concerned, proceed urgently with the further work that will be necessary to impliment the conclusions of the review". (57)

The Home Secretary set up a Public Order Liaison Group, consisting of representatives of the Association of Chief Police Officers, the Metropolitan Police, The Police Staff College at Bramshill, H.M. Inspector of Constabulary and the Home Office. An Under Secretary of State from the Police Department at the Home Office was appointed Chairman. Clearly, it was not to be left to the police to implement the review but was to be a combined effort with the Home Office very much to the fore.

But Bristol was regarded as an isolated incident and the Group made slow progress. In April 1981, Brixton exploded and in July there was serious rioting in a number of major cities throughout England. In the early hours of Monday morning, the 6th July 1981, during a period of particularly violent disorder in the Toxteth suburb of Liverpool, the Home Secretary was woken by his Private Secretary, who had received a telephone call from the Chief Constable of Merseyside, Kenneth Oxford, seeking the Home Secretary's approval to use CS gas in order to relieve pressure on the police and restore order. However, the Home Secretary decided he was unable to make such a decision from his bed and suggested that "such decisions can only be taken by those in charge of the operations on the ground". (58)

In addition to an absence of common minimum standards in training, the Liaison Group quickly discovered that there were variations in the type of equipment in use, there were no mutually understood tactics and public order terminology differed from Force to Force. The Group recognised that until there were common operational tactics, together with a standardisation of equipment and there was an agreed understanding of terminology, it would be impossible to prepare a common training programme.

With Home Office support therefore, the General Purposes Committee of the Association of Chief Police Officers set up the Community Disorder, Tactical Options Inter-Force Working Group, under the direction of Deputy Assistant Commissioner Bob Hunt, from the Metropolitan Police. The Group set about examining all current practices in handling public disorder, both in this country and abroad. A vast amount of information was gleaned which was analysed and set out in the Manual of Tactical Options and Related Matters.

It was recognised at an early stage that when the Tactical Options Manual, to use its abbreviated title, had been completed there would be a need to translate it into training packages according to the needs of each rank. To undertake this task, the Community Disorder (Training) Inter-Force Working Group was set up, under the directions of Deputy Assistant Commissioner John Radley, at the end of August 1982, although the Group was not fully functional until October.

Despite a claim by at least one member of the Association of Chief Police Officers that the Tactical Options Manual was a confidential document produced by the association for the use of the police service, and not a Home Office document,(59) a draft copy of the manual was presented to the Home Secretary early in 1983 for his endorsement. Although he was in general agreement with the content, "a number of presentational amendments to the text, primarily to take account of the public and political impact, for the police service and the Home Secretary, were the contents of the manual or some of them, by some means to become public" were suggested.(60) Amendments were made along the lines suggested and the Home Secretary finally gave his approval during the latter half of 1983.

The Miners' Strike 1984/1985

On 1st March 1984, the National Coal Board announced that the pit at Cortonwood in South Yorkshire would close in mid-April. There had already been isolated disputes at a number of pits over shift patterns before the announcement was made and there had been an overtime ban since October 1983 over a wage claim. On 8th March, the National Executive Committee of the

National Union of Mineworkers endorsed calls for a strike by Yorkshire and Scottish miners. The following day miners in Kent and Durham agreed to support a strike but in other areas, such as Nottinghamshire, the Midlands and the North-West, miners wanted a ballot. By 12th March, the strike was solid in Yorkshire, Kent, most of South Wales and Scotland and striking miners had been sent to attempt to picket out some of the pits still working in other areas. On 13th March, mass picketing stopped miners from working at three pits, which up until then had been working. The following day, the National Reporting Centre drafted 8,000 police officers in to Nottinghamshire, at the request of the Chief Constable, Charles McLaughlin.

It was against this background that Government expectations of the police were made clear, both in public and privately. The early success of flying pickets in persuading pits which, until their arrival, had been working "openly angered" the prime minister, Margaret Thatcher, who "spoke witheringly to a group of new young Tory MPs about the 'fourth-rate' chief constables who were failing to hold the line."(61) Adeney and Lloyd suggest that "it was made clear from the prime minister herself to chief constables, who had themselves absorbed the lessons of Satley, a very different line was expected."(62)

Meanwhile, in the House of Commons on 15th March, the Prime Minister, Margaret Thatcher, said -

> "It is the duty of the police to uphold people's rights to go about their law-abiding business peacefully. The police have powers to limit the number of pickets, to disperse excessive pickets and to stop vehicles carrying pickets if necessary. They have the resources and facilities for mutual support if they require it."(63)

After re-iterating what the Prime Minister had already said about picketing, the Home Secretary, Leon Brittan, concluded his speech to the House of Commons -

> "I have made it clear to the chief constables concerned that they have my complete support in taking every measure open to them within the law to keep the peace and protect the right to work and to vote".

He went on to report that he had -

> "asked Sir Lawrence Byford, Her Majesty's Chief Inspector of Constabulary, to keep in close touch with the chief constables of the areas concerned. He has left for Nottinghamshire in the first place, and will report personally to me later today". (64)

The following day, Sir Michael Havers, the Attorney General, encouraged police to act "vigorously and without fear or favour to make sure that no more than six pickets were allowed at the entrance to any pit". (65)

Mutual Aid

Harris suggests that it was "the decisive intevention of Mrs Thatcher's Government" that ensured "the physical force of flying pickets deployed in various parts of the country was resisted with the aid of unprecedented numbers of police moved in to keep them at bay." (66) Although mutual aid agreements were made from time to time by groups of forces(67) it was not until 1964 that it was placed on a firm footing. Section 14 of the Police Act of that year enabled the Home Secretary to direct the Chief Officer of one Force to provide assistance to another Force if it appeared to him "to be expedient in the interests of public safety or order." (68) The Act also stipulated that the aided Force should pay an agreed sum of money to the aiding Force to cover the cost, but in the event of the two Forces being unable to agree, the Home Secretary could determine the amount to be paid. Thus, the Home Secretary could, if necessary, exercise some control over the number of men to be sent to any part of the country in response to anticipated or actual disorder. To-date, he has not exercised this power but the effect of the legislation was a recognition, in law, that the Home Secretary had a national responsibility for responding to public disorder.

In January 1972, the National Union of Mineworkers went on strike in support of a pay claim. The strike was 100% effective and the mining of coal came to a complete standstill throughout the United Kingdom. Initially the strike had little impact on the public and the miners quickly

turned their attention to stopping all movements of coal and the manufacture of bi-products. The Trade Union Congress supported the strike, advising trade unionists not to cross picket lines.

After a number of incidents, including the death of a miner in Lincolnshire on 3rd February, when a lorry was driven through a picket line, the miners turned their attention to the Saltley Coke Depot, in Birmigham, owned by the West Midlands Gas Board, where lorries regularly queued to collect coke. A number of days of violent picketing culminated in 15,000 people blocking all entrances and exits to the depot on 10th February 1972, despite the presence of nearly 900 police officers. Realising that "any attempt to allow more lorries through would be reckless", the Chief Constable, Sir Derek Capper, requested the Chairman of the West Midlands Gas Board to close the gates, "because of the serious public order situation that had arisen, and the imminent danger to public safety."(69)

In the debates that followed, and in consultation between the police and the Home Office, it was recognised that, in large-scale industrial disputes, the provision of mutual aid between police forces needed to be co-ordinated by a central office. Accordingly, the forerunner of the National Reporting Centre was set up. Originally called the National Police Information Centre, it was based at the headquarters of the Metropolitan Police, principally because its central London location enabled the President of the Association of Chief Police Officers, who was to be responsible for running the Centre, to liaise directly with the Home Office and Her Majesty's Inspectorate of Constabulary.

The Centre was activated on a number of occasions, noteably during the Miners' Strike in 1974, the Prison Officers' Dispute in 1980 and 1981, the inner-city riots the same year, and the visit of the Pope in 1982, but it was its role during the Miners' Strike in 1984 and 1985 that brought it to the forefront of the public order debate.

On 25th March 1982, during a debate in the House of Commons, the Home Secretary announced -

> "the disturbances of last summer called for national co-ordination. This did not just happen. It was planned and arranged by a team directed by the President of the Association of Chief Police Officers, an inspector of constabulary, and a senior Home Office official." (70)

It is necessary at this point to emphasise that whilst inspectors of constabulary are invariably former chief constables, they become Home Office officials on their appointment to the inspectorate. More importantly, this statement by Whitelaw suggests that there may have been an element of direction, certainly in the deployment of resources to individual force areas, from the Home Office during the inner-city disorders in the summer of 1981.

Police authorities were entirely excluded from having any say in the activation or functions of the National Reporting Centre during the miners' strike of 1984/85. Indeed, in a Home Office briefing paper, issued in July 1984 in an attempt to allay growing disquiet about the role of the Centre, it was said that the "Centre is activated by the President of ACPO, in consultation with colleagues and the Home Office." Describing its primary objective as the provision of mutual aid when the situation, for which it has been activated, demands it, the Home Office paper listed its other functions as the collation and dissemination of any information appertaining to that situation and the provision of information required by the Home Secretary by virtue of his accountability to Parliament for such matters. (71)

But the debate continued. On the one side there were those who insisted that the Centre amounted to a "Centralised Police Force under the control of a single officer (the President of ACPO) which (was) itself controlled by Whitehall" (72) and that it was "an autonomous body without any vestige of democratic accountability"; (73) it was "a serious threat to civil liberties" (74) and had all the makings of "a paramilitary state." (75)

Others, such as the Home Secretary, were at pains to point out that it was "simply a clearing house for the obtaining of assistance" and that "in every case the assistance (was) given at the request of a Chief Constable asking for assistance." Denying that there was any central control, he went on to say that the handling of the dispute itself was "an operational matter in which the Chief Constable of the area concerned (was) in control."(76)

So were does the truth lie? Black points out that the best evidence in support of the Home Secretary's claim was "the absence of a consensus amongst Chief Officers on the matter of intercepting and turning back 'flying pickets' before their arrival at their point of destination". He went on to suggest that there had been "an absence of agreement, even on the legality of such action" and there had been some acrimony between Chief Officers where the policy of 'interception' by one Chief Officer has forced the attentions of 'flying pickets' on the geographical area of another."(77) This view was supported, in part, by Loveday in his description of an apparently unsuccessful attempt by the Chief Constable of Nottinghamshire, Charles McLachlin, to persuade the Chief Constable of South Yorkshire, Peter Wright, to prevent 'flying pickets' from leaving Yorkshire, although he does add the proviso that road blocks appear to have been introduced almost immediately afterwards.(78) Reiner goes further, suggesting that one chief officer(79) telephoned chief officers "in adjacent forces to tell them that if they failed to mount road blocks in their areas to stop pickets reaching pits in his area, he would send his own men across the county line to do it for himself."(80)

Although Reiner suggests that "the extent of spontaneous co-ordination" between police forces, and between police forces and the National Reporting Centre "was sufficient to pre-empt any central direction", and "the official version of events" denied that there was even central pressure to conform to the national policing operation, it is clear that there was some intervention by central government. For instance, on one occasion, a senior Home Office civil servant told a meeting of chief constables that the Prime Minister "was convinced that a secret communist cell around Scargill was orchestrating the strike in order to bring down the

country." Suggesting that the police were unable to prove that such a conspiracy existed because their intelligence-gathering was inadequate, the civil servant told them that the Prime Minister wanted "a secret Public Order Intelligence Unit" set up "to infiltrate and monitor groups and activites which threatened order." Although at least one of the chief officers at the meeting was unhappy with the suggestion, a unit was apparently set up in London.(81) But Winterton claims that "throughout the strike the overall policy of deployment of police was overseen by Cabinet Sub-Committee MISC101" which was serviced by the Civil Contingency Unit.(82)

Financial control

A survey by Sarah Spencer, carried out shortly after the miners had returned to work, showed that the majority of Conservative controlled councils, who, on the whole, tended to be aiding authorities under the mutual aid agreements -

> "supported the decisions taken by their chief constable in relation to the dispute. Although none of them was consulted before the decision was made to ask for or send aid, they believed that this decision was the responsibility of the chief constable and it was not their job to question it."(83)

However, some of the Labour controlled councils took a different view and critical questions were asked about the control, finance and accountability of both police authority and police force. According to Spencer, the dispute "exposed an inherent conflict between the chief constable's 'direction and control' of the force and the authority's control of the budget and accountability for it to the ratepayers."(84) Such authorites claimed that their main concern centred on the vast cost of policing the dispute, which quite clearly, they would be unable to meet from their existing budgets and councils demanded re-imbrusement from Central Government. Although a number of offers towards meeting the additional costs were made by the Home Secretary, they did not amount to the total expenditure and some councils took action in an effort to obtain more. In Derbyshire, for instance, the local authority refused to pay the

bills of the aiding authorities, a decision which invariably brought them into conflict with those authorities; in Nottinghamshire, the Chief Constable was instructed by the police authority to withdraw his 26 men from the regional crime squad and stop recruitment as a means of reducing expenditure; in South Yorkshire, the Chief Constable was ordered to disband the mounted branch and reduce the dog section. Others sought legal advice on the powers of the chief constable and were told, in substance, that police authorities could not prevent the decision of chief constables to deploy officers and incur expenditure.

In Merseyside, the police authority accused the Home Secretary of deploying "scarce resources regardless of cost, without any prior consultation with the police authorities involved."(85) And, in South Yorkshire again, after the police committee had passed two resolutions which effectively prevented the Chief Constable from spending more than £2,000 without their specific authority, they were taken to the High Court where Counsel for the Attorney General argued -

> "The Attorney General's concern is to ensure that law and order are maintained and that the Chief Constable is enabled to discharge his responsibilities by being given what he requires for his operational responsibilities, over which he has sole control."(86)

In apparent agreement, the High Court set aside the two resolutions passed by the police authority.

At a meeting at the Home Office, in June, a delegation from the Merseyside Police Authority were told they could not set a limit on spending by their chief constable; they could only ask him for an account of what he had spent.(87) At a subsequent meeting the Home Secretary told representatives from the Association of Metropolitan Authorities -

> "A chief constable acting reasonably cannot be required to obtain police authority approval for the expenditure involved, but responsible chief constables and responsible authorities would meet to discuss the situation thereafter."(88)

In contrast, however, in early September, the Metropolitan Police overtime bill was found to be so high that the Home Secretary announced that the Force would not be allowed to exceed its cash limits in future without the prior approval of Home Office and Treasury Ministers.(89)

Most police authorities did not overtly seek to direct their chief constables on operational matters, claiming that their opposition to what was happening was merely an attempt to exercise some control over their budgets. But some councils, particularly those under Labour control, were sympathetic towards the miners and, realising that they could not hope to directly influence police strategy and tactics, saw budgetary control as an indirect or covert way of influencing the police response.

Consultation

In addition to the financial aspects of the policing operations, consultation became a key issue. In at least two of the larger police forces, serious conflicts already existed between the chief constables and their respective police authorities. In Merseyside, the Chair of the Police Authority, Margaret Simey, accused the Chief Constable, Kenneth Oxford, of acting as a censor by defining as operational anything he did not wish to answer.(90) In Manchester, the Chief Constable, James Anderton, claimed to be disturbed by "the political approach" adopted by the police authority. In an outspoken and far reaching attack, he suggested, amongst many other things, that there was a conspiracy to undermine the police and recommended that all elected representatives on police committees should be replaced by nominees.(91)

Whilst agreeing that there were dangers in the pressures being exerted by some Labour Party representatives for more "accountability", Tony Judge, the editor of the Police Federation Journal, suggested that chief officers did not help their argument by attributing "all kinds of hidden sinister motives to critics of their existing position." He went on to say that it was better for them to "concentrate upon the facts and acknowledge that the system will work best when there is understanding and co-operation on all sides" instead of providing "valuable ammunition for those who believe that

just as great an evil arises in a society where chiefs of police exercise virtually unrestricted power."(92) Eldon Griffiths, the Parliamentary Adviser to the Police Federation, suggested that chief constables wielded so much power that they could no longer expect not to "come under close scrutiny"(93) and a former Labour Home Office minister, George Cunningham, accused chief constables of being "so afraid of interference in operational matters by local politicians that they resist even the discussion of policy in these committees lest it should lead on to control."(94)

In his address to the Joint ACPO/AMA/ACC Conference in 1982, the then President of the Association of Police Officers, Barry Paine, attempted to clarify the fears of Chief Constables, suggesting, on the one hand there were local authorities of a different party to the central government, which set out "to deliberately hinder that government's policies". On the other hand, there were local authorities which sought "to toe the central government party line sometimes to the detriment of local requirements."(95)

Much of this early debate had arisen in the aftermath of the inner city riots of 1981 but the miners' strike led to renewed allegations and counter-allegations about the desirablity of consultation between a police authority and its chief constable. In responding to one request for legal advice about the powers of chief constables, lawyers suggested -

> "There is, as we see it, a duty on the authority to consult with the chief constable and a corresponding duty upon the chief constable to consult with the authority."(96)

A report by a sub-committee of the South Yorkshire Police Authority, set-up to inquire into the strike, suggested that "police authorities have a valuable role to play during times of public disorder" but "it is an empty role if overriding decisions are made at national level by central government and the Association of Chief Police Officers without adequate regard to local opinion."(97)

In a letter to a member of parliament who had queried the Home Secretary's role in controlling the provision of mutual aid by the Metropolitan Police during the miners' strike, Giles Shaw, then a Home Office Minister, suggested the Home Secretary, in his capacity as Police Authority for the Metropolitan Police, "would not expect to be consulted in advance" about the deployment of officers because it was an operational decision. But, the letter continued, "in practice close and continuing contact is maintained between the Metropolitan Police and the Home Office on a wide range of matters and the Commissioner's decision to meet requests for mutual aid "was a fact known to us from the outset."(98)

The latest Home Office circular, announcing that, in future, the National Reporting Centre would be called the Mutual Aid Co-ordination Centre or the National Information Centre, depending upon the purpose for which it was activated, suggests that it is important that chief officers of police "keep their police authorities informed of the levels of commitment to mutual aid in their area", particularly when the Mutual Aid Co-ordination Centre is fully operational.(99)

Other implications of the miners's strike

But government action in other areas of the dispute had implications for the police. The most serious of these was the failure of the National Coal Board to use the civil law under employment legislation in an effort to stop mass picketing. Only once, early in the dispute, did the National Coal Board take civil action against the National Union of Mineworkers and their officials but, when the court's ruling was breached, the National Coal Board Chairman, Ian McGregor, failed to bring contempt proceedings against those responsible. There is no direct evidence to suggest the government used its influence to persuade him not to proceed on this particular occasion, but it is clear that -

> "Much effort was made behind the scenes to disuade employers, private as well as public, to deny themselves this legal remedy, even when their businesses were being badly hurt by the dispute. Junior ministers like Alan Clark, at employment, spent earnest hours explaining how important it was to hold off."(100)

Although almost certainly a decision of the Cabinet as a whole, government action in this direction was led by the Energy Secretary, Peter Walker, who feared that any use of the employment laws could "turn 'Scargill's strike' into a general unions vs government confrontation." Wilsher suggests that -

> "Given the deep-rooted opposition of both the Labour Party and the whole trade union movement to these laws, their careless use - though vociferously demanded throughout the strike by the more died-in-the-wool Tory supporters - was seen as the one factor that could solidify Scargill's otherwise very fragmented support."(101)

Harris suggests that "it was an astute move" by Walker "to prevent any use of the Government's own much-vaunted but controversial employment laws" but the decision angered many police officers "who saw themselves as being used as the meat in the sandwich."(102) For instance, Inspector Carroll, a delegate from the West Yorkshire Police, told the 1985 Federation Conference -

> "The police were used by the Coal Board to do all their dirty work. Instead of seeking the civil remedies under the existing civil law, they relied completely on the police to solve their problems by implimenting the criminal law."(103)

Another police officer put it more forcefully in a letter to a national newspaper. Accusing the government of using "the 'thin blue line' as its battering ram against Arthur Scargill in an attempt to deliver the 'coup de grace' to the trade union movement as a whole", he said that the police were being used to "pursue a political goal rather than one of public duty."(104) There can be no doubt that it was Conservative Party policy to curb union power and bring them "to heel".(105)

Since the miners' strike, incidents of serious disorder, with the exception of the printers' dispute centred on Wapping in 1986/1987, have tended to be unexpected - to the extent that there has been no media build-up - and relatively short in duration; consequently, there has been little opportunity for government ministers to influence the response. In the

case of the printers' dispute, statements by ministers were generally in support of police action, although there was criticism from some opposition Members of Parliament. However, in the aftermath of the serious riots in Birmingham and London in the autumn of 1985, the Home Secretary did make one significant contribution to the police response to disorder, albeit against the wishes of some police authorities, when he made it possible for all chief officers to have access to baton rounds and CS gas.(106)

Conclusion

McCabe claims that the introduction of the Police Act in 1964 showed "a distinct shift in favour of central government and chief officers of police at the expense of local authorities".(107) Addressing the Police Federation Conference in 1981, at the height of the debate about the role of police authorities, in the aftermath of the inner-city riots, the then Home Secretary suggested that -

> "the relationship between the police service, the police authority and the Home Secretary of the day, is a delicate one. It can only work satisfactorily if each of the three parties respects the legitimate concerns of the other parties and if there is mutual trust and confidence."(108)

There can be no doubt that the Home Secretary, in adopting a role which could be described as 'in the national interest' during the miners' strike, severely limited the role of the Police Authorities. The Chairman of the Nottinghamshire Police Authority at the time of the strike claimed that -

> "no matter what any authority wants to do, the Home Secretary at the end of the day tells you what to do. So his argument on the tripartite agreement is a bit thin. Anything that the authority does that the Home Secretary doesn't like, he does his utmost to force you back."(109)

Indeed, Loveday suggests that, in retrospect, the miners' strike of 1984/1985 is likely to be viewed "as having the most profound impact on the relationship between the Police Authorities and their forces, as well and the Home Office."(110)

In 1968, during a case brought against the Metropolitan Police Commissioner by Raymond Blackburn, Lord Denning said that the responsibility for law enforcement lies with the chief officer of police who "is answerable to the law and the law alone."(111) Since the Blackburn case, chief officers have consistently relied upon this judgement, together with the 1964 Police Act, as a basis for repelling any attempt, by either central or local government, to influence operational matters. But what precisely is meant by accountability to the law?

Sir Philip Knights, a former Chief Constable of the West Midlands Police, suggests that it is "a system whereby the law can require the individual police officer to answer before a court accusations about his individual conduct, and which, in consequence, will serve as a persuasive check on the way he goes about his duties."(112) But it is not just to the courts that the police officer is answerable. He is also answerable to the Director of Public Prosecutions and the Police Complaints Authority, both of whom can instruct chief officers to carry out inquiries into the conduct of police officers, which can then be made public. All police forces account annually to their police authority through the Chief Constable's Report, or, in the case of the City and London and Metropolitan Police Forces, the Commissioner's Report, and all police forces are subjected to inspections by Her Majesty's Inspectorate of Constabulary.

Nevertheless, in his autobiography, published shortly after his retirement as Commissioner of the Metropolitan Police in 1982, Sir David McNee described the recent "tendancy by Home Office civil servants to exercise control over police operations" as "unwelcome".(113) Shortly before he retired in 1985, the Chief Constable of the West Midlands Police, Sir Philip Knights, claimed that "the urban disorders of 1981, with their political overtones", provided a "stimulus" for the Home Office to extend their influence into operational matters. Highlighting guidelines issued by the Home Office on the use of firearms, of CS gas and baton rounds, and of equipment used for surveillance and intelligence gathering, Knights suggested that all came "clearly within the chief constable's statutory responsibilities." But he went on to say that increased Home Office involvement -

> "in the operational work of the service, an area which has been seen traditionally as the exclusive province of the forces themselves, does serve to blur the demarcation lines of our respective constitutional positions, which in turn has serious implications when we come to consider the perceived ability of the service to remain impartial from political and other influences."(114)

Gregory describes the police response to serious disorder as "a mixture of the autonomous decisions of chief officers of police and those forms of standardisation of response tactics and equipment endorsed by the Home Office."(115) But the evidence goes further than this. Many of the apparent autonomous decisions appear to have been influenced by the pronouncements of ministers, both privately and in public, at times of serious public disorder; and chief officers have been and, indeed, continue to be influenced by the Home Secretary through Home Office Circulars.(116) Writing in 1967, Williams claimed that "the Home Office has long played a vital part in the preservation of order, not only in London, but throughout England and Wales."(117) There is no doubt that since then, the Home Secretary has increased his influence on chief officers in their response to serious disorder, particularly during the last decade. Having achieved this position he is unlikely to relinguish it.

Notes and References

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2. In the City of London, which traditionally has been the centre of the capital's commercial and financial undertakings, a separate police force exists, the Police Authority for which is known as the Common Council of the City.

3. The change co-incided with the passing of the Local Government Act of 1888 which provided for the election of county councils.

4. For a detailed account of the formation and make-up of police authorities, see Police, Government and Accountability by Ian Oliver. Macmillan, Basingstoke, 1987.

5. The Metropolitan Police have only been subject to inspection by Her Majesty's Inspectorate of Constabulary since 1989.

6. Although the with-holding of the grant has been rare in modern times, it was a fairly regular occurrance during the last century. See, for instance, The Dover Borough Police 1836-1943 by J G Harman in The Journal of the Police History Society, No. 2, 1987, p.82

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8. 571 H.C. Deb. 5s col. 574.

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11. 330 Parl. Deb. 3s. col. 1163.

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13. Hart, op. cit. 7, p.115.

14. McNee, op. cit. 9, pp.130/231.

15. Royal Commission on the Police 1962. Cmnd 1728. Her Majesty's Stationary Office, London, p.51, paras. 152/153.

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17. In 1986, six metropolitan counties were abolished and their functions were transferred to metropolitan district councils.

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26. The Times, 3 July 1855.

27. Ibid.

28. Report of Her majesty's Commissioners appointed to Inquire into the alleged Disturbance of the public peace in Hyde Park on Sunday, 1st July 1855 and the conduct of the metropolitan police in connection with the same, PP 1856 (2016).

29. For further details - see Chapter 7.

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31. Ibid, p.133.

32. Critchley, T.A. The Conquest of Violence: Order and Liberty in Britain. Constable & Co, London, 1970, p.147.

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34. Ibid, p.103.

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36. Callaghan, James. Time and Change. Collins, 1987, p.260.

37. Macready, General The Rt Hon Sir Nevil. Annals of an Active Life. Volume I. Hutchinson & Co., London, 1925, p.155 (see also p.137)

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39. Home Office Circular, dated 11 August 1911, signed by Edward Troupe.

40. Morgan, op. cit. 38, p.46.

41. Dixon, Sir Arthur L. The Home Office and the Police between Two World Wars. Unpublished (1966), p. 235.

42. Ibid, p.237.

43. Ibid, p.237.

44. Ibid, p.239.

45. Morgan, op. cit. 38, p.101.

46. Home Office Circular, dated 5 May 1921, signed by Edward Troupe.

47. Home Office Circular, dated 30 December 1925, signed by John Henderson, p.4.

48. Dixon, op. cit. 41, p.248.

49. Home Office Circular, dated 8 October 1926, signed by E. Blackwell, p.1.

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67. The early success of the Metropolitan Police in controlling disorder in London led to the Home Secretary regularly instructing the Commissioners to send officers to other parts of the country, either to maintain the peace when large crowds were likely to gether, or to restore public tranquility once disorder had broken out. The first statutory attempt to get police forces to enter into mutual aid agreements was enact in 1890. Section 25 of the Police Act of that year provided that a Police Authority could strengthen its Police Force by "borrowing" constables from another Police Force is special circumstances existed or there was a special emergency. The agreement could either be made for a particular occasion or it could be a standing agreement for recurring or unforseen events. But it was left entirely to individual Police Authorities to seek such agreements - by 1908 only 57 of the 192 police forces had made standing agreements - and no special powers were conferred on the Home Secretary to enable him to instruct one force to give assistance to another. Consequently, the Metropolitan Police (the Home Secretary was the Police Authority for that force) remained the principle source of aid. In 1924, in order to introduce conformity to the provisions of aid and to encourage Police Forces to set up aiding agreements, the Home Office sent a circular to all County and Borough Police Authorities, accompanied by a draft agreement under Section 25 of the 1890 Act. Although, there was some improvement in the situation, Hart reports that "between the wars, H. M. Inspectors often commented on the inadequacy of these arrangements."(op. cit.7, p.70). During the Second World War, the Home secretary was given power to instruct one Police Force to assist another, under Regulation 39 of the Defence Regulations. He retained this power after the war had finished and, in 1951, the 1925 agreement was updated after consultation between the Home Secretary, the Association of Metropolitan Councils and the County Councils Association (Home Office Circular 12/51)

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83. Spencer, op. cit. 21, p.17.

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99. Home Office Circular 36/1989, p.3.

100. Wilsher, op. cit. 61, pp.68/69.

101. Ibid, p.69.

102. Harris, op. cit.66, p.234.

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111. R v Metropolitan Police Commissioner, ex parte Blackburn (1968) 1 All E R 769.

112. Knights, Sir Philip. How police chiefs can make friends and influence police authorities. A presentation given as the 1985 Gwilym Morris Lecture at the University of Wales. Published in Police, Vol. XVII, No. 9, May 1985, p.32.

113. McNee, op. cit. 9, p.231.

114. Knights, op. cit. 112, p.30.

115. Gregory, op. cit. 53, p.66.

116. Williams, David. Keeping the Peace: the police and public order. Hutchinson, London, 1967, p.25.

117. In 1979, the then Home Secretary told the House of Commons "Circulars or memoranda issued by my department, for the guidance of chief officers of police, do not have the force of law ... but may, where appropriate, contain advice on the exercise of discretionary powers conferred by Parliament." But T A Critchley, who it should be remembered worked in the Home Office for a number of years before writing A History of Police in England & Wales, suggested that 'advice' and 'guidance' have become euphamisms for 'direction'. Oliver, who is a Chief Constable, albeit in Scotland, says "it would be a brave or foolish Chief Constable who ignored the advice contained in such documents on a regular basis," pointing out that it "could be grounds for calling into question his continued efficiency." See Oliver, op. cit.4, p.109.

CHAPTER THREE

OPERATING WITHIN THE LAW

Introduction

There is no constitutional right, and there never has been, to freedom of assembly in English Law; neither is there any legal right to demonstrate. However, the Universal Declaration of Human Rights provides a right of free assembly and association(1) and the European Convention on Human Rights and Fundemental Freedoms makes a similar provision, although the latter does recognise that such a right may need to be restricted by law "for the prevention of disorder or crime, for the protection of health or morals, or protection of the rights and freedoms of others".(2) The United Kingdom has signed both.

Similarly, there is ample evidence to suggest that "peaceful demonstrations are lawful".(3) Speaking in the House of Commons in 1934 at a time when the British Union of Fascists were increasingly becoming a focus for disorder, the Home Secretary, Sir John Gilmour, said, "The right of holding peaceful meetings and processions is one of the most cherished rights."(4) Four years later, the Home Secretary, this time Sir John Simon, said, "I think that demonstrations by way of processions are an old and well-established method of exhibiting a point of view."(5) In 1970, yet another Home Secretary, this time James Callaghan, suggested that demonstrating was "a traditional right", adding that "everyone is entitled to demonstrate against the Government or anyone else."(6)

It is not the aim of this paper to make a thorough examination of the law relating to public order(7) but it would be impossible to discuss the

role of the police in preserving the Queen's Peace without having some understanding of the developments of relevant legislation.

Common law offences

Throughout the whole of the nineteenth and in the twentieth century until 1986, there were five principle provisions under common law relating to the preservation of order. They were the common law offences of affray, unlawful assembly, rout and riot,(8) and the duty of the police, to prevent breaches and anticipated breaches of the peace.

(a) Affray

An affray was the fighting of one or more persons to the terror of any other person.(9) It was not necessary to prove that "any particular individual was frightened or intimidated"; it was merely sufficient to show that "the natural consequences of the fighting would be that reasonable people would be frightened or intimidated if they saw the acts in question".(10)

(b) Unlawful assembly

References to unlawful assemblies are to be found in various text books and year books going back to the Court of Star Chamber in the sixteenth century. By 1829 the necessary ingredients to an offence of unlawful assembly were that there should be three or more persons, and they should have a common purpose to commit a crime of violence or achieve some other object whether lawful or not, in such a way as to cause a reasonable person to fear a breach of the peace. The assembly became riotous when alarming force or violence began to be used.(11)

(c) Rout

Rout was a disturbance of the peace by persons who had assembled together with an intention to do something, which, if executed, would have amounted to a riot. To complete the offence they must have made a move

towards the execution of their common purpose. It was little used and further comment is superfluous in the context of this paper.

(d) Riot

A riot was an unlawful assembly where the people involved had actually begun to execute the purpose for which they had assembled, by committing a breach of the peace or acting in such a way as to put at least one other person in terror. There were five necessary ingredients - three or more persons; a common purpose; the execution or inception of that common purpose; an intention to assist one another, by force if necessary, against any person who opposed them in the execution of their common purpose and force or violence was displayed in such a manner as to alarm at least one person of reasonable firmness and courage. To be successful the prosecution required specific proof against each individual in relation to each of the five elements.

Since the Second World War, there have been a number of successful prosecutions for riot, most noteably against persons protesting outside an hotel in Cambridge(12) and against prisoners who rioted in Parkhurst Prison,(13) both of which occurred in 1970, and against spectators who went on the rampage at a motor cycle meeting in 1977.(14) Conversely, of late, such prosecutions have been less successful.

In 1980, for instance, sixteen people were originally charged with riotous assembly,(15) after serious disorder in Bristol. In this case it was claimed that the common purpose was a show of strength against the police. The judge agreed that, if there was such a show of strength, it could be considered a common purpose. Defence lawyers argued that the common purpose was not obvious and suggested that the police, in carrying out the raid on the Black and White Cafe, had started the riot. Clearly the jury were divided. After deliberating for fifty hours, they acquitted five of the defendants but were deadlocked over the remainder.(16)

In South Yorkshire, on 15th July 1985, thirteen miners were cleared of riot and unlawful assembly arising out of an incident at Donaster Coal House; two days later, fourteen people were acquitted in connection with the demonstrations outside the Orgreave Coking Plant in June 1984. In Nottinghamshire, seven miners, charged with riot and affray, and fourteen, with unlawful assembly, were acquitted; later riot charges brought against thirty-eight miners after a rally at Mansfield were also dismissed by the courts. (17)

(e) Breach of the peace

The common law imposes a duty on all citizens to suppress breaches of the peace. (18) Any person committing a breach of the peace, or who it is anticipated is about to commit a breach of the peace, may be arrested by an ordinary citizen or a constable and taken before a court. The magistrate may, on the evidence given to him, order a person to enter into a recognizance and find sureties to keep the peace or be of good behaviour. (19) If such an order is made and the person subsequently breaks it, he may be taken back before the court, and the magistrate may order the forfeiture of the recognizances and commit him to custody for up to six months or until he agrees to comply with the order, if that be sooner. (20) "It is," suggests Smith, "a power of unparallel importance in the public order field," because "it enables policemen to issue instructions in order to preserve the peace and to arrest and prosecute subsequently for obstructing of a constable, any person who refuses to act as requested". (21)

Early statutory legislation

The principle piece of legislation under which the police controlled disorder in 1829 was the Riot Act. Introduced in 1714 during a period of "frequent popular tumults", the Riot Act provided that -

> "if any person, to the number of twelve or more, being unlawfully, riotously and tumultously assembled together, to the disturbance of the public peace ..."

failed to disperse "by the space of one hour" after the making of a proclamation(22) "in the King's name" by a magistrate, then any such person committed a felony. The Act stipulated that the magistrate should be among the rioters or be as near to them as he could safely get when making the proclamation "in a loud voice" before which he should have commanded or caused to be commanded silence, again "in a loud voice".(23)

Magistrates, police officers and persons assisting them, which included the military as well as private individuals, were given the power "to seize and apprehend" any persons contravening the Act and to take them before the courts. In carrying out their duties in connection with the Act, magistrates, police officers and persons assisting them were to be "free, discharged and indemnified" if any person "so unlawfully, riotously, and tumultously assembled" should "happen to be killed, maimed, or hurt", although the principle of minimum force existed even then.(24)

Although little used this century, the Riot Act remained on the statute book until its repeal in 1967. The irony of its passing was that it took place the year before the anti-American protests in Grosvenor Square which was the beginning of the increasingly violent disorder which has occurred at frequent intervals in Britain since. Waddington claims that the repeal of the Riot Act "deprived the police of an explicit power of dispersal, and denied crowds, the safeguards of legally established procedures to be followed prior to dispersal."(25)

Under Section 23 of the Seditious Meetings Act, 1817, meetings consisting of fifty or more persons were forbidden in any street, square, or open space, within a mile of Westminster Hall "for the purpose of considering of or preparing any petition, complaint, remonstrance, or other address to both or either Houses of Parliament ... on any day on which the two Houses or either House of Parliament shall meet or sit, nor on any day on which the courts shall sit in Westminster Hall".(26)

An act passed shortly after the accession of George IV prohibited meetings for military drilling and training without the permission of the King, Lord Lieutenant, or two justices of the peace. By Section 2 of the

statute, justices and constables were empowered expressly to disperse any such meetings.(27)

In their attempts to combat serious public disorder in the nineteenth century - and, indeed, during the first thirty-six years of the twentieth century - the police were frequently forced to rely upon a series of Acts which were not designed specifically for that purpose. For instance, under the Vagrancy Act of 1824 any person armed with a gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, could be arrested.(28) Later, in 1861, two major pieces of legislation dealt with offences against people and property. The Offences against the Person Act made it an offence to wound or cause grevious or actual bodily harm to any person. Throwing corrosive fluids or explosive substances with intent to disfigure or disable any person, and assault with intent to resist arrest were also included in the Act.(29) The Malicous Damage Act allowed police officers to arrest any person found committing damage to property.(30)

However, some legislation was more specifically intended to assist the police in their attempts to preserve order. The passing of the Metropolitan Police Act in 1839 gave the Metropolitan Police Commissioner the power "to make regulations for preventing obstruction of thoroughfares, and to give specific directions to the constables to keep order and avoid obstructions". This Act also gave the Commissioner the authority to ban demonstrations that would block a thoroughfare.(31)

Trafalgar Square and Hyde Park

Throughout the modern period, the two most popular meeting places have been Trafalgar Square and Hyde Park. Under the Trafalgar Square Act of 1844, the Commissioners of Works were made responsible for the control of the Square and the legislation also defined it as a thoroughfare; thus the police were arguably legally entitled to ban meetings and demonstrations in the Square on the grounds that they would cause an obstruction under the Metropolitan Police Act, 1839. The banning of demonstrations as a means of preventing disorder has already been mentioned in the preceeding chapter and is discussed more fully later(32) but, in order to explain the current

position regarding Trafalgar Square it is necessary to elaborate about events that occurred during the 1880s.(33) At the beginning of November 1887, with the approval of the Home Secretary and the Government Law officers, the Metropolitan Police Commissioner, Sir Charles Warren issued a notice stating "that until further intimation no further meetings will be allowed to assemble in Trafalgar Square, nor will speeches be allowed to be delivered therein."(34) When the organisers of a mass meeting, which had already been planned for 13th November to protest against unemployment, took, as their central theme, the right of free assembly in Trafalgar Square, Warren issued a further notice, this time banning any organised procession from approaching the Square on that date. Undeterred, a huge crowd attempted to occupy the Square but were dispersed by police, supported by troops.

Warren issued a further notice on 18th November stipulating an indefinite ban on meetings and processions in and around the Square. A number of articles appeared in various publications supporting a legal right to demonstrate and attempts were made to challenge the legality of Warren's notices in the courts. The Home Secretary, supported by the Attorney-General, "asserted without qualification that there was no legal right to assemble in the Square,"(35) and the Divisional Court ruled, on 25th June 1888, that Trafalgar Square -

> "is completely regulated by Act of Parliament, and whatever rights exist must be found in the statute, if at all. The right of public meeting is not among them."(36)

In 1892, the Conservative Government was defeated and the Home Secretary of the newly formed Liberal Government, Asquith, responding to deputations from various radical groups, re-affirmed that there was no right of public meeting in the Square but decided to allow meetings to take place on Saturday afternoons, Sundays and Public Holidays. Subject to rules made by the Ministry of Public Buildings and Works (now the Department of the Environment) and subject to the various laws relating to the preservation of order, the scheme is that which operates today.

The regulating of meetings and demonstrations in Hyde Park during the greater part of the nineteenth century was more controversial and "it was only with great reluctance that various Governments of the 1850s and 1860s came to tolerate the use of Hyde Park for speeches and rallies."(37) The controversy was finally ended in 1872 with the passing of the Royal Parks and Gardens Act which still controls the use of the Park today.

Legislation as the common British response

During the twentieth century Smith claims that "a common British response to large scale disturbances has been to legislate." In support of his claim, he points out that it was "the suffragettes who silenced Lloyd George at the Albert Hall" who "precipitated the enactment of the Public Meeting Act 1908",(38) by virtue of which it became an offence to act in a disorderly manner at a lawful public meeting for the purpose of disrupting it.(39) The Representation of the People Act, 1949, creates a separate but similar offence for election meetings.(40) Similarly, when the growth of fascism resulted in an increase in violent disorder at public meetings and during marches organised by various political organisations, the Public Order Act was passed in 1936.

Increasingly during the 1930s it became common for groups representing one organisation to infiltrate the meeting of an opposing organisation with the intention of disrupting that meeting, initially by heckling or abusing the speaker. Therefore, the organising group would invariably employ "specially-trained 'strong-arm' stewards ... on the pretext that they were necessary to ensure free speech and prevent interference by opponents at rallies and meetings".(41) Because the group intending to cause the disruption expected to be ejected by the stewards, often violently, they would attend armed with sticks, broken bottles and other such weapons, hidden about their person.

The wearing of uniform identifying people with a particular organisation, was another increasingly popular practice and by the mid-thirties at least six different coloured shirts were being worn. The

British Union of Fascists, under Sir Oswald Moseley, had adopted black shirts; the Social Credit Party wore green shirts; the Independent Labour Party Guild of Youth wore red shirts; young Communists wore khaki shirts and red ties, and fascist groups, breaking away from the British Union of Fascists, wore blue or grey shirts.

Sir John Gilmour had already suggested in 1934 that if the right to hold peaceful meetings and processions "were to be abused in such a way as to lead inevitably to grave disorder or public disturbance, the Government would have to ask Parliament for such further powers as experience might show to be necessary to deal with such demonstrations."(42) By 1936, the disorder surrounding Fascist meetings had reached such proportions that the Government were forced to take action and the Public Order Act of that year was passed. Stone claims that it was passed "to strengthen the law and help to control the acitivities of political organisations which were at the time attempting to impose their views forcibly on others",(43) but Kettle suggests it was 'like every other public order law down the centuries ... introduced to plug a perceived gap in the law at a time of social turbulance".(44) Newsam, perhaps, puts it into better perspective. Suggesting that "legitimate agitation must not be allowed to degenerate into violence", he said that "if the law has to be strengthened it must be strengthened no more than circumstances require." His view of the Public Order Act was that "it made it possible to curb those activities that were most likely to cause disturbances, without depriving anyone of the right to express his opinion in public."(45)

Public Order Act 1936

The Act contained five main provisions. Firstly, it prohibited the use of uniforms in connection with political activities.(46) Secondly, it prohibited the organisation, training or equipping of quasi-military organisations.(47)

Thirdly it gave chief officers of police two main preventative powers in relation to public processions.(48) They could impose such conditions as they thought appropriate on processions for the preservation of the

public peace, and, if they thought that the police would be unable to prevent serious public disorder, they could apply for a ban. This was done by making application to the council or borough of the district in which the procession was to be held, for an order prohibiting all public processions, or a particular kind of public procession, in that area for a period not exceeding three months. On receipt of the application the council or borough could make such an order, but only after receiving the consent of the Home Secretary. In the case of the Metropolitan and City of London Police Forces, the chief officer was required to make application direct to the Home Secretary.(49)

Fourthly, the Act prohibited the carrying of offensive weapons at public meetings(50) and finally, it prohibited the use of offensive conduct either intending to provoke a breach of the peace, or whereby a breach of the peace was likely.(51) Conduct included the use of words or behaviour, or the distribution or display of any writing, sign or visible representation, which were threatening, abusive or insulting.

Legislation since the Second World War

Under the Representation of the People Act, 1949, a candidate at a parliamentary election has a right to use "at reasonable times" local authority school premises, and other local authority meeting rooms situated in the constituency, in order to hold "public meetings in furtherance of his candidature". In the case of local elections, a candidate has the right only to use local authority school premises.(52)

These provisions became the focus for attention, firstly in Birmingham in 1977 and then in London in 1979. In both cases National Front candidates in forthcoming elections held meetings at local authority premises. In Birmingham it was a school in Ladywood, in London a room within the Town Hall in Southall. In both cases there was considerable disorder as various left-wing groups attempted to stop the meetings from taking place. Opponents of the National Front argued that the meetings were not "public", as required by the Act, because National Front stewards

consistently refused to admit to their meetings anyone who did not agree with their views.

Section 6 of the Race Relations Act 1965 was a first attempt to deal with racial hatred by way of statute. The Act made it an offence, with intent to stir up hatred against any section of the public on grounds of colour, race, or ethnic, or national origins, to use threatening, abusive, or insulting words, either written or spoken, which were likely to stir up such hatred. However, in his report on the disorder in Red Lion Square in 1974, Scarman suggested this particular law was "an embarrassment to the police". Because it was "hedged about with restrictions", noteably the necessity to prove intent and a requirement to obtain the consent of the Attorney-General before a prosecution could be undertakn, "it was useless to the policeman on the street". He recommended that the offence needed radical amendment and this was done in 1976.(53)

The disorder at Red Lion Square in 1974 saw the start of a continuing debate on public order legislation which was to last for the next twelve years. In his report into the disorders, Lord Scarman suggested -

> "There is a conflict of interest between those who seek to use the streets for the purpose of passage and those who seek to use them for the purpose of demonstration. English law recognises as paramount the right of passage: a demonstration which obstructs passage along the highway is unlawful. The paramount right of passage is, however, subject to the reasonable use of the highway by others. A procession, therefore, which allows room for others to go on their way is lawful: but it is open to question whether a public meeting held on a highway could ever be lawful, for it is not in any way incidental to the exercise of the right of passage."(54)

In submissions to the Scarman Inquiry, the Commissioner of the Metropolitan Police made two recommedations for additional powers. Firstly, he proposed that, save in exceptional circumstances, there should be a requirement for any person wishing to organise, arrange or advertise any public procession, to give seven days notice to the police of their intention to do so. Such notice should include the proposed route, the purpose of the procession, an estimate of the number expected to take part

and arrangements for their control. Secondly, because of the growing practice of using banner poles as offensive weapons, once demonstrators came into conflict with the police, he proposed that a constable should be given the power to prevent any article likely to provoke a breach of the peace, from being carried or worn by a person taking part in the procession. (55)

Scarman supported neither proposal. In response to the first, he pointed out that lack of notice had played no part in the disorders addressed by his inquiry and suggested it would present "insuperable difficulty for the urgently called demonstration", without saying what the dificulties were likely to be. (56) Responding to the second proposal, he thought it would be unwise to extend the law in this way, suggesting it would "cause trouble rather than lead to the maintenance of peace if at an early stage, before the threat of trouble, a police officer intervened to direct that such articles may not be carried in the procession". (57)

During the inquiry, a number of other organisations suggested a variety of law reforms to Scarman. It will suffice here to mention the principal ones together with Scarman's response. He rejected the introduction of a judicial review of any decision to ban or impose conditions on a demonstration, suggesting it was "undesirable" to involve the courts "in political decisions". He thought too, that the enactment of "a positive right to demonstrate" was unnecessary, "except as part of a general codification of this branch of the law." Whilst finding it "superficially attractive", he also rejected a suggestion "that a chief officer should have power to order the cancellation of one demonstration where two opposing parties are planning to march in the same area," suggesting "it would inevitably draw the police into the political arena", before highlighting a number of problems he could envisage in attempting to define and operate such legislation. (58)

Three years later, in a lecture to an audience of police officers at The Police Staff College, Scarman suggested that public order law had "not adjusted itself to the realities of an industrial society entitled to exercise freedom of speech, protest, and assembly not only through

representative institutions but directly - by assembly, march, and protest in public places." He went on to say that there was "no modern law governing the basic priorities in the use by society of streets and public places."(59) Pointing out that "the basic lack of clarity in our law imposes a burden upon the police when required to control political or other confrontations", Scarman said there was a strong case "for conferring upon a senior officer on the spot greater powers of direction and dispersal while the march is in progress than are available under the Public Order Act 1936." Scarman continued -

> "But how is he to exercise any such powers, if the very principle of the law is uncertain? Must he always wait for a breach of the peace, or the imminent threat of it before he acts? The law is clear and the policeman's duty plain enough when the situation is reached. But, as Red Lion Square and Grunwick show, that can be too late for effective action."(60)

Public order review

Following the serious disorder in Lewisham in 1977, the then Home Secretary, Merlyn Rees, announced that his Department would carry out an internal review of the legislation relating to public order.(61) However, a senior Metropolitan Police officer suggested that "strengthening the 1936 Act would not eradicate the basic dilemma of the police, i.e. the problem of enforcement".(62) At that time there were suggestions that the Association of Chief Police Officers had submitted a set of proposals, seeking tougher public order laws, to the Home Secretary,(63) but, in a statement to the House of Commons on 2nd March 1978, Merlyn Rees, told members that "nothing had emerged from discussions with chief officers of police which (indicated) that deficiencies in the present law (were) a major problem".(64)

In April 1980, the Government published a Green Paper. The paper set out some of the advantages and disadvatages of the current law but it also gave some indication of the changes the Government were considering. For instance, despite Scarman's comments in the Red Lion Square Inquiry, the paper suggested the Government saw "merit in the representations that have

been made on many occasions in favour of a national requirement for advance notice of processions". (65) And, the paper argued that "if some control on marches" were "felt to be justified in the interests of maintaining order" it was "difficult to see why similar powers should not be justified" in relation to meetings. (66)

Despite claims that the proposals amounted to greater restrictions on the right to demonstrate, the Government accepted that "the freedom to demonstrate one's view in public - within the law - is fundamental to a democracy" (67) but said that the paper had been written with two important considerations in mind -

> 'First, the object should be to clarify and improve the law for the sake of the public at large and those who wish to demonstrate. Accordingly any change which would make the law harsher to administer or the task of the police more difficult is unlikely to be of general benefit. Secondly, any changes in the law should be designed to cope with developments ... without harming the relationship between police and public on which the British aproach to policing public order is based". (68)

Pointing out the "existing law on public order" was "complex and fragmented", the paper suggested that "over the years it (had) on the whole succeeded in adapting flexibly to new situations". Nevertheless, it was suggested that because "a number of real uncertainties" now existed, there was "scope for rationalisation and improvement". (69)

The Scarman Inquiry into the Brixton riot

A year later serious disorder occurred in a number of Britain's inner cities. Evidence given to the Scarman Inquiry into the rioting in Brixton by the Metropolitan Police Commissioner suggested that the law was inadequate in two respects. Firstly, "existing powers of arrest" were "insufficient to support the 'snatch squad' technique of dispersing a disorderly crowd"; secondly, given that the primary task of the police was to quell disorder, Section 5 of the Public Order Act, 1936, was not

adequate to deal with cases in which it was impossible to "prove that the accused was himself acting in a threatenting way". The Commissioner suggested a new riot act was required under which a person failing to disperse after a warning, given by a senior police officer, could be arrested after a period of time had elapsed, unless he had a reasonable excuse for remaining.(70) In his final report Scarman rejected the suggestions, claiming that the law was adequate (71) although he did see the need for "a modern restatement of the law relating to public disorder".(72)

In relation to the creation of an offence similar to that contained in the Riot Act of 1714, i.e. the failure to disperse after the expiry of a time limit from the giving of a public warning, Scarman forsaw a number of difficulties. Firstly, given the noise which surrounds modern public disorder it would be difficult to prove that the accused had heard the warning; it would, he suggested, be contrary to natural justice to find the offence established unless this could be done. And he posed the question - what if the accused arrived after the warning had been given? Secondly, it would be extremely difficult to decide what was a reasonable excuse. Thirdly, he posed another question - should the warning define the area from which people were required to leave and, if so, what would be done if the crowd left the area without scattering?(73)

It could be argued that Scarman gave the matter insufficient thought. On the first point, given modern technology, it should have been possible, even then, to have devised a system which would ensure people would hear or see a warning.(74) On the third point, the effective deployment of police resources could ensure that the crowd left through filter cordons which would enable the police to break it down into smaller groups. Of course, it would not necessarily mean that people would not attempt to re-assemble as a much larger group once through the police cordons but again the effective deployment of mobile patrols could ensure that this did not happen using existing legislation. Only on the second point was there likely to be a problem and much time would no doubt have been taken up in the courts deciding whether or not a person had a reasonable excuse to remain. Waddington claims that the "public interest would be served by

the provision of an explicit dispersal power" for two reasons. Firstly, "procedures could be stipulated before such action was taken"; secondly, "since the enforced dispersal of a crowd arises from the decision of a senior officer, legal accountability could be enhanced."(75)

The new Government proposals

Arising from the Green Paper issued in 1980, a White Paper, entitled Review of Public Order Law, was published in May 1985. In it a number of changes were suggested, almost all of which were included in the Public Order Act of 1986. There was, however, one principal exception. The Government felt that the law ought to be changed to allow a single march to be banned.(76) Conversely, the Association of Chief Police Officers felt that the implimentation of such a provision would lay them open to accusations of political bias and the Home Secretary was persuaded to drop the proposal.(77)

The new Public Order Bill(78) was finally published on 6th December 1985. In announcing it, the Home Secretary, Douglas Hurd, claimed the Bill would "modernise, clarify and deal with gaps in present legislation".(79) The proposals included the replacement of some sections of the Public Order Act 1936 and the abolition of the common law offences of riot, rout, unlawful assembly and affray, but the preventative common law power to arrest for a breach of the peace was to remain. In their place the Bill suggested the introduction of statutory offences of riot, violent disorder, and affray, whilst new offences of threatening behaviour, disorderly conduct and incitement to racial hatred would replace the existing offences under Sections 5 and 5A of the Public Order Act, 1936.

The Bill also proposed an extension of specific police powers to control public processions and assemblies. With certain exceptions, there would be a new national requirement for organisers of public processions to give six clear days notice of their intention to the police; and, in what was clearly an attempt to widen the powers of the police to prevent disorder, the Chief Officer of Police would be able to impose conditions, in advance, if it was believed that the public procession might result in

serious public disorder, serious damage to property, serious disruption to the life of the community, or the purpose of the march was to intimidate others in order to compel the latter either to do something which they had a right not to do or not to do something which they had a right to do. The notice from the organisers would have to be in writing, as would the conditions imposed by the Chief Officer. Once the public procession was in the process of assembling, or was actually on the move, the most senior officer present would be able to impose conditions for similar reasons, although in this case, such conditions could be communicated verbally to the organisers. The same powers were also proposed for public assemblies except that there would be no requirement to give advance notice.

The principle advantage of these proposals, in the light of the miners' strike, was that it appeared to cover a mass procession or demonstration in support of a static picket such as was seen at Saltley in 1972, at Grunwick in 1977, at Orgreave and elsewhere in 1984, and at Wapping during 1986/1987. Also, it would more easily allow Chief Officers to prevent organisations such as the National Front from marching through predominently black areas, without having to ban the march completely. Following representations by the Association of Chief Police Officers, the Bill proposed the retention of a power to ban marches similar to that already in existence under the Public Order Act 1936.

Opposition to the Bill came immediately from a variety of sources. Trade Unions such as the National Union for Public Employees (NUPE) suggested that the proposed conditions were "a restriction on the freedom of speech" and "would amount to a ban on demonstrations". (80) The Police Committee Support Unit of the Greater London Council suggested that new powers would place "enormous discretion in the hands of the police to interfere with the exercise of a democratic right". (81) Some newspapers, too, offered words of caution. Pointing out that the proposed Act "hugely extended police powers to prevent disorder" The Daily Telegraph asked "whether such large and fresh powers" were "actually needed in a country which aspires in theory as well as practice to be a non-police state and to be ruled by custom enshrined in common law". (82)

Not unexpectedly, perhaps, the most vigourous opposition to the new proposals came from the National Council for Civil Liberties. In a lengthy response to the White Paper, Peter Thornton accused the Government of being "wholly concerned with the avoidance of public disorder and inconvenience" and suggested that their approach was seriously flawed for six reasons. Firstly, it had failed to "identify the existence of fundamental rights" and "the principal that only minimum restrictions" should be placed on those rights. (83)

Secondly, it had failed "to provide any legal framework for the fundamental right of peaceful assembly". (84) In arguing against such a proposal at the outset of the debate, the Metropolitan Police Commissioner suggested that the creation of such a right in law could result in people insisting on exercising that right, to the detriment of others, thus making it more difficult to prevent or control public disorder. (85)

Thirdly, the failure of the Government to codify the law relating to public order - to enable the rights, powers and duties of everyone to be better known and understood - would enable the police to continue to exercise wide discretion and the proposed changes "extend the scope of (that) discretion over ever larger and vaguer areas". (86) Interestingly, in a paper, published fifteen years earlier, a Committee of the Society of Conservative Lawyers, of which former Home Secretary, Leon Brittan was a member, had suggested, amongst other things, that the law relating to public order should be reviewed "with a view to its simplification and clarification, which, in addition to assisting the authorities, would give participants and potential participants ... a clearer indication of their rights and liabilities under the law". (87)

Writing on this point shortly before the publication of the Public Order Bill, Alfred Jeffrey, a former police officer, suggested that the common law offences of affray, unlawful assembly, rout and riot were "emeshed in an intricate web of precedents that even the judiciary and eminent academics" had "difficulty in finding agreement!" He went on to suggest that there was small chance "for citizens who wish to express their views and to demonstrate within the law being able to establish the legal

limits, or for the police who need to make 'on the spot' decisions to be fully aware of their powers". (88)

Fourthly, the Government had failed "to consider the causes of public disorder". Fifthly, it proposed "an unnecessary and undesirable extension of police powers" at the same time curbing "existing freedoms, such as they are". Finally, "the greater use of banning orders, restrictions and conditions, powers of arrest and criminal charges" would inevitably create resentment and hostility towards the police thereby defeating "the very purpose of the review: the prevention of disorder". (89) The National Council therefore made a number of proposals of their own, none of which were introduced. (90)

The Public Order Act 1986

Five statutory offences relating to disorderly or violent conduct were created under Part I of the Act. These are:

(a) Riot

There are three necessary ingredients to the new offence of riot. These are - twelve or more persons; they use or threaten unlawful violence for a common purpose; and taken together, their conduct is such as would cause a person of reasonable firmness to fear for his or her safety. (91) As in the case of the old common law offence of riot, the prosecution must prove intention on the part of each individual or at least an awareness that their conduct may be violent.

(b) Violent disorder

A new offence of violent disorder was introduced. The ingredients for this offence are - three or more persons; the use or threat of unlawful violence; and taken together, their conduct is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety. Unlike riot, there is no necessity for a common purpose. In both riot and violent disorder, the people involved do not necessarily have to use or threaten unlawful violence simultaneously. (92)

(c) Affray

There are two ingredients to the new offence of affray - the use or threat of unlawful violence towards another and the conduct is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety.(93) In the case of riot, violent disorder and affray it is not necessary for the person of reasonable firmness to be present at the scene. All three offences can be committed on private premises as well as in public places.

(d) Fear or provocation of violence

The use of offensive or threatening conduct towards another person is prohibited where it is intended either to cause that person to believe that immediate unlawful violence will be used against him or another, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked. Conduct includes the use of words or behaviour which are threatening, abusive or insulting, or the distribution or the display of any writing, sign or other visible representation which is threatening, abusive or insulting.(94)

(e) Harassment, alarm or distress

One of the most controversial aspects of the 1986 Public Order Act was the introduction of a new offence of offensive conduct likely to cause harassment, alarm or distress. It must be committed within the hearing or sight of the person likely to be offended. Under this offence, conduct is similar to that described in the preceeding paragraph except that, in addition to using words or behaviour which are threatening or insulting, a person is guilty if he merely uses disorderly behaviour. If a person engages in offensive conduct and is warned by a constable to stop, but then engages in further offensive conduct immediately or shortly after the warning, he may be arrested.(95)

Violence is described as any violent conduct and, except in the context of an affray, includes violent conduct towards property as well as people. It is not restricted to conduct causing or intending to cause injury or damage but includes any other violent conduct, e.g. throwing a

missile, of a kind capable of causing an injury, towards a person which does not hit or falls short of its intended target.(96)

Part II of the Act introduced new provisions for the control of processions and assemblies and is discussed in a later chapter.(97) It is not intended to discuss in detail the various provisions in connection with racial hatred provided under Part III of the Act but it would be remiss not to give a broad outline of the legislation as it now stands. Racial hatred means "hatred against a group of persons in Great Britain defined by reference to colour, race, nationality (including citizenship) or ethnic or national origin."(98) It is an offence to use words or behaviour, or display written material,(99) to publish or distribute written material,(100) to use threatening, abusive or insulting words during a public performance,(101) to broadcast,(102) or distribute, or show a visual image or a record,(103) with the intention of stirring up racial hatred or, having regard to all the circumstances, racial hatred is likely to be stirred up.

Part IV of the Act relates to offences committed at football matches and other sporting events. For the reasons already mentioned in the introduction, disorder at football matches and other sporing events is not discussed in this paper. Finally, in relation to Part V of the Act it is sufficient to mention Section 39, which gives the police powers in relation to mass trespass which was witnessed during 1985 and 1986, principally by so-called hippy convoys converging on Stonehenge for the summer festival. Under this section the most senior police officer present can direct people to leave subject to a number of provisos.(104)

The workings of the 1986 Public Order Act

Parts of the Public Order Act 1986 came into force on 1st January 1987 but many of the provisions did not become law until 1st April. Research carried out by the Home Office Research and Planning Unit during 1988 suggested that many of the early arrests under the 1986 Public Order Act arose "from seemingly inconsequential incidents." Almost a tenth of the cases reviewed occurred in licensed premises. Describing some as "little

more than disorderly behaviour by one or two drunken customers"(105) it appeared to the researchers that the 1986 Act, or, at least, certain parts of it, was regarded as a statute for general use, rather than one which was designed to assist the police in responding to serious public disorder. The danger in such an approach, insofar as the courts are concerned, is that it could have a negative effect, because it reduces the impact when charges are brought as a result of serious public disorder.

Industrial disputes

According to Khan, picketing is "a social phenomenon which may or may not involve either a breach of the criminal law, or the civil law."(106) The police are, of course, very much concerned with the criminal law but the Code of Practice on Picketing points out that they -

> "have no responsibility for enforcing the civil law. An employer cannot require the police to help in identifying the pickets against whom he wishes to seek an order from the civil court. Nor is it the job of the police to enforce the terms of an order."(107)

However, the police are often required to deal with the consequences of the civil law, particularly if they take the view that the implimentation of an order, granted under civil law, by court officials may lead to a breach of the peace. Thus, when five dockers were imprisoned, in 1972, under the provisions of the 1971 Industrial Relations Act, for playing a prominent role in what was termed as "unfair industrial practices",(108) the police were required to deal with large demonstrations outside the prison to which they had been sent.

But whilst the police can be called upon to control demonstrations arising as a result of punishments imposed under civil law, it is principly the criminal law which has a direct bearing on the police response to picketing, particularly in the context of this paper. Those crimes that have already been described as being relevant in handling public disorder remain crimes if committed in the furtherance of an industrial dispute. There are no exceptions.

Early legislation

But there are also crimes which relate directly to industrial disputes. The basis on which modern industrial law is founded, insofar as it relates to criminal acts, can be traced back to the Conspriacy and Protection of Property Act, 1875, part of which remains in force today. The Act was an attempt to ensure that people were free to go about their lawful daily business without interference. In summary, it became a criminal offence, punishable by a fine or imprisonment, for a person to use violence against another person, or his immediate family, or use intimidation, with a view to compelling that person to abstain from doing something he had a right to do, or doing something he had a right not to do. But, at the same time, by allowing for a person to approach another "in order merely to obtain or communicate information", it laid the foundations for peaceful picketing.(109) Until the introduction of the Public Order Act in 1986, there was no power of arrest for offences under this section.(110)

By the end of the nineteenth century "strike organisers and their unions were liable to be sued for calling virtually any kind of industrial action" and "peaceful picketing was treated as an actionable nuisance outside a statutory immunity that had been construed so narrowly as to be virtually meaningless."(111) The Asquith Government saw this as unsatisfactory and introduced the Trade Disputes Act in 1906 which stipulated, amongst other things, that a union could not be sued and attempted to give clarification to peaceful picketing, viz -

> "It shall be lawful for one or more persons acting on their own behalf or on behalf of a trade union or of an individual employer or firm in contemplation or furtherance of a trade dispute, to attend at or near a house or place where a person resides or works or carries on business or happens to be, if they so attend merely for the purpose of peacefully obtaining or communicating information, or of peacefully pewrsuading any person to work or abstain from working".(112)

The Act did not specify at what point picketing ceased to be peaceful; neither did it make any suggestions as to how information could be obtained or communicated.(113)

A wave of strikes immediately after the end of the First World War alarmed respective Governments to such an extent that attempts were made to curb the growing power of the unions. A strike by policemen in London and Liverpool led to the passing of a law in 1919, prohibiting policemen from joining a trade union(114) and in 1920, the Emergency Powers Act, authorising "the Government to declare a state of emergency and govern by proclamation should any event threaten the 'essentials of life' of the community", was passed.(115) A state of emergency, under the 1920 Act, was declared in 1926 during the General Strike. The following year, a law was passed making it unlawful to call a strike with the intention of coercing the government.(116) The effect of this act was to make sympathy industrial action in support of workers in other industries, unlawful.

Since the Second World War

The ending of the emergency regulations, introduced at the outbreak of World War II, in 1951 was followed by thirty years of increasing idustrial conflict. In particular, the period between 1970 and 1980 has been described as one in which a number of industrial disputes, no doubt partly due to widespread media attention, "gained symbolic significance"(117) within the Trade Union movement. The Pentonville Five, Saltley, Grunwick and Hadfields come most readily to mind. Each of these saw mass-picketing, intimidation and violence on a scale not seen since before the Second World War and the police, expected by the government of the day and the press to solve, by traditional means, what was seen by many as "a crisis of state authority" found themselves unwillingly "at the centre of a whirlwind of political controversy". Using tactics for which they had been praised in the past, the police suffered a series of setbacks and this led to suggestions, refuted, incidently, by the police themselves at the time, that there was "a lack of clear legal guidance" for policing such incidents and also "a lack of adequate legal power to act with greater firmness."(118)

But, to return to the mid-1960s, In many organisations, the closed shop, whereby all employees had to be members of a union - in some cases a specific union - had become an accepted practice and, for different reasons, both major political parties were contemplating legislative action to reform the trade unions. In 1965, the Labour Home Secretary, Frank Soskice, appointed a Royal Commission under the Chairmanship of Lord Donovan. The Donovan Commission, as it became known, made numerous recommendations relating to the organisation, management and control of industry and commerce, but only those relating to picketing are of interest in the context of this paper. In evidence to the Commission, the Society of Labour Lawyers suggested "that a limited right should be given to pickets to stop vehicles so as to communicate with the drivers, due regard being had to other users of the highway." The Commission felt, however, that "it would be impossible to define such a right in terms which would avoid considerable obstruction to the highway and serious risk of personal injury to the pickets themselves."(119)

Others apparently "urged that 'mass picketing' should be protected by the law" in order that trade unionists could show solidarity during an industrial dispute. In arguing against the introduction of such legislation, the Commission said that it was not clear "why mass picketing is required simply to communicate information" and solidarity "can be done equally well by other means."(120)

Four of the twelve members of the Commission, including Donovan, considered it "quite unnecessary" that picketing should be permitted "at a person's home where this is not his place of work" because of the "risk of threats to his family". They felt that information could be "peaceably communicated or sought by post", but the majority of members felt that, as the Commission had no evidence of abuse, such a restriction could not be justified.(121)

The Commission reported in 1968 but the Labour Government had failed to act upon its recommendations before its defeat in the 1970 general election. Therefore, it was left to the new Conservative Government to

take action and, in 1971, the short-lived Industrial Relations Act was introduced.

In order to remove Industrial Relations from the "historically unfriendly common law courts"(122) a national Industrial Relations Court was set up to sit in judgement over disputes and uncertainties arising from the Act. Amongst its many enactments, the Act outlawed the closed shop, except in exceptional circumstances, giving people the right not to join a union if that was their wish. Unofficial industrial action, most sympathetic industrial action and most secondary action became unlawful.(123) Under the heading, peaceful picketing, the Act also provided that -

> "where one or more persons (in this section referred to as pickets) in contemplation or furtherance of an industrial dispute, attend at or near -
>
> (a) a place where a person works or carries on business, or
>
> (b) any other place where a person happens to be, not being a place where he resides,
>
> and do so only for the purpose of peacefully obtaining information from him or peacefully communicating information to him or peacefully persuading him to work or not to work.(124)

In 1972 the House of Lords held that this particular section of the Industrial Relations Act only entitled a person to obtain or communicate information or peacefully persuade someone to do, or not to do something. It did not give a person a right to stop and detain a vehicle for that purpose.(125)

The battle between Conservative and Labour Party policies

In 1974, under the new Labour administration, Parliament passed the Trade Union and Labour Relations Act which totally replaced the Industrial Relations Act of 1971. The next six years, claims McCabe, became "the high point of statutory immunity for strike action" because it exempted

union officials "from civil liability for industrial action and gave wide immunity to officials organizing action in furtherance of a trade dispute". (126) However, although the wording of the section on peaceful picketing was slightly different, in substance it remained the same.

In 1980, the new Conservative Government, still smarting from the defeats at the hands of the miners in 1972 and 1974, made it known that they intended to severely curtail the power of the unions. Insofar as the police were concerned there were two significant events. The first was the passing of the Employment Act, part of which redefined peaceful picketing, viz

> "It shall be lawful for a person in contemplation or furtherance of a trade dispute to attend -
>
> (a) at or near his own place of work, or
>
> (b) if he is an official of a trade union, at or near the place of work of a member of that union whom he is accompanying and whom he represents,
>
> for the purpose only of peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working ...." (127)

The effect of the new legislation was to make so-called secondary picketing illegal by allowing a person to picket only at or near his own place of work. The second was the introduction of the Code of Practice on Picketing to which reference has already been made.

The biggest test for the new legislation came during 1984 when the miners again went on strike. Although the vast majority of picketing was carried out peacefully there were, on occasions, scenes of unbridled violence as pickets, sometimes numbering several thousand, clashed with police. This was followed by similar scenes outside the premises of News International in Wapping as sacked printers, and their supporters, clashed with police on a number of occasions during 1986 and 1987. It was apparent that the law did not cater for these large-scale confrontations.

As has already been mentioned, the laws relating to the control of public disorder were under review from 1979. In outlining the purpose of picketing, Donovan suggested that "the prime objects of picketing are to make known the existence and the facts of the dispute and peacefully to persuade persons to abstain from working". He also suggested that the most effective way of doing this was "the placing of pickets outside the place of work."(128) Since the introduction of the 1986 Public Order Act, however, pickets are now severely restricted in what they can legally do by both the civil and criminal law. Insofar as the criminal law is concerned, picketing now comes within section 14. Therefore, where 20 or more people assemble in a public place in connection with an industrial dispute, they are subjected to all the restraints and conditions under that section which are discussed in Chapter 7; suffice to say here that it includes accepting the directions of the senior police officer at the scene if he reasonably believes serious public disorder will occur, or serious damage will be inflicted on property, or the life of the community will be seriously disrupted, or people will be intimidated.

Kahn suggests that "picketing as such is not a legal concept".(129) Perrins, on the other hand, suggests that "the statutory right to picket, in the sense of a right to attend, is a positive right but not an absolute right". Pickets have a right, he says, "to be and remain on the public highway for the purposes of peacefully picketing." But, he goes on to point out that -

> "the preventative role of the police must not be overlooked. If he reasonably apprehends that a breach of the peace is likely to occur, the constable has the right and the duty to take steps to prevent it. It follows therefore that even if the picket line is entirely lawful, the constable has the right and indeed the duty to move the pickets along if he considers it necessary in order to prevent a breach of the peace."

He continues -

> "It does not matter who is likely to cause the breach of the peace. It may be the pickets themselves, the person picketed, or some third party."

But Perrins warns -

> "it is not enough for the police officer to say that he personally thought a breach of the peace was likely; it must be an objective assessment. He must be able to support his opinion."(130)

Given the powers they now have to regulate even peaceful picketing, it is vital that the police should act impartially. As the Code of Practice on Picketing points out "it is not the function of the police to take a view of the merits of a particular trade dispute." But, the Code of Practice does suggest that the police "have a general duty to uphold the law and keep the peace" and "the law gives the police discretion to take whatever measures may reasonably be considered necessary to ensure that picketing remains peaceful and orderly."(131) It is for the courts to decide in each case what is reasonable and the police took a number of preventative measures during the miners strike which are discussed in a later chapter.(132)

However, the police are likely to be in a no-win position, particularly when there is a danger of people losing their jobs and feelings are running high. For, as Perrins asks -

> "if the police clear a path through a blockade of pickets, are they aiding a public right of passage on the highway, or a private right to work? If the police move pickets along, are they clearing an obstruction to the highway, or helping the employer get rid of a private nuisance?"(133)

The police are likely to see any such interventions as upholding the law; the pickets will invariably perceive it as assisting the employer.

Conclusion

Critchley suggests that whilst, in earlier times, violence often broke out as a result of misuderstanding, intransigence, or over-reaction by the police or the military, misunderstanding sometimes occurred because of "the uncertainty of the law."(134) Whitaker claims, on the other hand, that

the police have increasingly been "faced with social problems for which the criminal law manual offers no solution."(135)

Brownlie states that "the history of public order in the United Kingdom is essentially a history of restriction."(135) The right to demonstrate depends on co-operation with the authorities and tolerance with the views and rights of others; consequently, when demonstrators fail to co-operate or become intollerant with the views and rights of others "they have only themselves to blame if the law becomes more restrictive."(136) In upholding these rights, the police are required to strike a balance between the freedom to demonstrate and protest, and a requirement to uphold the law.

Suggesting that the current state of the law and the way it is implimented has a direct bearing on the relationship between the police and public, Lord Scarman said, in 1978, that if -

> "the law be clear in its principle and detail, if rights, duties, and powers are defined, there is more than a chance that those who seek to make public protest will have sufficient confidence in the police to appreciate that, if they behave in a way which respects the rights of others, they will not be prevented from making their protest. But the police also, who, like the demonstrators, must act within the law, need the help of a clearly defined law."(137)

But, as Williams points out -

> "The law of public order in this country is a compromise. It seeks to balance the competing demands of freedom of speech and assembly on the one hand and the preservation of the Queen's Peace on the other. A satisfactory balance has rarely been attained, and it may be in the nature of things that it cannot be permanently achieved."(138)

With all these differing views it is little wonder that the police have experienced difficulty in using the law to prevent and curtail serious public disorder. Indeed, many chief constables feel that the law in relation to public order is only "a minor weapon in the police armoury."(139) However, the current state of the law and the way it is

implimented will often dictate the amount of co-operation the police will get from demonstrators. Of course, there will always be a minority within society who will attempt to circumvent any public order legislation or will deliberately set out to confront the police whatever the state of the law and the police policies of implimentation. But, at the end of the day, the ability of the police to maintain public tanquility will depend, not on legislation passed by Parliament - although relevant laws will be of some help - but on their own behaviour and attitudes towards the demonstrators or community involved and in their ability to respond effectively to disorder should it occur.

Notes and References

1. Article 20, para. 1.

2. Article 11, para. 1.

3. Scarman, Rt. Hon. Lord Justice. The Red Lion Square Disorders of 15 June 1974: Report of an Inquiry (Cmnd 5919), Her Majesty's Stationary Office, London, pp 1-2.

4. 283 House of Commons Official Report (5th Series) cols. 522-523.

5. Quoted in Williams, David. Keeping the Peace: the police and public order. Hutchinson, London, 1967, pp. 56-57.

6. The Times, 25 November 1970.

7. For a detailed description of the law relating to public order study should be made of the modern text books on the subject.

8. These common law offences have all been repealed by the Public Order Act, 1986.

9. Until 1966, it was believed that a necessary ingredient of the offence was that the fighting occurred in a public place but in Button and Swain v The Director of Public Prosecutions ((1965) 3 All ER 587), it was decided that the offence could be committed anywhere, providing at least one person was put in terror. Until 1973, it was also believed that it was necessary for two persons to be fighting but in the case of Taylor v The Director of Public Prosecutions ((1973) 2 All ER 1108), it was held that a person committed the offence of affray if he alone was unlawfully fighting to the terror of any other person.

10. Sloan, Kenneth. Public Order and The Police. Police Review Publishing Company, London, 1978, p.57.

11. A meeting could be lawful at the outset, but if three or more persons formed an appropriate common purpose, it became an unlawful assembly.

12. R v Caird (1970) 54 Crim. App. Rep. 504/505.

13. R v Anderson (1970) The Times 10 February 1970.

14. R v Hevans (1977) The Times 10 May 1977.

15. For further details of this case, see To Ride the Storm: The 1980 Bristol 'Riot' and the State, by Harris Joshua & Others (Heineman, London, 1983). Four of those originally charged were acquitted at the magistrates' court, leaving only 12 to stand trial.

16. The Director of Public Prosecutions, Sir Thomas Hetherington, is reported to have commented "that it may have been a mistake to have brought riot charges" in this case, and decided that "it was not in the public interest" to press charges against the four defendants on whom the jury had failed to agree. An important factor in reaching this decision was, he claimed, "the advice he had received from Chief Constable Weigh about the promotion of racial harmony in Bristol." Kettle, Martin, & Lucy Hodges. Uprising: The Police, The People and The Riots in Britain's Cities. Penguin, Harmondsworth, Middlesex, 1982, p. 37.

17. Winterton, Jonathan & Ruth Winterton. Coal, crisis and conflict: the 1984-85 miners' strike in Yorkshire. Manchester University Press, 1989, p.164.

18. This common law power has not been affected by the Public Order 1986.

19. The process is termed "binding over" to keep the peace or to be of good behaviour.

20. Magistrates Courts Act 1980, section 115.

21. Smith, A.T.H. Public Order Law 1974-1983: Developments and Proposals. In Criminal Law Review (1984), p.646. "There is," Smith points out, "no power of arrest for obstructing the police in the execution of their duty, although the police continue to behave as though there were. The power is to arrest for breach of the peace".

22. The wording of the proclomation was simple, viz:

> "Our Sovereign Lord the King chargeth and commandeth all persons, being assembled, immediately to disperse themselves, and peaceably to depart to their habitations or their lawful premises, upon the pains contained in the Act made in the first year of King George, for preventing tumults and riotous assemblies. GOD save the King.

Any person opposing, obstructing, hindering or hurting those engaged in making the proclomation committed a felony, as did people who remained after one hour had elapsed, knowing it was the intention to

read the proclomation, even if it had not, in fact, been read because of the opposition to it. Initially there was a view in some quarters that the forces of law and order had to remain passive until the hour had elapsed, allowing the crowd to do as they wished without hinderance during that period. However, the Act did not curtail the common law "rights and powers possessed by the civil magistrates or private persons for the suppression of crime. See Wise, Edward. The Law Relating to Riots and Unlawful Assemblies (Ed: A H Bodkin & L W Kershaw)(Fourth Edition). Butterworth & Co., London, 1907, pp.111 to 114.

23. Section 1, Riot Act, 1714. Ibid, pp.108/109.

24. Section 3, Riot Act, 1714. Ibid, p.115. The principle of minimum force is discussed Chapter 7. The Riot Act made a number of references to people assisting the forces of law and order. This was, of course, regarded as a common law duty. In 1886, however, the Riot (Damages) Act, allowing those who suffered loss or damage during a riot to claim compensation from local police funds, was passed. It is suggested that the Act was a statutory recognition that it was no longer the responsibility of local inhabitants to keep order in their locality; it was the responsibility of the police.

25. Waddington, P A J. The Strong Arm of the Law: Armed and Public Order Policing. Clarendon Press, Oxford, 1991, p.

26. The whole of the Seditious Meetings Act, 1817, was repealed by the Public Order Act, 1986.

27. 60 Geo. 3 & 1 Geo. 4, c.1, sections 1 & 2.

28. Section 4.

29. Sections 18 & 20.

30. This has now been replaced by the Criminal Damage Act, 1971.

31. Section 52.

32. See Chapter 7.

33. For details of the disorder that followed, see chapters 2, 4 and Appendix A.

34. Williams, op. cit. 5, p. 76.

35. Ibid, p. 79.

36. Ibid, p. 81.

37. Ibid, p. 70.

38. Smith, A.H.T., op. cit. 21, p. 644.

39. Section 1.

40. Section 84.

41. Sloan, op. cit.10, p.26.

42. 283 House of Commons Official Report (5th Series) cols. 522-523.

43. Sloan, op. cit.10, p.26.

44. Kettle, Martin. A law made to order. In The Guardian newspaper dated 6 December 1985.

45. Newsam,

46. Section 1. Remains in force.

47. Section 2. Remains in force.

48. The use of these powers is discussed in Chapter 7.

49. Section 3. Now replaced by Section 13 of the 1986 Act.

50. Section 4. Repealed by virtue of Schedule 3 of the 1986 Public Order Act. The offence has been little used in recent years because it overlapped with a more general offence under Section 1 of the Prevention of Crimes Act, 1953.

51. Section 5. This offence was abolished by virtue of Section 9 of the Public Order Act 1986 and has been replaced, principally by Sections 4 and 5 of that Act.

52. Sections 82 and 83.

53. Scarman, op. cit. 3, page 35, para. 125. His recommendation was carried out in 1976 with the addition of Section of Section 5A to the Public Order Act, 1936. This has now been replaced - see Sections 17 to 22 of the Public Order Act, 1986.

54. Ibid, page 34/35, para. 122.

55. Ibid, page 35-37, paras. 127 & 132.

56. Ibid, page 36, para. 128.

57. Ibid, page 37, para. 132.

58. Ibid, page 37-38, para. 134.

59. Scarman, The Rt Hon Lord. The Role of the Police in a Situation of Political Confrontation. The Twelfth Frank Newsam Memorial Lecture given at the Police Staff College, Bramshill, on 21 July 1978. Published in The Police Journal, October 1978, pp 321/322.

60. Ibid, p.322

61. The Daily Telegraph, 17 August 1977.

62. The Times, 17 August 1977.

63. The Sunday Telegraph, 18 December 1977.

64. The Times, 3 March 1978.

65. Home Office Green Paper. Review of the Public Order Act 1936 and related legislation. (Cmnd 7891), H.M. Stationary Office, London, 1980, page 19, para. 66.

66. Ibid, page 22, para. 76.

67. Ibid, page 11, para. 36.

68. Ibid, page 5, para. 16.

69. Ibid, page 7, para. 21.

70. Scarman, Rt. Hon. The Lord. The Brixton Disorders 10-12 April 1981: Report of an Inquiry (Cmnd 8427), H.M. Stationary Office, London, para. 7.31 & 7.38.

71. Ibid, paras 7.34 to 7.39.

72. Ibid, para 7.40.

73. Ibid, para. 7.39.

74. See Waddington, op. cit.25, p.184.

75. Ibid, p.185.

76. Home Office White Paper. Review of Public order Law (Cmnd 9510), H.M. Stationary office, London, page 25, para 4.14

77. The Guardian, 30 October 1985.

78. Public Order Bill.

79. The Times, 7 December 1985.

80. Staunton, Marie. It couldn't happen here, or could it? In The Morning Star, 27 December 1986.

81. Police Committee Support Unit, The. Police powers under the new public order act. Greater London Council, 1985.

82. The Daily Telegraph, 13 January 1986.

83. Thornton, Peter. We Protest: the public order debate. National Council for Civil Liberties, 1986, p.4.

84. Ibid, p.4.

85. Metropolitan Police. Public Order. An unpublished paper prepared in response to the Government's Green Paper (see note 65).

86. Thornton, op. cit. 83, p.5.

87. Society of Conservative Lawyers. Public Order: A report by a Committee of the Society of Conservative Lawyers, Conservative Political Centre, London, 1970, p.27.

88. Jeffrey, Alfred. Modernising Public Order Offences. In Police Journal, Volume LVIX, No. 1, January 1986, p.6.

89. Thornton, op. cit. 83, p.6.

90. For a comprehenisve reading of the NCCL recommendations, see We Protest: The public order debate, by Peter Thornton (NCCL, 1986).

91. Section 1. 92. Section 2. 93. Section 3.

94. Section 4. 95. Section 5. 96. Section 8.

97. For a discussion on the powers contained in Part II - See Chapter 9.

98. Section 17 99. Section 18. 100. Section 19.

101. Section 20. 102. Section 22. 103. Section 21.

104. The provisos include the fact that there must be two or more persons who have caused damage to property or used threatening, abusive or insulting words or behaviour towards the occupier, his family, agent or employer, or brought 12 or more vehicles onto the land.

105. Newburn, Tim & Others. Whose Order? In Police Review, 5 October 1990, p. 1965.

106. Kahn, Peggy & Others. Picketing: Industrial Disputes, Tactics and the Law. Routledge & Kegan Paul, LOndon, 1983, p.42.

107. Department of Employment. Code of Practice on Picketing, 1980, para. 27.

108. Midland Cold Storage v Turner & Others (1972) 3 All E R 773

109. Section 7.

110. Schedule 2 of the Public Order Act 1986 increased the maximum sentence that could be imposed for an offence under this section and gave a constable the power to arrest without warrant anyone he reasonably suspects of committing an offence under this section.

111. McCabe, Sarah & Others. The Police, Public Order and Civil Liberties: of the Miners' Strike. Routledge, London, 1988, pp.27/28.

112. Trade Disputes Act, 1906, section 2(1).

113. See, for instance, Tynan v Balmer(1966) 2 All E R 133, and Piddington v Bates(1960) 3 All E R 660, both of which are described in Appendix A.

114. See The Police Act, 1919.

115. Perrins, Bryan. Trade Union Law. Butterworths, London, 1985, p.43.

116. See Trade Disputes and Unions Act, 1927.

117. Wiles, Paul. The Policing of Industrial Disputes. In Industrial Relations and the Law in the 1980s: Issues and future trends. (eds: Patricia Fosh & Craig R LIttler). Gower, Aldershot, 1985, p.154.

118. Ibid, p.155.

119. Department of Employment. Royal Commission on Trade Unions and Employers' Associations 1965-1968 (Chairman: The Rt Hon Lord Donovan). Her Majesty's Stationary Office, London, 1968, para.874.

120. Ibid, para. 874.

121. Ibid, para. 876.

122. Perrins, op. cit. 115, p.47.

123. Industrial Relations Act, 1971, sections 96-98.

124. Indiustrial Relations Act, 1971, section 134.

125. See Broome v Director of Public Prosecutions (1974) ICR 84; AC 587, and Kavanagh v Hiscock (1974) QB 600.

126. McCabe, op. cit.111, p. 28.

127. Employment Act, 1980, section 16.

128. Department of Employment, op. cit. 119, para. 875 & 855.

129. Kahn, op. cit. 1, p.42.

130. Perrins, op. cit. 115, pp 333/334.

131. Department of Employment, op. cit. 2, para. 26.

132. See chapter 7.

133. Perrins, op. cit. 115, p.334.

134. Critchley, T A. The Conquest of Violence: Order and Liberty in Britain. Constable & Co., London, 1970, pp.203/204.

135. Whitaker, Ben. The Police. Penguin, Harmondsworth, Middlesex, 1970, p.310.

136. Brownlie's Law of Public Order & National Security (2nd Edition). Butterworth & Co, London, 1981, p.25.

137. Scarman, Rt. Hon. Lord Justice, op. cit. 3, para. 194.

138. Scarman, op. cit. 59, p.320.

139. Reiner, Robert. Chief Constables: Bobbies, Bosses, or Bureaucrats. Oxford University Press, 1991, pp. 179/180.

POLICING SERIOUS PUBLIC DISORDER: THE SEARCH FOR PRINCIPLES, POLICIES AND OPERATIONAL LESSONS

SECTION B

THE ENVIRONMENT OF THE OPERATIONAL COMMANDER

CHAPTER FOUR

COMMAND AND CONTROL

Introduction

Day-to-day police work is generally a matter of established routine running according to a recognised and accepted system. Police men and women are deployed - invariably as individuals, sometimes in small groups - to meet known commitments and any problems that arise as a result are generally resolved without fuss after being considered by those involved. Such a state of affairs neither imposes nor demands leadership, in the military sense, from officers holding senior command positions; rather it requires the skills more readily associated with senior management in any large industrial or commercial organisation.

The situation changes quite dramatically when there is either the threat of serious public disorder or disorder actually occurs. Then it is necessary for police men and women to be brought together as members of well-trained and disciplined units, and to cease taking action as individuals. This requires a swift mental adjustment on the part of everyone involved in the operation, but particularly those in senior command positions.

No matter how many resources the overall operational commander may have and no matter how much equipment is available, in the final analysis the problem of reacting to threatened or actual disorder is a human one between police men and women, on the one hand, and those people who go to make up the crowd on the other. In the long run, success will invariably, but not always, (1) go to the police because of their superior range of equipment and controlled discipline, but before success is achieved great harm may be done in terms of lives lost and widespread damage to property.

In addition to the effect it has on those immediately involved, any deficencies in the police response could result in a loss of public confidence. Such was the case in 1985 after the serious disorder in Birmingham and London. Claiming that peoples' lives were "being made a misery through lack of effective action", The Guardian suggested that riots were going to continue, but the police were "not handling them successfully". There is, continued the article "a real need for effective riot control against genuine riots."(2) But success in the long run is not enough. Serious disorder must be suppressed quickly and this requires determined and resolute leadership at all levels of command. Failure and indecision lead not only to a loss of confidence amongst the police men and women involved but it encourages further or continuing disorder.

The primary aim of any operational commander, in the context of serious public disorder, is firstly, to prevent it, but, if he is unable to do this, to restore public tranquility and return the area to normality as soon as possible, with the minimum of injury to people, including his own personnel, and damage to property. In order to do either effectively, he requires an efficient command and control system.

What is Command and Control?

Command and control is the guidance and control of the behaviour and action of others in order to attain specific objectives. Related specifically to serious public disorder, it is the exercise of authority by a commander over his resources to accomplish a mission. Therefore this chapter discusses the role of the person who has control, or is in control of, or has authority over the police response to threatened or actual serious public disorder, and the systems which assist him in his task.

Whilst command and control is made up of a number of different components, it can be broadly divided into two -

1. The human element which includes

    (a) personal experience
    (b) training
    (c) learning from the experience of others

2. The functional element, which in very simplistic terms is:

(a) the available hardware
(b) the facilities available for use
(c) the procedures to be adopted

The functional element includes the communication system which the operational commander has available to him and also the procedure by which intelligence is processed. The former is discussed fully in this chapter. The latter, being one of a number of tools which assist the operational commander in the decision-making process is outlined and discussed more fully in Appendix 'C'. Other aspects of the functional element, i.e. the available hardware, are described in the following chapter.

History has shown that the operational commander is indispensible if police actions are to be both effective and efficient. But his problems in responding to serious public disorder are complicated by the fact that he must achieve his results through several levels of subordinate commanders. This means that, in addition to directing his resources as a whole, the operational commander must also concern himself with leading a select group of subordinate officers, each of whom should be highly competent in his job. The complexity of such an arrangement means that he cannot possibly hope to achieve success without a proper Command and Control system. The operational commander must therefore devote considerable effort to ensuring that the system he proposes to use works.

THE HUMAN ELEMENT

A command is built from the top down. It starts with the thinking, ideas and behaviour of the commander. The commander's thinking spreads out to include his staff and key subordinates and is translated into actions and patterns of behaviour throughout his command. The commander's role is arguably so important that it is not a question of whether he is able to influence the police response to threatened or actual disorder but rather whether he can exert this influence with positive results. History has shown that this has not always been possible; conversely, there have

been occasions when the commander has been able to influence the course of events in a positive way. Space allows only a few examples to be given.

Cold Bath Fields 1833

Not unnaturally, perhaps. being a former military man who had served under one of the foremost generals of his time, Major General Sir John Moore, Colonel Rowan set an early example at Cold Bath Fields in 1833.(3) As soon as it became apparent that the meeting was likely to take place, he carried out a reconnaissance of the ground. Assuming overall command of a carefully planned operation, he appointed Superintendent May, the officer-in-charge of A Division, to take charge on the ground; in addition he was responsible for the 'A' Division contingent of 80 men. May was assisted by a number of Superintendents from other divisions, each of whom were in charge of a detachment of between 80 and 100 men, made up of inspectors, sergeants and constables. The meeting was due to commence at 2 p.m. Colonel Rowan arrived at Cold Bath Fields between 1.30 p.m. and 1.45 p.m., by which time there were between 400 and 500 people assembled, and took up a position in a room in a livery stables on the south west corner of Cold Bath Fields. From this position he had a good view of the proposed meeting place.

Once the meeting was in progress, Colonel Rowan left his vantage point and went to a yard at the rear of the stables where the 'A Division contingent, under Superintendent May, was waiting to be deployed. There he instructed the waiting officers -

> "to be temperate, to keep their temper, and not to use more force than was necessary; to take into custody those who were addressing the mob, and those who carried banners, and disperse the remainder."(4)

It was, of course, during this operation that Police Constable Culley was stabbed to death, but the action taken to disperse the crowd, with minor exceptions, was successful. The violence lasted for only about five

minutes by which time the crowd had been dispersed and 30 people had been arrested.

Hyde Park 1855

The most serious of the Sunday Trading riots in Hyde Park on 1st July 1855 was followed by widespread criticism of police conduct.(5) Colonel Rowan had died, leaving Sir Richard Mayne as the sole Commissioner. Superintendent May, who was, by this time, by far the most experienced public order commander in the country, was taken ill shortly before the day of the demonstration, and the Commissioner appointed Superintendent Hughes to take overall command on the ground. By 3.30 p.m. the situation was such that Hughes, after consulting with a colleague, Superintendent Martin, decided that the time had come "to use more vigorous measures to clear the carriageway, and also, pursuant to directions from Sir Richard Mayne, to clear the crowd back to some distance from the railings."(6) Hughes therefore gave orders to the police to clear the road using their staves.

Throughout the operation Hughes was on horseback and he was subsequently accused, amongst other things, of "failing to control many excesses on the part of police under his command."(7) Whilst the Inquiry appreciated the difficulties that the police faced on that day, they decided that he "exercised less control over his men than a due regard for the safety of unoffending individuals required" and suggested that had Hughes adopted "a more calm and forebearing course ... much excitement at the time and complaint afterwards would have been avoided." In a letter to the Commissioner sent at the conclusion of the inquiry, the Home Secretary, Sir George Grey, instructed him to "mark with censure" the conduct of Superintendent Hughes on this occasion, at the same time pointing out that "his dismissal from office would be harsh and uncalled for."(8)

Hyde Park 1866

Plans for the Reform League march to Hyde Park on 23rd July,(9) included, the closing of all gates into the park because of a fear of disorder. In order to ensure that the meeting could not take place, the Commissioner, Sir Richard Mayne, now seventy years of age, "assigned 1,613 men, including 105 in plain clothes and 60 on horseback, in locations round the park, with double patrols in the park itself." As the members of the Reform League were due to assemble at a number of locations throughout London, Mayne also "assigned extra reserves at the police stations nearest the assembly points."(10) In the policing of this demonstration, Mayne, no doubt haunted by the severe criticisms made of police action in 1855, decided that he would be in uniform on horseback in Hyde Park itself "though the tactical control of the police was to be with the two Assistant Commissioners, Harris at Marble Arch, and Labalmondiere at Hyde Park Corner."(11) The events of the evening are described elsewhere; suffice to say at this point that the police were heavily outnumbered and 265 officers were injured. Amongst this number was the Commissioner himself who "was struck several times" by missiles, one stone hitting him on "the side of the head causing blood to stream down his face."(12)

Trafalgar Square 1886

The next big test for police command came in 1886, a year in which there were a number of clashes between members of the Fair Trade Movement and the Social Democratic Federation.(13) On 8th February, both groups were due to hold meetings in Trafalgar Square at the same time. The careful disposition of police resources is essential if an operational commander is to be in a position to prevent or respond effectively to serious disorder because there is rarely time to recover from bad deployment. Pre-vision is therefore essential for there are distinct and obvious advantages in being able to foresee what is likely to occur. Of course, this cannot always be done accurately because the behaviour of those whose intention it is to create disorder is often unpredictable; but, an examination of what is likely to happen, or what could happen, followed by an appropriate deployment of resources will enable the far-sighted

operational commander to be in a position to respond to the actions taken by the rioters.

However, on this occasion, the Commissioner, Sir Edmund Henderson, suffered from an initial disadvantage. In the seventeen years he had been Commissioner "London had been singularly free from serious riots calling for police action." His experience in responding to disorder was therefore limited, added to which "there were few police officers of any grade in the force who knew much more about it than he did, and even the veterans were somewhat rusty."(14) The arrangements made by Henderson for this demonstration consisted of the initial deployment of sixty-six men in Trafalgar Square, with a further 563 to be kept on reserve, under the cover, in the near vicinity. Two days before the demonstration he informed District Chief Superintendent Robert Walker, who was 74 years of age, of the arrangements and told him that he would be in command.

On the afternoon of the demonstration, when Walker did finally appear in Trafalgar Square, it "was already jammed with demonstrators and on-lookers."(15) Then, dressed in top hat and plain clothes, he quickly became lost in the crush and had his pocket picked before he managed to extricate himself. Henderson had a similar experience although he did not have his pocket picked. Following a meeting with the Home Secretary, he went to Trafalgar Square; he too was in plain clothes. He tried to get near to the stage to hear some of the speakers but was unable to do so because of the crush. He did not see the start of the violence when the Fair Trader's platforms were overturned. But, more importantly, he did not see the departure of the crowd towards Pall Mall. Subsequently, he returned to Scotland Yard where he remarked to one senior officer that "it was the quietest meeting he had seen for a long time."(16)

In his evidence to the subsequent inquiry, Walker claimed he was everywhere but Henderson never saw him once. Another superintendent, Dunlop, claimed he could not recall Walker giving a single order during the whole of the afternoon, because "it would have been impossible to find him" because "he was lost in the crowd".(17) However, Walker did see the Fair

Trader's platforms being overturned. In his evidence to the inquiry he said -

> "Pieces of wood, and seemingly a coat, began to fly backwards and forwards, and I made an effort to get through to find out the cause, but the pressure when fairly in was beyond what I could stand, and with difficulty got back."(18)

However, the overturning of the Free Traders' platforms had been the signal for a crowd of about 3,000 to go rampaging through the West End of London, causing considerable damage as they went. Meanwhile, in clearing the steps of the National Gallery, the police seem to have concentrated their efforts "almost exclusively on the crowd in the square itself," at the same time remaining "oblivious to the rampage begun elsewhere, until it was too late."(19)

Later Walker claimed that his duties "were so onerous in Trafalgar Square that looking to the four corners of it was beyond my power."(20) But one commentator suggests that Walker, who was, after all, officially in charge of the whole police operation, "seems to have spent the afternoon a victim adrift in the very maelstrom he was supposed to control."(21)

The inquiry later announced that in their opinion "the police arrangements for the meeting were most unsatisfactory, and very defective in their conception." Suggesting that the number of officers deployed in Trafalgar Square at the outset was "utterly insufficient" the inquiry went on to state -

> "The instructions issued by the Chief Commissioner were too meagre in character, and did not provide for the contingencies which we think the police ought to have foreseen. Except in Whitehall, there was an entire absence of any reserves along the line of the great arteries of communication by which the mob could leave Trafalgar Square. Sufficient precautions were not taken ... to ascertain the routes which tghe mob upon dispersing would follow, or by which they were actually leaving, nor was there any scheme for following up such portions of the mob as might leave in an unexpected direction. Even the 'fixed points' had received no special instructions to report any crowd moving past their posts."(22)

It was a damning criticism of Henderson and he resigned.

Trafalgar Square 1887

In 1887 even greater disorder was anticipated in Trafalgar Square.(23) However, the new Commissioner, Sir Charles Warren, was determined that the events of February 1886 would not be repeated and, on the day of the meeting, he deployed two thousand police officers in and around Trafalgar Square and a further three thousand in the surrounding streets, to prevent any large groups of demonstrators from reaching it. Also, because large numbers of people were expected to converge on the Square from the area south of the River Thames, detachments of police officers were deployed on all bridges.

The organisers had arranged for nearly sixty groups of demonstrators to meet in their own neighbourhoods in the early afternoon and, after conducting a brief rally, to march towards the Square so as to converge there at exactly 4 p.m. Warren himself was present in the Square from the early hours of Sunday morning until about 3 p.m. in the afternoon, when he returned to Scotland Yard. Although the police broke up most of the processions heading towards the Square, they were unable to prevent a large number of people converging individually on the area, but there was little cohesiveness action.

Prevented from entering the Square itself by strong cordons of police, between two hundred and four hundred men, armed with sticks and stones led a frontal attack on the police at about 4 p.m. Others threw missiles at the police cordons. When the police were unable to immediately restore order, two detachments of Life Guards and subsequently a battalion of the Grenadier Guards were called to the Square. By 5.30 p.m. the crowd had been cleared. Seventy-seven police officers were injured. Over 200 people were taken to hospital, of whom two subsequently died, and the police made forty arrests.

Cable Street 1936

The Commissioner, on this occasion Sir Philip Game, again took personal charge of operations when the British Union of Fascists announced their intention to march through the East End of London on 4th October 1936. He assembled 3,000 men, including mounted officers, detectives and members of the Special Branch and set up a mobile headquarters shortly after 2 p.m. close to where the Fascists intended to assemble in Royal Mint Street. Thousands of people had assembled to prevent the march from entering the East End and the police made a number of baton charges in an effort to clear the route of the proposed march. By the time the leader of the British Union of Fascists, Sir Oswald Mosley, arrived Sir Phillip had decided not to allow the march to go ahead. The Commisioner informed Mosley personally, after the latter had been brought to his mobile headquarters shortly after his arrival and Mosley reluctantly agreed by turning the Facists around and marching back to his headquarters in the West End of London.

Saltley Gate 1972

Throughout the six days of the dispute at Saltley Gate in 1972, although day-to-day policing of the incident on the ground was under the command of Chief Superintendent Brannigan and Superintendent Ogram, the police on the ground were frequently given "directions" by the Chief Constable, Sir Derick Capper, the Deputy Chief Constable, Phillip Knights, and the two Assistant Chief Constables, Donaldson and Morrison.(24) Finally, on 10th February, when the demonstrators outside the main entrance to the Coke Works had risen to 10,000, the Chief Constable gave the order to keep the lorries back and at 10.45 a.m. he requested the Chairman of the West Midlands Gas Board to close the gates.(25)

Red Lion Square 1974

Prior to 1974, the successful curtailment of public disorder invariably depended on the skills and abilities of the overall commander, who, if he was not expected personally to lead his forces in responding to

any violence that occured, was expected to be on the ground, in addition to devising the broad movements of strategy and being responsible for the necessary logistics. It was an era of direct command. But the Scarman Report into the disorders in Red Lion Square raised the first doubts about this concept of command.

The man in overall command of the police operation on that day was Deputy Assistant Commissioner John Gerrard. An operations room had been opened at New Scotland Yard but Gerrard was on foot, in Red Lion Square, when the International Marxist Group tried to break through the police cordon(26). Indeed, photographs show him "assisting the cordon".(27) This begs the question - was he in the best position to be in overall command of the events that followed?

Had the confrontations been confined to Red Lion Square it could be argued that he was; but they were not. It is easy to be wise in hindsight and Lord Scarman, after discussing this aspect of the operation, made no criticism of him; indeed, he went further, pointing out that Gerrard was a man who sought "to lead by example," and he would "not criticise any commander of men for so doing."(28) But the fact remains, at the very time foot cordons should have been deployed in Theobalds Road to control the dispersal of demonstrators from Old North Street and direct them away from the approaching National Front march, Gerrard was personally supervising the removal of Kevin Gately to hospital.

Although pointing out that Gerrard "failed to anticipate, and to take steps to prevent, the retreating demonstrators making their way along Theobalds Road towards the oncoming National Front march", Scarman refused to condemn him because of "the activity elsewhere, and the other possible disorders which he had to guard against."(29) Events moved fast on that day and it is quite possible that Gerrard would not have been able to deploy units in the short time available to him anyway. But by positioning himself on foot near one specific part of the action, instead of in a properly equipped control room or control vehicle, he was never likely to have an overall view of the events as they unfolded. It could, of course, be argued that the officer-in-charge of the Operations Room

should have taken appropriate action but he did not; thus the Command and Control system was ineffective at that point. Either the way, the responsibility lay with the overall operational commander.

Notting Hill Carnival 1976

At the Notting Hill Carnival in 1976, Deputy Assistant Commissioner Gibson was in overall command of police arrangements. His control room was at Scotland Yard. Commander Jackaman was in command on the ground. A mobile control room was located in the area in which the Carnival was held and the whole area was broken up into a number of sectors, each under the command of a chief superintendent. When rioting broke out at about 4.40 p.m. on 30th August, Deputy Assistant Commissioner Gibson was being briefed by Commander Jackaman at Notting Hill Police Station, about a mile from the scene of the disorder. Both senior officers went to the scene and both became involved in deploying units to combat the disorder.(30) By 7 p.m. the disorder was spread over a fairly wide area, but it was not until then that Deputy Assistant Commissioner Gibson extricated himself from ground tactics and returned to the Force Operations where "command and control could more effectively be conducted".(31)

Brixton 1981

In his report on the 1981 Brixton Riot, Lord Scarman stated that "there was little doubt that the disorders revealed weaknesses in the capacity of the police to respond sufficiently firmly to violence on the streets." Pointing out that rioting was allowed to continue unchecked in the shopping areas of Brixton for three hours on the Saturday evening, he said "the build-up of officers was slow" and "did not really achieve a sustained momentum" until the serious disorder had been ongoing for two-and-a half hours.(32)

Inadequate equipment, the use of unprotected vehicles and officers untrained in the use of shields were also the subject of criticism by Scarman. But, whilst he praised the leadership of some individual senior officers, perhaps the most damning criticism was made in respect of police

commanders generally. Scarman said that officers untrained in the command of men carrying shields were "thrust into the front line",(33) and he recommended that "training in the handling of public disorder should ... be provided ... for officers of all ranks up to and including Commander or the equivelent (Assistant Chief Constable) in the provinces." In making this recommendation he suggested that the most appropriate training for senior officers was "in the command of men and in the strategy and tactics for handling disorder."(34)

Whilst some effort was directed towards the implimentation of Scarman's recommendations it was clear in 1985 that it had been insufficient. In August 1982, the Metropolitan Police published a small manual entitled "Public Order - Notes of Guidance for Senior Officers". Part of the forward to the manual suggested that it had been neccesary -

> "to conduct a radical review of the commitment to Public Order especially with regard to:
>
> i. information gathering and assessment;
>
> ii. the ability to respond quickly and effectively to outbreaks of spontaneous disorder;
>
> iii. the need for a positive strategy and carefully formulated tactics;"(35)

At Tottenham, in 1985, it was clear that there had been a fundamental failure to address all three of these points. There was no system to either gather or assess information about the rioters and their tactics. Consequently "some far-reaching operational decisions were made by senior officers who were not in possession of accurate assessments of all the relevant facts."(36) With one exception, none of the senior officers on the ground had undergone appropriate public order training in accordance with the recommendations made Lord Scarman in 1981. There was no clear chain of command. Senior officers who went to the scene assumed an area of command without being directed, either by the officer in overall command or his staff in the control room. There was no overall ground commander. It was apparent that some senior officers on the ground assumed that Chief

Superintendent Couch, the officer in charge of the division on which the riot took place, was the ground commander but Chief Superintendent Couch clearly did not consider himself to be in that role.

There was no positive strategy and neither was there any formulated tactics. It is likely that the strategy of containment articulated by Deputy Assistant Commissioner Richards in his report(37) was arrived at by default rather than by a positive decision to adopt it as such. In any event, the strategy was misunderstood by some senior officers on the ground.

In summarising the failures at Tottenham, Andrew Brown, writing in The Spectator, described how -

> "'the wheel came off'. The external noise and what seems to have been a collapse of radio discipline made communications unusable: the control room at Wood Green, a mile away to the west, was convinced that the rioters' purpose was to get at the shopping centres around and did not for several hours realise how serious was the situation at Broadwater Farm. The senior officers at the front were strangers to each other, and to the men they commanded, which in an organisation as personal as the Met makes a great difference."(38)

Brown suggests that "the most serious damage done at Broadwater Farm was inflicted on the trust of PCs for their supervising officers." The crucial sections of the the Public Order Review that followed were not those which dealt with weapons and equipment, which so many people commented upon, but those concerned with command and control. Brown points out that

> "the systematic training of selected senior officers in groups matters, because it means that they will know each other next time, when they must work together. So, too, does the adoption of a new and simplified system of radio control, in which the call-signs identify the function, rather than the physical location or rank, of commanding officers.(39)

The operational commander and his various subordinate commanders should ask themselves several times, both before and during serious disorder, what if the crowd does this or that - how will I respond or expect the units on the ground to respond, and, if the latter, do those units know what I expect of them? Both the overall and subordinate commanders must remain alert to all possibilities and strive to ensure that their position is sufficiently well balanced to permit a quick and effective reaction to the unexpected. The failure of Commissioner Henderson to anticipate that a secion of the crowd in Trafalgar Square might rampage through the West End of London has already been commented upon. Over one hundred years later, at a demonstration on 31st March 1990 to protest against the introduction of the Poll Tax in England and Wales, the operational commander, Deputy Assistant Commissioner Meynell, similarly failed to anticipate serious disorder and although "plans were prepared for sporadic outbreaks of disorder" none were made for disorder on the scale that occurred.(40) This, in spite of the fact that in the preceeding weeks there had been disorder at a number of local demonstrations in different parts of the country, including London.

Preparing for serious public disorder

During what is often referred to as spontaneous public disorder, it is inevitable that, in the early stages of the response, police commanders, and the communications systems they have at their disposal, are likely to be overwhelmed by demands for assistance and decisions which, for the most part, they will be incapable of addressing. However, there are very few occasions when it can be said that the police did not have any warning; usually there are signs of increasing tension, or there is a trigger incident followed by a delay before disorder occurs. In such cases it is incumbent on the operational commander to ensure that his command and control system is up and running before disorder breaks out.

History shows, however, that, on the majority of occasions, serious disorder has occurred during an event of which the police have been forwarned, be it a previously notified march or meeting, or an industrial dispute, or a static protest held outside some building which has some

relevance to the protestors. In such cases there has been ample time to ensure that the command and control system was running effectively before any disorder occurred.

The position of the commander is often crucial to the success of the whole police operation. After the Second World War the operational commander was often on the ground when rioting took place. Of late, the police seem to have returned to the practice adopted by Colonel Rowan at Cold Bath Fields, that is, of not becoming embroiled in the rioting itself but rather controlling the response from a distance. The only difference between the two events is that todays police commander is given a view of the rioting by way of radio messages and closed circuit television, whereas Colonel Rowan had to choose a point which overlooked the scene of the riot.

A new system of command and control

Following the serious rioting in Handsworth, Brixton and Tottenham in 1985 and in consequence of recommendations made by their own Public Order Review Team, the Metropolitan Police clarified the command structure to be used during public order events and this structure, which Waddington likens unto "the military model",(41) is now common to all police forces in Great Britain. The operational commander, the senior officer involved personally in responding to serious disorder or the threat of it, uses the call-sign GOLD. He is supported by selected staff, operating from a dedicated control room, using the call-sign GOLD CONTROL. GOLD is supported by a senior officer on the ground, the ground commander, who is known as SILVER. He, in turn, may be supported by a forward control, normally a purpose-built vehicle, which is known as SILVER CONTROL. The geographical area of the incident is divided into sectors which are numbered consecutively. Each sector commander is known as BRONZE followed by the sector number.

If serious outbreaks of disorder occur simultaneously in a number of different areas, then a SILVER commander can be appointed for each area. In such cases, SILVER commanders, SILVER CONTROL and BRONZE commanders, in

using their call-signs, give their location, e.g. SILVER TOTTENHAM, SILVER HACKNEY, BRONZE 1 HACKNEY, BRONZE 3 TOTTENHAM.

Each has separate and, on the face of it, clear functions. The GOLD commander is responsible for formulating strategy at the outset, and modifying it, if necessary, as events unfold. His control room, GOLD CONTROL, is responsible for the administration of the operation, e.g. ensuring that SILVER has the resources he requires and they are refreshed and relieved as appropriate. The SILVER commander, assisted by SILVER CONTROL, is responsible for deciding on and co-ordinating the tactical response - in military terms, the grand tactics - in order to achieve the strategy that has been articulated by GOLD. BRONZE commanders are responsible for directing those resources under their command and implimenting specific tactics within their respective sectors, although there may be occasions, either because of the sensitivity of the tactic or becaue of events elsewhere when SILVER may decide on the specific tactics to be used. Consequently, in general terms, it can be said that the police response is initiated by the GOLD Commander. widened by the SILVER Commander, and implimented by BRONZE Commanders. Conversely, information about what is happening on the ground is passed from BRONZE Commanders, to the SILVER Commander and then onto the GOLD Commander.

In London, current practice dictates that a Co-ordinating Group, consisting of representatives of all the specialist units involved, e.g. mounted, firearms, dogs, public order training unit, etc., and certain other officers, should be established to assist the operational commander "in developing strategy and tactics".(42) However, a word of caution is needed here. With the number of expert advisers available to the operational commander, there is a danger that the procedures being adopted to respond to serious disorder at the senior level may become too bureaucratic. If this does occur, one possible outcome is that the concept of command will be replaced by the concept of management, which inevitably leads to more discussion with more people to brief and update. Thus more effort is put into co-ordination and getting agreement, often to the detriment of rapid decision-making. As the staff and number of advisers to the operational commander increases, misunderstandings and

errors become more likely. And yet the job of Deputy Assistant Commissioner Meynell at Trafalgar Square in 1990 was the same as Colonel Rowan's at Cold Bath Fields in 1833 - to activate and control the police response to a disorderly crowd as effectively and efficiently as possible.

The new system of command was first used during the Wapping disturbances in 1986/1987 but there was criticism of the way it worked on the occasion of some of the most serious rioting seen outside the Plant on 24th January 1987. On that particular night, Commander Ness, based at Leman Street Police Station about half-a-mile from the scene of the disorder was GOLD, Chief Superintendent Goodall, who was at the scene, was SILVER and the eleven BRONZE commanders were either Superintendents or Chief Inspectors. The officer in overall command of the police area in which the disorder took place, Deputy Assistant Commissioner Jones, although at his headquarters some distance from the scene, was not part of the planned police response. However, when serious disorder broke out, Jones immediately assumed the role of GOLD, something the new command system was designed to allow with the minimum of confusion to SILVER and BRONZE commanders.

But, at the end of a lengthy investigation by officers from the Northamptonshire Police, acting on the instructions of, and under the supervision of, the Police Complaints Authority, it was reported that "the command structure and its support mechanism established to police the demonstration contained weaknesses which, upon the outbreak of disorder, inevitably manifested themselves in such a way that no person could be considered to be in effective command of the operation as a whole",(43) for three principal reasons:

a) the ground commander, Silver, exercised command away from the Silver Command Vehicle, at one isolated location, without an overall view;(44)

b) the intervention of DAC Jones "resulted in both Gold and Silver commanders believing that their authority had been over-ridden".(45)

c) "some of the key commanders", although of acknowledged ability, had not been "trained in public order situations".(46)

In "profoundly rejecting this criticism",(47) the Metropolitan Police pointed out that it had been "tried and tested at Wapping through the year preceeding 24 January 1987" and its flexibility enabled it to be adapted to changing circumstances, one of which was to allow "a more senior officer to assume command if disorder intensifies". It may well be that the SILVER commander could have exercised his functions more appropriately from the properly equipped vehicle that was available, although, having said that, there was only one seat of serious disorder at the junction of The Highway and Wellclose Street; but the report, put out under the name of the Police Complaints Authority, shows a lack of basic understanding of the functions of a public order commander. The key word is flexibility but the report suggests that GOLD "should remain away from the scene" and that SILVER "will operate from a command environment".(48) Whilst this may generally be the case, both GOLD and SILVER should operate from a location where they will best be able to dictate the course of events and ensure that the police response is both effective and efficient. If either decide this can best be done at the scene it should be open to them to do so.

Difficulties continue to exist

Although the criticism, or at least some of it, may have been unwarranted on this occasion, the police continue to experience difficulties in establishing an effective and efficient command structure when serious disorder occurs. In a report into the Poll Tax riot in London on 31st March 1990, the aim of which "was to make recommendations for policing similar events",(49), Deputy Assistant Commissioner Metcalfe pointed out that "some senior officers felt inhibited by the presence of more senior colleagues" from making the immediate decisions that were necessary to prevent the disorder from escalating.(50) This was a reference to the fact that the SILVER Commander was on the ground during part of the disorder and apparently gave orders direct to units, rather than to the BRONZE Commander responsible for those units. Pointing out that it is intended that "command should follow the military model", Waddington claims there have also been occasions when GOLD Commanders have

short-circuited the chain of command and given instructions direct to BRONZE Commanders, particularly when the situation has become critical.(51)

However, Waddington argues that it was misguided and inappropriate to attempt to equate the police system of command with that of the military, claiming, no doubt with Wapping in mind, that -

> "a decision by the Silver Commander, say to deploy mounted officers may very well become highly controversial and reflect upon the Gold Commander and the officers under his command. Thus, monitoring such a decision over the radio, the Gold Commander is almost compelled to intervene if he believes the decision to be imprudent, for he will be held responsible not only for the strategy but also for its execution."(52)

The remedy, he suggests, lies in making the SILVER Commander, assisted by his Control Room, "responsible for 'slow time' logistical decisions" and the GOLD Commander, assisted by his Control Room, "responsible for strategy and its tactical implimentation", although a number of administrative difficulties would need to be overcome to allow this to happen.(53)

Metcalfe points out that an efficient command structure "depends on each individual having a clear understanding of their role and responsibility, including the level of authority for decision making."(54) The three key ingredients in responding to serious public disorder are mobility - the means to get to the scene quickly, the provision of real time in intelligence handling facilities; and a command and control system which enables those conducting the operation to make a swift and precise response to the situation as it unfolds. Whilst there is clearly a case for the operational commander to retain the authority to make those decisions which could have major political implications or bring repercussions upon his force, or, indeed, individual officers, e.g. the use of baton rounds, the failure, under the present system, to devolve authority for making less controversial decisions to a lower level arises generally either because the operational commander possesses a high degree of concern for his own position or he lacks confidence in those he has appointed to carry out certain functions.

Minor disorder can quickly degenerate into serious disorder, spreading over a comparatively wide area and becoming an extremely fluid situation. Under such circumstances, control from the centre is impossible - indeed attempts to co-ordinate police movements in Trafalgar Square on 31st March 1990 were exacerbated by the inadequate communication system, of which mention is made later in this chapter. It follows that any command and control system must be capable of decentralising, allowing local commanders on the ground to use their initiative and operate with flexibility. However, flexibility is not a skill that comes naturally or easily to many senior police officers. Brought up in a management environment of rules, procedures and regulations, and more recently decision-making only after discussion with those likely to be affected by that decision, they have tended to use tried and tested methods of crowd control, some of which have not always kept abreast of the often new and different techniques and increasing violence of the rioters; nor have they taken notice of events elsewhere in the world. Two obvious examples which illustrate this point most graphically were the failure of the Police service in the United Kingdom to learn any lessons from the American riots in the 1960s and the failure of the British mainland forces to take any measures to counteract petrol bombers during the late 1970s despite the fact that they were being regularly used against the security forces in Northern Ireland during this period.

COMMUNICATIONS

The importance of an efficient communication system, capable of being used effectively during times of serious public disorder cannot be over-emphasised and history shows that the police have often been handicapped by inadequacies in the system. Before the introduction of telegraph and wireless the police used runners and written orders. For instance, when the Ultra Radicals planned to hold a meeting on 7th November 1831, police orders of the previous day instructed divisions to employ two constables to act as messengers during the night to convey information of disturbances to stations where men were being retained on reserve. In addition they were

to be used to convey any information obtained overnight to Scotland Yard by 7 a.m. (55)

Another early example occurred on 29th May 1848, when the Chartists held a meeting at Clerkenwell Green at the end of which they formed up in procession and marched to Finsbury Park. At 9 p.m., orders were sent by taxi-cab from the Commissioner's Office to the Superintendents of 'A' to 'M' Divisions, instructing them to move all available men to their stations and then go to Finsbury Park to police this unexpected meeting. At the time this was found to be a relatively efficient way of sending such orders and within a comparatively short time a total of 1,942 officers were mustered. (56)

Telegraph

A telegraph system, linking the divisional stations with Scotland Yard and the homes of the Commissioner and the Assistant Commissioners, was installed in the Metropolitan Police area in September 1867. (57) The service was extended, albeit slowly. In December 1867, the Home Office was linked to Scotland Yard; a month later, so too were the Houses of Parliament. Shortly afterwards links were established with the City of London Police and Horse Guards. Even so, the introduction of the telegraph system in this limited form meant that 117 out of the 138 police stations in the Metropolitan Police District were without telegraphic communication.

In replying to a question about the ability of the police to respond to riots, Sir Richard Mayne told a Committee appointed to inquire into the System of Police in 1868 -

> "each superintendent is first of all responsible for the preservation of peace and the prevention of any disturbance within his own Division as far as his means go, and directions are that he is immediately to communicate by telegraph to me and the Assistant Commissioners and to the superintendents of the adjoining Divisions".

Sir Richard went on to explain to the Committee that a message would be telegraphed to his home and to the homes of the Assistant Commissioners during the night. Using Paddington Police Station as an example, Mayne suggested that four hundred constables could be assembled within half-an-hour.(58) That they were able to muster such a large number in such a compartively short time was due, in no small part, to the "policy of having men accommodated together when they were off duty in the Station Houses or in nearby apartment houses rented as Section Houses".(59)

In 1869, the Metropolitan Police District was divided into four areas, each under the command of a District Superintendent. Between 1871 and 1873, the telegraph system was extended and most divisional stations were linked to their district headquarters. In January 1892 a direct link was established between two stations on different divisions for the first time after the the Superintendent of 'V' Division had reported that -

> "the inhabitants of Battersea were a turbulent class and many of the principle Social Democrats and agitators resided there. During demonstrations very large numbers of the disorderly class assemble on 'V' Division and pass through 'W' Division on the way to town.'(60)

The telegraph system, "albeit in a more advanced form, continued until the introduction of the a computerised Message Switching System on 20th June 1984."(61)

Wireless

By 1934, wireless vans were regularly used on the occasion of large processions or at events which were likely to result in disorder. Each van was normally accompanied by two motor cyclists who conveyed messages to and from the operational commander to the sector commanders and vice versa. In the case of marches and processions, the vans usually took up a position at the rear of the march; in the case of static demonstrations it was parked in the most advantagous position to be of benefit to the operational commander. In each case, regular reports as to the location, the mood, the size and the intentions of the crowd were sent back to Scotland Yard for the information of the Commissioner and other senior

officers. This improved method of communication during large-scale events "ensured the more efficient control of public events". (62)

Personal radios

Although the police started experimenting with portable radio transmitters in 1946, it was not until 1966 that personal radios became a successful feature of police operations. By 1969, the installation of the divisional personal radio system was complete. Many people took the view that the introduction of personal radios would enable the police to be far more effective in their handling of public disorder. In some ways this has been the case but it is by no means the panacea it was initially thought to be.

Lessons in the most effective use of communication facilites are learned today by experience as they were at the Trafalgar Square Riots one hundred years earlier, when the Committee of Enquiry called attention to the "inadequate telegraphic facilities existing in the Force."(63). In recommending that there should be "improved arrangements for communication"(64) Scarman pointed out that "there were difficulties in radio communication between officers deployed at the scene and police control, and between different units of officers on the ground,"(65) during the Brixton disorders of April 1981.

In the early stages of the Handsworth riot "communications were difficult because of the lack of sets programmed to operate" within the riot area, and the Chief Constable, Geoffrey Dear said, "communications must be improved."(66) After the rioting, two people were found dead in a sub-post office. Significantly, the police control room received three telephone calls from the two men pleading for assistance as people attempted to break in before setting the building on fire(67) but, because of the inadequacies of the communications system, it is doubtful whether police commanders on the ground were ever made aware of the predicament of the two men.

The speed of development and the intensity of the activity which takes place when serious disorder occurs, is likely to place a particular strain on the most sophisticated of communication systems. In a review of public order procedures carried out in the immediate aftermath of the Brixton and Tottenham riots in 1985, the Metropolitan Police pointed out that "multi-seated disorder, poses acute problems for a communication system which has limited radio frequencies." Nevertheless says the report "at least two radio channels are seen as a necessity, to ensure facility for a 'command' and a 'support' channel."(68) Bronze Commanders communicate with the Silver Commander and with each other on the 'command' channel, but communicate with their units on the 'support' channel.Even that may not be sufficient in the case of multi-seated disorder for, if there is more than one Silver Commander, each will require his own 'support' channel. Only in exceptional circumstances are Bronze Commanders likely to have separate 'support' channels; this means that, generally, they have to compete with other Bronze Commanders for 'air time'. But, as Waddington points out, "in a rapidly changing situation this can mean that necessary action is delayed or not taken at all."(69) And there is an argument for specifiying a separate channel if intelligence officers are deployed in the field, although the recent practice of using cellular telephones makes this less necessary. Similarly, although the Gold Commander will have the facilities to enable him to use the 'command' channel, he is more likely now to communicate with the Silver Commander using a fixed or cellular telephone, thus enabling him to discuss strategy and tactics without being overheard by subordinate commanders.

The Metropolitan Police review team pointed out that "the failure to create 'command' and 'support' channels at an early stage and as a matter of routine" at both Brixton and Tottenham "led to considerable congestion on networks."(70) An additional problem existed because officers on the ground had "great difficulty in hearing transmissions because of the background noise and because of the protective helmets which cover the ears."(71)

In pre-planned events, such as demonstrations and industrial disputes, where serious disorder might reasonably be anticipated, congestion can be

reduced by using short coded messages in conjunction with carefully laid contingency plans. Commenting that the police "had always relied on the use of personal radios to deploy units" at the Notting Hill Carnival, Commander Larry Roach pointed out in 1987 that "the radio system becomes overloaded when there is serious disorder, while the noise of the carnival itself makes the messages almost inaudible." He therefore devised a plan which enabled the maximum amount of information to be passed in the minimum time by means of short coded messages. Explaining the plan, Commander Roach said -

> "There are basically four words to a message ... The first identifies the sector,(72) the second the nature of the disorder, the third was the instruction, and the fourth the originating officer."

Thus Beta, Alpha, Two, Silver(73) would indicate that the message is directed to the Bronze Commander of 'B' Sector; he has minor disorder on his sector; it should be contained and the offenders arrested and the originitor of the message is the ground commander, Silver. The coded order to the commander of Sector 'B' would have implications for the commanders of the other sectors, particularly those adjoining the sector in which the problem had arisen. For instance, they would be required to cordon off all streets leading into Sector 'B' to prevent any more people entering.(74) Of course, it is difficult to introduce such a system in cases of spontaneous disorder or situations which become extremely fluid. Nevertheless, most police forces should be able to anticipate where spontaneous disorder is most likely and make plans accordingly.

Monitoring and jamming

For many years there have been attempts, many of them successful, to monitor police radio transmissions. Recently, there have also been a number of attempts to jam police communications. Equipment to enable this to be done is readily available to members of the public. Of course, equipment is also available for tracing the locations of monitoring or jamming stations but, even if the police were able to close down the offending stations, it is an easy task to set up another one.

The dangers of successful monitoring are obvious - under normal operating procedures it will mean that the rioters will be able to stay one step ahead of the police and may even feed in a number of false messages to confuse them. Throughout the miners' dispute, police broadcasts were regularly "monitored by outside agencies, including the NUM and this gave rise to occasional problems of security and operational effeciency."(75) In Kent, information gained by the miners in this way was regularly passed from the monitoring station to the pickets "via the Citizen Band network."(76)

The risk can be diminished by using pre-arranged or coded messages such as was used at Wapping in 1986, when it was discovered that operational instructions passed over police radios were being monitored by the organisers of the weekly demonstrations outside the News International Plant. The lorries, leaving the plant carrying newspapers each night, had the option of a number of routes; the one to be used would be decided by the operational commander shortly before the first lorry was due to depart and officers on the ground would be notified by radio in order that those on the chosen route could take appropriate action to forestall attacks by demonstrators. However, by monitoring the police radio transmissions, the organisers were able to circumvent some of the police arrangements and, on occasions, intercept the lorries. The police therefore introduced a simple colour-coded system "to allow officers to be deployed without identifying to outsiders their location or the area to which they were being directed."(77)

Jamming is more difficult to combat. Unless it has been considered as a possibility and action taken to minimise its effect during the planning phase, it is likely to cause intial confusion, reduce the flow of information about the movement of rioters, delay any response to their actions and will greatly reduce the effectiveness of a centralised command. For instance, throughout the period of serious disorder at Wapping on 24th January 1987, "sustained attempts" were "made by demonstrators to jam police radio channels,"(78) and, as has already been mentioned, command effectiveness was later criticised in a report by the Police Complaints Authority. It is extremely difficult, without radio communication, to

implement any co-ordinated action from a number of different directions and the net result is that a much greater emphasis is placed on individual action by Bronze Commanders.

Problems remain

The need for good radio and other communication facilities in the policing of any public order event cannot be over-emphasised, particularly if there is the slightest chance of disorder. Even so, "the extensive and sophisticated equipment avilable today is often stretched to the limit" once serious disorder has occurred. Whilst many improvements have been made in recent years, particularly in the availability of specially designed control rooms, the police do not yet possess equipment which will work effectively during the most serious outbreaks of disorder. The police report into disorder at the Poll Tax demonstration in central London on 31st March 1990 describes how -

> "several minutes of radio transmission were lost due to severe interference and the signal quality was generally poor. Defective radios and the limited life of batteries exacerbated the problem. Because of these difficulties, control was not always up to date on the deployment of personnel. As disorder spread throughout the West End, the control room was swamped with hundreds of messages from the Central Command Complex at New Scotland Yard and from surrounding stations. The system became severely overloaded and computer response time was delayed by over five minutes." (78)

Such delays and the lack of efficient equipment in situations which are as fluid and fast-moving as the Poll Tax disorder was, can be disastrous.

INTELLIGENCE

According to the review into the two outbreaks of serious public disorder in Brixton and Tottenham in 1985, the events "underlined weaknesses in collating and assessing information flowing into the police systems." (80) No operational commander can hope to deal effectively with public disorder, or the threat of such disorder, unless he gives priority to, and is successful in, building up an effective intelligence

organisation. Intelligence is derived from information. But individual items of information are not much more than simple data. The continuous examination of these individual items to discover their relationship with and effect on each other is a process by which information is translated into intelligence.

Public Order Intelligence Unit

Without intelligence about the crowds intentions, either before or, indeed during serious public disorder, the operational commander will find it increasingly difficult to make decisions appropriate to the circumstances. It follows that any police force whose area of operation is threatened by serious public disorder, for whatever reason, should have a Public Order Intelligence Unit capable of handling and analysing the large amount of information likely to be forthcoming. The main tasks of a public order intelligence unit are:

a) To build-up and maintain an up-to-date and accurate record of all those likely to try and create disorder, or who may become involved once disorder breaks out.

b) To pinpoint likely areas of disorder.

c) To identify likely stocks of ammunition, such as bricks, stones, milk bottles and supplies of petrol, etc., and pinpoint places where specially prepared ammunition, such as petrol bombs, may have been stored in readiness for disorder.

d) To give an estimation of the numbers likely to be involved in actual disorder and, particularly in industrial disputes and political processions, the total number likely to attend. In such cases the operational commander will want to know the likely effect of any disorder on people whose original intentions were to protest peacefully.

e) To forewarn the operational commander of any incident which is likely to trigger serious public disorder.

f) To provide information as to the tactics likely to be adopted by those creating disorder.

g) To provide information that will be of value in the arrest and subsequent conviction of those committing criminal acts.

h) To collate any information that will enhance the ability of the police to respond to likely or actual disorder.

The information to enable the Public Order Intelligence Unit to respond to the operational commander's needs comes from many sources, all of which are described in Appendix 'B'.

Characteristics of intelligence failures

Viewed in retrospect, many intelligence failures could have been avoided. Sometimes, all the necessary information for an accurate assessment was at hand but it was not interpreted correctly. There are many reasons why this happens but the principle ones are:

(a) Information gaps

These occur when key pieces of information go to different people within the same organisation or end up with different agencies. For a variety of reasons, e.g. lack of trust, rivalry, spite, or a belief that sensitive information should be kept closely confined within a small group, the information is not passed on. The result is that no single person possesses all the relevant information necessary for conversion into accurate intelligence.

(b) Information overload

Information overload is a perennial intelligence problem. During the period immediately preceeding disorder and during the actual disorder itself, raw information pours in at such a rate that those who are required to analyse it often overlook significant parts of it. After the crisis is over, information which, if interpreted correctly, would have predicted it, appears obvious - yet, at the time, it was ignored. In fact, such signals are often obscurred and full of conflicting indications. Hence, at Tottenham, in 1985, whilst the police hierarchy claim they were ready for an outbreak of serious disorder in a main shopping area, they did not anticipate disorder on the Broadwater Farm Estate.

(c) Interpretating the information

The interpretation of information is a human function and those who interpret it suffer from a whole range of characteristics, such as jealousy, incompetence, obsession, procrastination, tiredness and even idleness. Equally, they may decide to ignore what turns out to be a vital piece of information on one particularoccasion because their past experience suggests that similar pieces of information have been of little use or misleading. Or, it will be ignored because it does not conform to their pre-conceived ideas of how an area should be policed. It could be argued that this was the case during the early 1980s when warnings from community leaders of increased tension in the inner-cities were ignored in favour of a desire to crack down on street crime.

Conclusion

The aim of a command and control system in the context of this paper, is the prevention of a riot or, if serious disorder has broken out, the efficient command and control of mobile operations in contact with the rioters. The increasing availability of radios for use during events which are likely to give rise to serious disorder, without a corresponding increase in the number of radio channels, has resulted in an escalation of traffic which has tended to swamp the communications network. Radios are designed to allow subordinates to report and commanders to issue instructions but, in each case, the messages must be given briefly and succinctly.

The Metropolitan Police review into the policing of public order stated that "effective command and control of resources at the scene of disorder is a key factor in determining the success or failure of any police operation."(81) Waddington points out that "communication is essential to public-order policing, since without it there can be no effective command and control, and thus no co-ordinated action."(82) If it is to be effective, the Command and Control system available to the operational commander must allow him:

a) To be able to bring his resources to bear on the incident to maximum effect at the right time and in the right place. This is only likely to be achieved if he is in possession of intelligence about the crowds intentions.

b) To make his decisions in good time, based on briefing by the staff who have filtered much of the information available. This information must be current and accurate.

c) To convert his decisions into orders which can then be accurately disseminated. This requires an efficient and effective communications system.

d) To monitor and supervise the execution of the plan. Again, this requires an efficient and effective communications system.

Since 1986, public disorder and major ceremonial events occuring in Central London have been controlled from a new Special Operations Room with sophisticated computer and radio facilities. Most police forces in Great Britain have similar facilities and, whereas in the last century control of police resources was of necessity carried out from the ground, this can now be done more effectively by a senior officer, in a modern control room, who should have an overall picture of the incidents that are occurring throughout the whole area of a demonstration and be able to deploy his resources accordingly. However, much "still depends on the discipline of the men and the ability of ground commanders to direct them properly without overstretching communications facilities beyond their limit."(83)

At the end of the day, success will depend upon the ability of the operational commander to bring all these things together and in his personal skill, and the skills of his subordinate commanders, in responding appropriately to the events as they unfold.

Notes and References

1. Whilst there was no serious disorder, it could be argued that the police were unsuccessful at Saltley Coke Depot in 1972 in that they retreated before the threat of violence and allowed what many would claim was an unlawful picket to win.

2. The Guardian, 28 November 1985.

3. A summary of the events at Cold Bath Fields is contained in Appendix B.

4. Report from the Select Committee appointed to inquire into the conduct of the Metropolitan Police on 13th May last in dispersing a Public Meeting in Coldbath Fields, PP 1833, Vol. XIII, p.7.
4. Home Office - Hyde Park Report 1855

5. See Chapter 7.

6. Report of Her Majesty's Commissioners appointed to Inquire into the alleged Disturbance of the public peace in Hyde Park on Sunday, 1st July 1855 and the conduct of the metropolitan police in connection with the same, PP 1856 (2016), p.vii.

7. Ibid, p.xxxi.

8. Ibid, p.xxxii.

9. A summary of the events surrounding the Reform League march is contained in Chapter 2; see also Appendix A.

10. Thurmond-Smith, Phillip. Policing Victorian London: Political Policing, Public Order and the London Metropolitan Police. Greenwood Press, London, 1985, p.164.

11. Ibid, p. 164.

12. Ibid, pp. 165/166.

13. For a brief description of what both groups stood for, see Appendix A.

14. Dilnot, George. Scotland Yard: It's History and Organisation 1829-1929. Geoffrey Bles, London, 1929, p. 95.

15. Ibid, p. 95.

16. Report of a Committee to inquire and report as to the Origin and Character of the Disturbances which took Place in the Metropolis on Monday, the 8th of February, and as to the Conduct of the Police authorities in Relation thereto: with Minutes of Evidence and Appendix. PP, Vol.XXXIV (1886), C.4665. Minutes of Evidence, Q.554.

17. Quoted in Richter, Donald C. Riotous Victorians. Ohio University Press, 1981, p. 113.

18. Ibid.

19. Ibid, p.114.

20. Report of Committee, op. cit. 16, Minutes of Evidence, Q.1501.

21. Richter, op. cit. 17, p.114.

22. Report of Committee, op. cit. 16, p.vii.

23. See Chapter 3 for more details on the build-up to these events.

24. Birmingham Constabulary. Miners' Strike at Saltley. Unpublished & Undated, p. 40, para. 154.

25. Ibid, pp. 35/36, para. 135.

26. Scarman described it as "an unexpected, unprovoked and viciously violent assault" on a police cordon. See The Red Lion Square Disorders of 15 June 1974: Report of Inquiry by The Rt Hon Lord Justice Scarman, OBE. Her Majesty's Stationary Office, London, 1975 (Cmnd 5919), p. 44, para. 156.

27. Ibid, p. 29, para. 104.

28. Ibid, p. 29, para. 104.

29. Ibid, pp.28/29, para. 103/104.

30. Metropolitan Police. Notting Hill Carnival 1976. Unpublished, 1976, pp. 43 to 47.

31. Ibid, p. 49.

32. Scarman, The Rt Hon The Lord. The Brixton Disorders 10-12 April 1981. Her Majesty's Stationary Office, London, 1981, p. 71, para. 4.90.

33. Ibid, p. 71, para. 4.91.

34. Ibid, p. 83, para. 5.29.

35. Metropolitan Police. Forward by the Deputy Assistant Commisioner 'A' (Operations) to the Public Order: Notes of Guidance for Senior Officers. Unpublished, 1982.

36. Metropolitan Police. Public Order Review: Civil Disturbances 1981-1985. Metropolitan Police, undated.

37. Described in Chapter 6.

38. Brown, Andrew. Arming for the Next Riot. In Spectator, dated 19 July 1986, p.10.

39. Ibid, p.10.

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41. Waddington, P A J. The Strong Arm of the Law: Armed and Public Order Policing. Clarendon Press, Oxford, 1991, p.142.

42. Metropolitan Police. Policing policy and serious public disorder. Special Police Order, dated 30 June 1986.

43. Police Complaints Authority. The Disturbances at Wapping on the Night of 24 January 1987. A News Release dated 14 February, p. 18, para. 7.5.

44. Ibid, p. 17, para. 7.3.

45. Ibid, p. 17, para. 7.4.

46. Ibid, p. 17, para. 7.2.

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48. Police Complaints Authority, op. cit. 43, p. 17, para. 17.1

49. Metropolitan Police, op. cit. 40, Introduction.

50. Ibid, p.13.

51. Waddington, op. cit. 41, p.142. The missing out of one layer of command when giving orders is known as 'arcing', because, in the case of Gold he has 'arced' the Silver Commander; in the case of Silver, he has 'arced' a Bronze Commander.

52. Ibid, p.143.

53. Ibid.

54. Metropolitan Police, op. cit. 40, pp.13/14.

55. Metropolitan Police Orders, dated 6 November 1831.

56. Bunker, John. From Rattle to Radio. K A F Brewin Books, Warwickshire, 1988, p.30.

57. Metropolitan Police Orders, dated 30 September 1867.

58. Bunker, John, op. cit. 56, pp 54/55.

59. Ibid, p.31.

60. Ibid, p.77.

61. Ibid, p.54.

62. Ibid, p.210.

63. Ibid, p.216.

64. Scarman, op. cit. 32, p. 97, para. 5.72.

65. Ibid, para. 4.91.

66. Dear, Geoffrey. Handsworth/Lozells - September 1985. West Midlands Police, 1985, p.77.

67. Ibid, pp.25, 26 & 29.

68. Metropolitan Police, op. cit. 36, p. 20, para. 9.2.

69, Waddington, op. cit. 41, p. 329.

70. Metropolitan Police, op. cit. 36, p.20, para. 9.3.

71. Ibid, p. 20, para. 9.4.

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73. For security purposes these are not the actual codes used.

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CHAPTER FIVE

TACTICAL OPTIONS AND RELATED EQUIPMENT

Defining tactics

Tactics are defined as the method of actual deployment and redeployment of resources on the ground to achieve the desired objectives. The primary aim is the prevention of disorder through the tactical deployment of manpower. If this cannot be achieved, the secondary aim must be to exercise control to the extent that confrontation only occurs under conditions dictated by the police. In order to achieve either aim, the police must, insofar as it is possible, retain the initiative, recognising and exploiting every advantage at an early stage.

Whilst the operational commander is unlikely to decide on the specific tactics to be used - under the current command and control system the responsibility for that lies with the Silver and Bronze Commanders(1) - he must take into account the options, and the equipment with which those options will be implimented, when preparing his strategy. Although he will have his various experts to advise him - in London, for instance, they will be members of the Co-ordinating Group(2) - he must himself have a thorough knowledge of the tactical options and related equipment, and their likely effect on the crowd, if he is to formulate appropriate strategies.

The determination of tactics will, of course, depend on the circumstances that exist at the time, including the terrain, the numbers and organisation of the rioters, whether those intent on causing disorder are but a small section of a major demonstration, involving thousands, whose primary aim is to be part of a peaceful protest, and so on.

The growth of para-military equipment

In his book, Shooting in the Dark, which was prompted by the disclosure that the police were using a manual of tactical options as the basis of their response to disorder during the miners' strike, Gerry Northam suggests that, since 1981, the police on the British mainland have drifted "into a paramilitary role" by adopting "the tactics of public order control which characterize the military."(3) And the publication of the Metropolitan Police's Public Order Review in 1986 led Marie Staunton, legal officer for the National Council for Civil Liberties, to suggest that the police were "tooling up for trouble rather than avoiding conflict".(4) However, most police officers claim they have had to introduce "tougher, more co-ordinated and militaristic methods of control" in response to the "escalation of disorder and violence directed against them."(5)

It is not intended to discuss the whole range of tactical options available to the police. These are many and varied and can be found in most public order training manuals. Rather the aim of this chapter is to examine the early development of certain offensive tactics, such as the use of the baton charge and mounted officers, and describe the additional options now available to police commanders as a result of the increased provision of para-military equipment.

The development of the baton charge and cordons

The newly formed police initially had little experience in handling serious disorder, but it was clear that Rowan and Mayne, the two newly appointed Commissioners, had no intention of allowing the police to be the first to go on the offensive. In a number of clashes between the police and disorderly crowds during October 1830, Ascoli describes how -

> "Rowan adopted a defensive technique and the mob was met by only passive police resistance, a tactic which seems to have bewildered the rioters who, bent on violence, were hoping for violence in return."(6)

Reith describes the technique in slightly more detail; the police would "line both sides of a street down which a mob was approaching to await attack, and defend themselves."(7) Whilst in a democratic society the police can never afford to be seen as the aggressors, there are inherent dangers in adopting purely defensive tactics from the start, not the least of which is the large number of police casualties, as was seen on a number of occasions during the 1980s.

The idea of the baton charge, which is still used today, came from an unlikely source. Francis Place was a moderate radical whose house was used as a meeting place by many of the leading Radicals of the day and also by Whig Members of Parliament. The Whigs had opposed the introduction of the new police and, like the Radicals, spoke out against them. However, Place saw that the mob-raising tactics of the Ultra-Radicals were likely to seriously undermine attempts by Radicals like himself, to bring about change through the parliamentary process and he became convinced that the police should be supported in their efforts to counter this menace. Consequently, in conversation with Superintendent Thomas, whom he had befriended, Place but forward the idea of the baton charge "based on the theory that attack was the best method of defence and that it was better to charge an aggressive mob at sight than to wait and be attacked by it."(8) It should be noted that even at this early stage, Place suggested that the baton charge should only be used against an aggresive mob, and not a peaceful crowd. Another reason put forward by Place for the baton charge was that it would reduce the number of injuries to police officers.

The first baton charge is believed to have taken place on 9th November 1830. On that evening, which was the date of the Lord Mayor's Banquet, "a huge mob", armed with pieces of wood gathered from the Public Record office building in Chancery Lane which was then under construction, assembled at Temple Bar. At that time, Metropolitan Police officers were not allowed to cross the City boundary, so a large body of police waited at Charing Cross. As the mob crossed the City boundary towards them, the police countered with a baton charge. Taken by suprise, the mob scattered and most of them ran back into the City in confusion.(9)

Suggesting that the police "were now seen to be unassailable when they were mustered in solid bodies", Reith describes how the mob leaders -

> "quickly realised this fact and cleverly responded with the tactic of dispersal of mobs, which necessitated dispersal of the police. The use of the City boundary enabled the mob leaders to retain the initiative in attack by sending overwhelming numbers against known numbers of police before these could be reinforced.

In the series of riots which followed in the West End of London, Reith claims -

> "the police sometimes fared badly and suffered many casualties but were never decisively defeated. They had many clear victories to their credit, on occasions when they were able to act in solid formations, but they had not yet learned the subtle art of preventing mobs forming ..." (10)

Nevertheless, Critchley reports that the Reform Bill Riots in London during the 1830s "and the growth of subversive activities" provided the police with "endless opportunities ... to perfect techniques of crowd control and practice the newly acquired art of baton charges." (11) Gash too, in his book about the life of Robert Peel, suggests that "the technique of crowd control was speedily learned" and the advantages "of a determined baton-charge" clearly demonstrated." (12)

By the 1840s, Mather suggests that the police "were evolving a new technique of controlling disorderly crowds, one which minimized the use of sheer brute force against mobs by combining it with an element of science." (13) However, "despite their frequent training and drilling" the tactics of the Chartists were generally predictable and not very formidable; for instance, there appears to be only one occasion "during the entire period when an English mob erected a barricade." (14)

Despite the predictability of Chartist tactics, the police did experience some difficulties, usually brought about by their own shortcomings. For instance, at a meeting on Kennington Common in 1842, whilst the police had no difficulty in clearing the "immense crowd" from

the Common when the organisers of the meeting failed to arrive, they encountered problems when they attempted to clear the streets leading to the Common. Suggesting that "something must have been missing in the arrangements for directing the crowd", The Times reported that "people who were driven down one side of an avenue moved back upon the other, so that a passage was scarcely cleared when it was filled up."(15) Fortunately, the police were only dealing, in the main, with a crowd of would-be spectators and not an angry mob.

However, at Paddington the same day, where over 10,000 people had gathered for a Chartist meeting near the Great Western Railway terminus, the police "encountered stiffer resistance". The police "repeatedly charged the mob, scattering it in all directions", preventing it from reforming "by placing constables in double file across various roads".(16)

The effective use of cordons was again demonstrated in 1848 at another Chartist meeting, this time at Clerkenwell Green. A large crowd had gathered on the Green and, "in the absence of the conveners of the meeting, who had abandoned it in the face of immense police precautions", were harangued by a man who had shinned up a lamp-post. Mather describes what happened next -

> "When he had finished speaking, sections of the crowd began to make those desperate rushes, first in one direction and then in another, which generally precede a riot. At this critical moment a strong body of the police entered the Green from the east and forming a line across the open space, swept the people at once and without opposition into the narrow streets and alleys opening from Clerkenwell Green on the west. Strong parties of police were then placed at all the entrances to the Green, and sections were sent to clear the several streets in the vicinity."(17)

The continued use of the baton charge during the nineteenth and twentieth centuries, and the debate as to its legality is described in more detail in a later chapter.(18) Suffice to say here that it remains a much used option and one which has been enhanced by the availability of

protective clothing and the provision of 'round' riot shields, the purpose of which is described later in this chapter.

The baton charge is used with two principal objects in mind, either to -

(a) arrest people within a disorderly crowd who are committing criminal offences, including the throwing of missiles, or people who appear to be agitators or ringleaders; or

(b) disperse a disorderly crowd.

The first objective is not easily achieved and it may be better to record individual acts of violence by people within the crowd, either photographically or on video, and make retrospective arrests. However, it may be necessary to attempt to remove those people who are committing the more serious offences, or those who are clearly playing a leading role, in order to reduce the level of violence and eventually restore order. An additional consideration is that a policy of arrest progressively reduces the number of officers available to restore order unless reserves are readily available to be deployed in place of those officers making the arrests.

The second objective is generally more easily achievable and has the advantage in that it does not result in a serious reduction of manpower unless there are substantial casualties. Used with this objective in mind, the baton charge is intended to cause the crowd to scatter; consequently, it is not a viable option against a densely packed crowd where there is no avenue of escape. It is possible to combine the two objectives; in other words the objective can be to disperse the crowd and make arrests while so doing.

Despite its long history, Waddington suggests that, in addition to being a tactic which is legally debatable, it is "flawed"(19) because it is generally "directed towards the crowd as an entity, with the purpose of breaking its coherence and preventing concerted action, and not against disorderly or violent sub-groups within the crowd."(20) Invariably,

therefore, "it exposes those at the front of the crowd to the greatest risk of injury,"(21) even though the most disorderly, e.g. the missile throwers, often congregate in the middle of the crowd. There is little doubt that this was the case at Wapping on 17th January 1987.

Because the baton charge is "inevitably and unavoidably indiscriminate"(22) it invariably results in attacks on both 'guilty' and 'innocent' members of a crowd: and, continues, Waddington, even when "the total amount of force *employed* by the police may be *proportionate* to the scale of the disorder, the amount of injury *sufffered* by an arbitrarily selected person is likely to be *disproportionate* to any particular offence he has committed."(23) Waddington highlights the death of Blair Peach at Southall in 1979 as an example.

Gregory, too, has reservations about the baton charge, describing it as "a full force charge petering out into apparently random attacks on demonstrators and even passers-by."(24) This was certainly the impression one got from watching video of the baton charges at Orgreave. The tightly knit squads of police that trotted forward in support of the mounted officers quickly spread out once they were in front of the defensive wall of long shields, and officers became separated from their colleagues as they pursude individual demonstrators.

The use of cordons is a regular feature of public order policing and there are many ways in which they can be deployed. For instance, there are three principal ways of using cordons to accompany marches or processions -

(a) a single cordon surrounding the march or procession, i.e. a single line of police officers on either side, when disorder is not anticipated or there is only the risk of minor disorder; or

(b) a double cordon surrounding the march or procession, i.e. a double line of police officers on either side, when there is a probable risk of disorder or the march is likely to be opposed; or

(c) a double cordon surrounding the march or procession, together with police officers at the front in the form of a wedge to force a passage through the crowd, when there is a high risk of disorder. A wedge is a 'V' formation in which the point of the 'V' enters the crowd first.

Static cordons are normally of two types, either filter or absolute. As the names imply, a filter cordon restricts the passage of persons or vehicles through the cordon line, either by selecting those who may pass through or by controlling the rate of passage; the object of the absolute cordon, on the other hand, is to prevent people and/or vehicles from passing through.

Shields

In the aftermath of serious disorder at the Notting Hill Carnival in August 1976, during which police officers were forced to use dustbin lids, empty milk crates and plastic traffic cones, to protect themselves from missiles thrown by the rioters, the Metropolitan Police Commissioner, Sir Robert Mark, under pressure from senior officers who had been on duty that day, pressed the Home Office to allow the introduction of a five-foot high polycarbonate shield, weighing about 20 lbs, for use as a defence against missiles thrown by rioters. The Home Office quickly approved the purchase of the necessary equipment and some of the larger city forces outside London also acquired them.

The shields were used by the police on three occasions in quick succession in August 1977, firstly at Lewisham during a National Front march which was opposed by various anti-facist groups; secondly, at Ladywell in Birmingham outside a school in which the National Front were holding a meeting which came under attack from anti-facist groups; and thirdly, at the Notting Hill Carnival when youths bombarded the police with missiles as they had done the previous year. These widely televised events prompted most police forces in Great Britain to acquire small quantities of shields as a precautionary measure.

As a general rule shields should only be deployed when missiles have already been thrown. Long shields are used to provide protection for deployed police lines under attack when they are -

(a) confining rioters to a defined area

(b) attempting to advance to gain ground

(c) dispersing a hostile crowd

(d) entering buildings used by rioters as a refuge

(e) recovering injured police officers or members of the public from the riot area

The provision of long shields was clearly necessary to protect officers from attack by missiles once disorder had broken out and they have been used successfully for this purpose on many occasions. But the introduction of these shields had an adverse affect on police tactics, instilling a defensive mentality in many operational commanders. Scarman explained -

> "The disorders in Brixton reveal a possible danger that the use of protective shields ... can encourage officers to adopt a largely defensive posture, with the result that lines of police officers behind shields effectively become 'Aunt Sallies' for the crowd to aim at."

And he added, "There may be scope for the adoption by the police of a more positive, interventionist role in quelling disorder in order to speed dispersal and reduce casualties."(25)

The police were slow to react to Scarman's suggestion. Although a much smaller 'round' shield was introduced soon afterwards, and used successfully in some minor skirmishes in the inner cities, and during the miners' strike, the defensive mentality remained in the minds of many operational commanders. This was highlighted by the description by Sydney Silverman of how the rioters in Handsworth, in 1985, "had all the mobility of the urban guerilla" whilst the police, because of "their heavy

equipment and inadequate protection of their rear" moved "in concert rather like a moving fortress". (26)

Later, the Head of Community Services for the London Borough of Haringey, Howard Simmons, told the Gifford Inquiry that he was staggered to find the police at the various entrances to the Broadwater Farm Estate "standing shoulder to shoulder about ten deep" under heavy missile bombardment from the rioters to the extent that it was clear to him "they were going to sustain substantial injuries." He added, "God knows what their senior officers thought they were doing." (27)

In a leading article published shortly after the Tottenham riot, the magazine, Police, suggested -

> "The tactics employed at Broadwater Farm defy understanding. It is, after all, four years since the Federation was assured by the force hierarchy, that never again would officers be required to crouch behind static lines of long shields to become Aunt Sallies of the petrol bombers. Yet Broadwater Farm appears to have been a re-run of all the tactical mistakes of the 1981 riots." (28)

Short, or 'round' shields were acquired by the police after the 1981 inner-city riots. They have the advantage of being smaller, lighter and less cumbersome. They are generally used to provide protection for fast moving arrest or dispersal squads and officers will often have their truncheon drawn, particularly in the latter case. After the serious disorder at Wapping, on 24th January 1987, the 'round shield units' came under close scrutiny during the investigation by the Police Complaints Authority because "they were the subject of substantial criticism particularly in relation to their use of truncheons." In the final analysis the Inquiry suggested that "their deployment became de-facto baton charges." (29)

The Use of Mounted Police

The capabilities of mounted police officers in situations of public disorder are well known but their deployment requires a high degree of

skill and professional judgement, particularly in deciding whether it is likely to discourage and disperse rioters or be a trigger for increased violence against the police.

Broadly, they can be used

a) As a display of strength in confronting a hostile crowd either to -
   (i) discourage riotous behaviour; or
   (ii) protect buildings, e.g. embassies and industrial premises.

b) To apply pressure at close quarters either to -
   (i) hold or ease back a solidly packed crowd; or
   (ii) preserve an existing line of police officers.

c) By the measured use of their weight, either to -
   (i) create gaps in, or separate sections of, a crowd; or
   (ii) disperse a crowd.

d) To 'sweep' streets and parkland to disperse roaming groups of rioters and individuals.

e) As a mobile 'strike' force to gain ground which should then be held by foot officers

The use of mounted officers as a 'strike' force is the most controversial for obvious reasons. Because the risk of injury to people increases proportionately to the speed of the advance, there should always be an escape route for the crowd when mounted officers are used for this purpose and it is unlikely to be appropriate to deploy them as a 'strike' force if the crowd is densely packed. A warning should be given to the crowd before using mounted officers in this way.

Mounted officers can be used against petrol bombers where their use is likely to benefit the police, e.g. during daylight hours in open spaces but they should not be held in static situations and are unlikely to be of much use in inner-city housing estates such as the Broadwarter Farm Estate. Where the crowd is within throwing range, mounted officers are obviously at a greater risk from missiles than their foot colleagues because they are unable to carry protective shields. When in close contact with an hostile

crowd they are also at risk from physical attack. For this reason, a 'rescue' squad of foot officers should be available to aid any mounted officer who has been dislodged from his horse.

The earliest recorded use of horses at an event which resulted in serious disorder is at the Sunday Trading Riots in Hyde Park in 1855 but on this occasion they were merely used as a mode of transport for senior officers. However, at a banned meeting of the Reform League in 1866, the Daily Telegraph reported that the police "had been drawn up in close line three or four yards in front of the railings" of Hyde Park, "the foot force being supported behind by mounted police". (30) But the mounted officers do not appear to have taken a leading role in restoring order for no mention is made of them in the newspaper reports of the day other than a report in The Times which states that one policeman "was knocked off his horse by sticks and stones." (31)

In his first annual report after becoming Commissioner in 1869, Colonel Edmund Henderson pointed out that the mounted police were "useful as an aid to crowd control." (32) However, after the failure to make adequate arrangements for the meeting in Trafalgar Square on 8th February 1886, the Committee set up to inquire into the events of that day reported that one of the defects in the London police system at that time was the "absence of an adequate force of mounted police." (33) A later report by a Committee appointed to inquire into The Administration and Organisation of the Metropolitan Police Force adopted the recommendations submitted by Colonel Pearson, then an Assistant Commissioner in the Metropolitan Police. In his memorandum to the Committee, Pearson expressed the view that a mounted officer was of greater use than a foot officer "on all occasions of large meetings in the interior part of London", adding "I am clearly of opinion that the mounted force should be increased by four sergeants and forty men". (34)

Following this, one of Sir Charles Warren's first actions on taking up the post of Commissioner in 1887 was to re-organise the Mounted Branch, placing an Assistant Chief Constable at its head and, for the first time, training it "in riot control duties". (35)

When Churchill despatched 300 Metropolitan Police, described by Morgan as "a picked force of constables experienced in the handling of turbulent crowds", to South Wales in November 1910, 100 of them were mounted officers.(36) With the advent of the motor car after the First World War, pressure was placed, firstly on Lord Byng, in the late 1920s, and later Lord Trenchard, in the early 1930s, to reduce or even abolish the mounted section of the Metropolitan Police. In 1931, it was reduced "as an economy measure" but, in his annual report the following year, Trenchard argued that the continued existence of the Mounted Branch was "amply justified" because -

> "the mounted man is, for certain purposes, quite invaluable. In the marshalling of processions and the control of crowds, it is no exaggeration to say that one man on a horse is worth 3 or 4 on foot, whilst, in the case of disturbances, the assistance of this branch is almost indispensable. If the use of force is necessary they are able to employ it with discrimination and efficiency, but their value is even more noticeable in the quiet and systematic dispersal of disorderly crowds, frequently without resorting to any sort of force."(37)

As has already been suggested, the use of mounted officers in any offensive action has always been controversial. Despite this, they were used in such a role on numerous occasions during the 1930s One of the most widely publicised occurred in 1936, at Thurloe Square in Kensington. At a meeting called to oppose a fascist gathering being held at the Albert Hall, a crowd of between 1,000 and 2,000 people was initially policed by a few foot officers and three or four mounted officers. However, the Commissioner had given directions that no procession would be allowed to approach within half a mile of the Albert hall and no meetings would be permitted in the area. Believing that the meeting was being held in controvention of the Commisioner's directions, although there is some doubt that this was the case, the police eventually moved to break up the meeting after the crowd "barricaded the entrance to Thurloe Square" and "attempted to keep the police from entering it."(38) Later a detachment of about 20 mounted police, followed by a police van containing foot police arrived. As there often is, there are conflicting views as to what occurred next.

One suggestion is that the crowd was quite peaceful; another that the crowd was aggressive.(39) Nevertheless, it does appear that the police made no attempt to approach the platform to tell the speaker to disperse; instead, without warning, the mounted police advanced in three rows, forcing their way into the crowd -

> "Once they were well inside the crowd, they drew their batons and started striking people. They drove the crowd round to the left towards the north of Thurloe Square. Some of them mounted the pavements ... One section of the mounted police wheeled round in Thurloe Square and cut off a large part of the crowd who were pinned against the railings."(40)

Scarman gives a detailed description of the actions of the mounted officers at Red Lion Square in 1974. Soon after the International Marxist Group carried out their initial assault on the cordon of foot officers, a serial of mounted police who were drawn up immediately behind the cordon, were ordered forward to add "the weight of their horses in support of the foot police line". The initial assault was repelled but during a second attack, the cordon was temporarily broken. The officer-in-overall command, Deputy Assistant Commisioner Gerrard, therefore ordered the police to clear the Square. Special Patrol Group officers, supported by mounted officers, "advanced into the crowd in a wedge", a move which "effectively divided the rioters" and pushed them away from the junction.(41) Scarman described the movement as being "necessary if the square was to be cleared and the riot dispersed" and added that it was carried out "slowly".(42)

Later, many of those people who had been forced out of Red Lion Square confronted the oncoming National Front march at Vernon Place where Chief Superintendent Cracknell, after deploying foot police between the opposing factions to keep them apart, was eventually joined by 12 mounted officers. After receiving Gerrard's authority to disperse the anti-fascist crowd, the mounted officers, without warning, "advanced into the crowd at a fast walk". Pointing out that the manoeuvre on which the police had now embarked was not a simple one because railings prevented people from moving easily from the road onto the pavements, and the existance of a subway

together with the location of various units of foot officers in the area, Scarman described how -

> "The mounted police penetrated the centre of the crowd without much difficulty. It was a sudden and unexpected manoeuvre. Some were alarmed, even to the point of panic: others reacted with indignation ... Some mounted officers had drawn their short truncheons ..."

Within two minutes, with the support of the foot police, the mounted officers had divided the crowd into two sections and pushed them back onto the pavements on either side of the road.(43)

At the inquiry that followed, two main criticisms were directed against the mounted officers. Firstly, that they should not have been used in the first place and secondly, particularly in the use of their truncheons, they used more force than was necessary to disperse the crowd. In answer to the first, Scarman found "no grounds for criticising the control of the horses or they way they were used". He went on to say -

> "The mounted police are an invaluable tool for a police force which has decided to manage without riot equipment. They can do what many more foot police officers may take longer to accomplish, ... Their technical effectiveness is shown by the Vernon Place operation where, with the support of the foot police, they succeeded in restoring order within a very short time indeed ... Though their use in dealing with disorder may affront demonstrators ... they are an irreplaceable police asset. A horse is bigger, can exert more pressure and is less manoeuvrable than the human body of the foot policeman; but how much less formidable it is than the armoured car and watercannon which are the only alternatives."(44)

In answering the second allegation, Scarman said that he was "not prepared to find on the evidence submitted that mounted police misused their truncheons", said -

> "a mounted policeman may draw his truncheon earlier than one on foot, because, once engaged in the act of seeking to control a crowd, he has his hands full managing his horse. If he thinks he is going to need his truncheon, he acts sensibly in drawing it before he is committed."

Pointing out that "powerful though a mounted policeman is, he is at all times very vulnerable" because of the need to control his horse and keep his seat, Scarman suggested that some attempt was made by demonstrators to seize the horses' reins and "it was necesaary in self-defence to strike at the demonstrators' arms and hands to force him to let go."(45)

Mounted officers were frequently deployed in "mass picket situations" during the miners' strike, particularly in South Yorkshire, in order to -

a) Relieve pressure placed on police lines by massed ranks of pickets pushing against them;

b) Disperse hostile groups of missile throwers; and

c) Prevent crowds from organising themselves for an assault on police lines.

Away from the mass picket situation, they were also deployed to disperse demonstrators who had taken cover behind barricades.(46) The decisive incident which set the pattern for the use of mounted officers in South Yorkshire and "created many of the most indelible images of the dispute" took place on 29th May 1984 at Orgreave. When a group of six officers became detached from the main police cordon and were quickly surrounded by a crowd of demonstrators, the officer in overall command, Assistant Chief Constable Clement, realising that quick action was needed to save them from injury, ordered the foot cordon "to break momentarily so that a line of eight mounted officers could move in" to rescue them. The demonstrators fled and Clement commented -

> "To see the effect those horses had on them, the way they backed off and ran, scattered, it immediately suggested that if you were about to be overwhelmed, the horses could be invaluable. At no time before had I envisaged using them that way."(47)

During the week following this incident, there was "an increase in the scale of violence" including the laying of trip wires to injure horses and their riders.(48) At the final major confrontation at Orgeave on 18th June, the Chief Constable, Peter Wright, suggested that the mounted

officers were used in two different roles. The first, he argued was in their more traditional role "to take the pressure off a dangerous surge" when a huge body of demonstrators pushed against police lines. At the height of the push -

> "the police lines opened and the horses cantered forward and then stopped. Their appearance was sufficiently alarming for pickets to break off their push."

At this stage, no truncheons had been drawn and no attempt was made to pursue the demonstrators. This produced a stand-off and the demonstrators resorted to "persistent stone-throwing". The mounted police therefore adopted their second role that day, and, supported by snatch squads equipped with round shields and with truncheons drawn, they charged the demonstrators. In the aftermath of the disorder, Wright argued that the use of mounted officers in this way "actually reduces injuries and arrests" because "without them it becomes a much more drawn-out battle."(49)

Others disagreed. The South Yorkshire Police Committee, for instance, suggested mounted officers should not be used in any aggressive way against crowds. Although agreeing that "horses may be able to hold back a hostile crowd where police lines might be overwhelmed", they considered that the advantage of deploying mounted officers was lost during the dispute "by hostile reaction provoked by the premature and aggressive use made of horses on occasions."(50)

Mounted officers were frequently used at Wapping during the year long printers' dispute. On the first anniversary of the dispute there was considerable violence as between 10,000 and 12,000 people demonstrated outside the News International plant. One three occasions, mounted officers were deployed at the canter when the missile throwing from a section of the crowd became intense. On the second and third occasions they were deployed "in support of the 'round' and long shield units" who were attempting to clear demonstrators from The Highway and Wellclose Street. In the aftermath of the events, criticism was made of the decision to deploy the mounted officers at the canter. The subsequent report from the Police Complaints Authority suggested that a maneouvre of

this kind "involved inherent dangers especially in a confined area" and, on this occasion, there appeared to be a "lack of clarity and co-ordination with shield units who sustained injuries as a result." The report continued -

> "The use of mounted officers on the night was reasonable in the circumstances. However, they could perhaps have been utilised more successfully in conjunction with the long shield units to clear the area at an earlier stage of the disturbance. Once the area had been cleared that ground should have been maintained by the long shield units." (51)

Similar criticisms were made of police action during the Poll Tax Riot in London on 31st march 1990. Pointing out that mounted officers were only deployed in Whitehall, near Downing Street, "when missiles had been thrown at police for over an hour resulting in more than 20 officers being injured", Metcalfe claimed -

> "the initial aim was to clear the Ministry of Defence green of missile-throwing demonstrators. There was no communication to the crowd via audio systems but individual mounted officers warned them to move as they advanced onto the green."

The intention was "to disperse the crowd slowly using a line of horses at a walk" but when the crowd was split into two, the mounted officers were exposed "to attack from both sides by some protestors". There was, said Metcalfe, "a lack of co-ordination between mounted police and police on foot in holding any ground gained". (52)

CS Gas and Baton Rounds

The controversy over the use of baton rounds and CS gas to quell serious disorder has ranged long and hard since the latter was used at Toxteth in 1981. On this occasion, the only time CS gas has been used in a public order situation on the British mainland, the Chief Constable, Kenneth Oxford, authorised its use because he considered that -

> "the Merseyside Police were faced with rioters whose determination, ferocity and recklessness for the lives of others risked widespread destruction of the city of Liverpool, and possibly the serious injury and death of many."

According to Oxford, he recognised that he had at his disposal "the means (CS) which could prevent these consequences and to have failed to employ them" would, in his view, "have been a dereliction of duty."(53) During the events that followed, some CS gas was discharged from hand thrown grenades but these were unsuccessful. Therefore, Oxford authorised the police to use, amongst other things, 12-bore Ferret cartridges which were designed to penetrate barricades when hostages were being held by criminals or terrorists, a decision for which he was strongly criticized in some quarters.

On the one hand there are those who suggest that to deprive the police of the opportunity to use CS gas or baton rounds under strict guidlines, is expecting chief officers to respond to riots with one hand tied behind their back; on the other hand there are those who say the use of such equipment will increase strife and further damage the already fragile relationship between the police and some sections of the community. Scarman's view was that whilst he recognised that "water cannon, CS gas and plastic bullets should be available in reserve to police forces" such equipment should not be used "except in a grave emergency". Such an emergency, he said, was one "in which there is a real apprehension of loss of life".(54)

CS gas first became available to police in England and Wales in about 1967. From the outset -

> "stringent regulations were laid down that it was to be used solely to enable a criminal to be arrested when not to use it would endanger the lives of the criminal, the police or the public. Under no circumstances would it be used for the control of disturbances." (55)

Although it continues to remain an option, its use has never seriously been considered on the British mainland as a response to public disorder, either before or since Toxteth, principally because of its unpredictability. In 1986, a Metropolitan Police report suggested its use should "be confined to situations where weather conditions are entirely favourable and where its use in very limited quantities would be appropriate." (56)

In discussing the possible use of CS gas during the Handsworth riot, had it been available, the Chief Constable, Geoffrey Dear, suggested that it could not have been used to advantage, claiming that -

> "CS gas in most circumstances is impracticable and is always indiscriminate in its effect. Its use in Handsworth would have caused both innocent and guilty alike to suffer its painful effects and it does not require much imagination to envisage the sort of panic which would arise as householders left their homes in an effort to escape the gas, mingling with rioters on the street who were similarly affected." (57)

Arguing in favour of the use of CS gas as a means of maintaining sufficient distance between police and rioters so as to ensure the former are out of missile range, Waddington dismisses these objections. The problem could be overcome, he says, by the police using vehicles and horses, which he claims are not affected by CS gas. Insofar as the general public is concerned, Waddington claims it is only the smoke which is used as a dispersal agent for the gas that is likely to invade peopl's homes, claiming that "the molecules of irritant tend quite rapidly to either 'rain' on to the ground or combine into larger units which cannot be

inhaled." The smoke, he suggests, will merely be a temporary inconvenience and is not likely to pose a serious threat to health.(58)

Others are not so dismissive of the after-effects of CS gas. For instance, in a letter to The Guardian in July 1986, Professors Hilary and Steven Rose, who claim to have researched quite extensively into the use of CS gas, said that it was "a dangerous chemical" which, if used -

> "in high concentrations, particularly in confined spaces ... can cause lasting lung damage or even death. It is especially hazardous to those least likely to be involved in any riot or demonstration; the very young, elderly or sick, especially those with chest conditions. The capacity of the gas to seep through ill-fitting windows and doors means that vulnerable people cannot be secure even in their own homes."(59)

Jason Lloyd, in addressing the options that were available to the police at the Broadwater Farm Estate, took a similar view. He suggested that -

> "in high density housing, it would have subjected a great number of innocent residents - including children and elderly people - to its irritating effects, which can be exacerbate symptoms of chest and other disorders. Residents would have had to leave their homes to escape the fumes and face the dangers outside, or remain indoors and indure the effects of the gas."(60)

The use of baton rounds on the British mainland was first considered after the 1981 inner-city disorders. The original baton round was made of wood. Shaped like a small wooden truncheon, it was designed to be fired from a specially made gun directly into the crowd. Used in Hong Kong in quelling the disorders that occurred there during the mid-1960s, the intention was to deliver the equivilent of a truncheon blow from a distance but the splintering effect of the wood caused a number of serious injuries and its use was discontinued. It was replaced by the rubber bullet, or the rubber baton round as the police prefer to call it. First used in Northern Ireland in 1970, it consisted of a solid piece of rubber about 7 inches long and 2 inches in diameter. Like the original baton round, it was fired from a specially made gun. The rules for its use stipulated

that it should not be fired directly at crowds but should be rebounded towards them off walls or the ground. In this way, the force of impact would be reduced and there would be less likelihood of serious injury. However, it was notourously inaccurate, often hitting innocent people as it rebounded from the ground or walls, and it was withdrawn in 1974.

It was replaced by the plastic bullet, or the plastic baton round as it is referred to in police circles. Again fired from a specially made gun, the plastic baton round, made of solid PVC about 6 inches in length and 2 inches in diameter, is far more accurate than its two predessors, although, even now, its effective range is only between 25 and 50 metres. Unlike the rubber bullet, it is fired directly at a target but because it is made of a less yielding substance it has lead to a number of fatalities and serious injuries in Northern Ireland.

Jason-Lloyd suggests that had they been able to use a combination of rubber bullets and plastic baton rounds, the police might have been able to bring the Broadwater Farm riot under control much earlier and with the minimum of police casualties. The firing of plastic baton rounds towards the missile throwers at ground level would probably have driven them into the flats where the stairways, balconies and walkways would have given them cover. However, by bouncing them off walls, Jason-Lloyd suggests that rubber bullets can have the effect of going round corners. Thus they could have been fired at the rioters without over-exposing the police officers firing them. (61)

Gregory points out that if demonstrators use "petrol bombs, staves and iron bars (it) can produce a stand-off situation if the police do not have some forms of superior force,"(62) and in his report on the Handsworth riot, Dear stressed the advantages of the baton round. They are accurate, he said, and -

> "their use will hold back a crowd at beyond missile-throwing range, i.e. 35/40 yards or more, so enabling the police to re-group successfully without the risk of having to suffer high levels of injury which have become unjustifiably commonplace."

He continued -

> "Furthermore, used in conjunction with short advances by shield trained officers the baton round gun is a sure weapon for forcing a rioting crowd backwards enabling the police to re-gain territory quickly and effectively."

Had they been available, the use of baton rounds "would have been justified in the Lozells Road area on the night of 9/10 September", he claimed, because they "would have been effective in securing the area more quickly, resulting in much less damage to property and much less injury, not least to police officers."(63) Whilst it is impossible to speculate with any accuracy, the use of baton rounds may also have enabled the police to reach the Post Office in time to save the lives of the two people who died in the fire.

However, Dear warns that the operational deployment of baton rounds "would result in what is commonly termed the 'ratchet effect'; in other words that step, once taken, could never be retrieved" and the likely effect is that it "may well drive any further criminal violence to an even higher level."(64)

By the end of 1985, there was increasing controversy over the possession of baton rounds as police authorities in Greater Manchester, West Midlands, South Yorkshire and West Yorkshire refused to allow their police forces to stock them. Edwin Shore, chairman of the Association of Metropolian Authorities, suggested that aggression bred aggression, and the introduction of equipment would "mean a revolution in policing in this country." There is, he said, "the real danger of tragic consequences not only for the public but for the police themselves."(65) In Manchester, the chief constable, James Anderton, was ordered by the Labour-controlled Police Authority to return 500 plastic bullets and four special weapons he had bought for use in emergencies.(66) In December, the Chairmen of the four Police Authorities and the Chief Constables were brought together at the Home Office in an effort to solve the problem but were unable to reach agreement.

By the beginning of 1986, only thirteen of the 43 police forces in England and Wales held stocks of baton rounds, but, following the report on the Handsworth riot and the Metropolitan Police's review into their response to public disorder, the Home Secretary, Douglas Hurd, gave his official backing to police chiefs who wanted to hold quantities of baton rounds "for use as a last resort against rioters."(67)

In May 1986, the Chief Constable of the West Midlands Police, in seeking to gain the right to equip his force with baton rounds, told the newly constituted Police Authority, he had been opposed to the possible use of baton rounds until the rioting in Handsworth, but now felt that they were necessary "as a last resort". He accepted that they had caused deaths and injuries in Northern Ireland, and their use could result in increased violence against the police, but said -

> "You gamble on the day that the level of retaliation does not go any higher. The only retaliation is very largely lead bullets and that is a very real risk."(68)

The same month, the Home Secretary stated that, providing a chief constable had the approval of the Chief Inspector of Constabulary, he would be able to by-pass local authorities who had refused to allow him to purchase baton rounds or CS gas, and draw stocks of the equipment from a central store. In support of his decision the Home Secretary told the House of Commons -

> "It is clearly right that chief officers should have baton rounds and CS equipment available following the unprecedented ferocity of the disorders last autumn."

Revised guidelines were issued stipulating that baton rounds or CS gas could only be used if a chief constable, or, in his absence, the senior officer at the scene, decided that their use was likely to reduce the risk of loss of life or serious injury. A clear public warning should be given before either was used(69) and a report was to be submitted to the Home Secretary after every operational firing.(70)

The decision by the Home Secretary was criticised as "a massive loss of accountability and democratic rights"(71) and the Northumbria Police Authority, although they had received no request from the Chief Constable for permission to purchase baton rounds, sought a judicial review on the grounds that they believed the Home Secretary was "operating outside his remit."(72) However, in November, the Court of Appeal found that the Home Secretary -

> "has power, by virtue of section 41 of the Police Act 1964, to issue plastic bullets (baton rounds) and CS gas to a chief constable, even without the consent of the local police authority. He also has power to do this under the royal prerogative, independently of statute, exercisable even in the absence of an existing emergency."(73)

Meanwhile, in May 1986, at a press conference held to coincide with the publication of the Commissioner's annual report, for 1985, Sir Kenneth Newman said that he took -

> "no joy in the prospect of baton rounds ... But for all their implications, if they permit the restoration of the rule of law to the streets in a situation where there is the concerted, ferocious violence we saw last autumn, then reluctantly, and as a last resort, I will authorise their use."(74)

Mr Robin Corbett, a Shadow Home Affairs Minister, responded by warning the Commissioner that he ran the risk of "turning the streets of London into a battlefield".(75)

Six weeks later, in announcing the findings of the Metropolitan Police's review into their response to public disorder,(76) Sir Kenneth Newman suggested that when the police were faced with "guns, petrol bombs and other horrendous instruments" they needed "a higher level of capability",(77) and, in an article in the Spectator, Andrew Brown wrote that, since the Tottenham riot, there was "a wide public acceptance of the idea of using plastic bullets".(78)

However, at a Conference at the University of Warwick in 1986, Herman Ouseley, the Equal Opportunities Policy Co-ordinator for the Inner London Education Authority, claimed that plastic bullets and CS gas would not "deter young people whose whole life experiences, and especially their encounters with the police, give them a deep sense of injustice and convince them that they have nothing left to lose".(79) And an unidentified Deputy Assistant Commissioner subsequently suggested to Roger Graf that -

> "If the day comes when we have to use plastic bullets, we will have lost. The issue of policing by consent will have disappeared."(80)

Although baton gunners were deployed during the riot at the Broadwater Farm Estate in 1985, baton rounds have yet to be used on the British mainland.

Water Cannon

In his report on the Brixton disorders, in 1981, Lord Scarman describes how, at the height of a ferocious attack on policemen who were defending firemen fighting fires in a number of blazing buildings in Effra Parade at about 9 p.m. on 11th April, Chief Superintendent Robinson decided that "extraordinary measures were necessary if he was to save the position and prevent his officers or the firemen being further injured or even killed." Taking a hose from a fireman, Chief Superintendent Robinson "ordered other officers to do likewise and turned the jets on the crowd."(81) The police officers retained and operated the hoses for about twenty minutes, forcing the crowd back, and, although missiles continued to be thrown at the police lines, they were from a distance which did not constitute a grave threat.

Although there was some criticism of Robinson's actions, most people felt he had acted with considerable initiative and courage. But, perhaps his actions were not altogether surprising for in the Notes for Guidance of Senior Officers in the Case of Large-Scale Disturbances, issued to the Metropolitan Police in January 1933, it was stated that -

> "Where facilities are available for using fire hoses adjusted to fire hydrants in an enclosed area they should be brought into play if a large crowd refuses to obey police directions." (82)

It is perhaps surprising, therefore, that the use of powerful jets of water as a means of controlling or dispersing a disorderly crowd remains an option which is unavailable to the police in the United Kingdom, although various trials and experiments have been conducted over the last ten years.

In July 1981, in the aftermath of the rioting in some inner-city areas, the Home Secretary, William Whitelaw, announced that water cannon would be amongst equipment to be examined to enable the police to respond more effectively to serious disorder. (83) Until then, the use of water cannon as a means of controlling and dispersing disorderly crowds had never been considered as an option in mainland Britain.

Over the next three years the police, principally the Metropolitan Police, conducted a series of trials with different types of water cannon. Amongst those tested was the 'Pig Squirt' - an armoured car adapted to carry a 90-gallon tank which, as its name implies, fired powerful squirts of water, and two British and two German models, all of which were capable of carrying over 6,000 gallons of water.

The evaluation took some time and it was not until 1984 that the Metropolitan Police finally gave a series of demonstrations to senior police officers from England and Wales. Some expressed "grave concern" that the high-pressure jets could cause serious injuries to those who were caught in the jet of water and there were some suggestions that tests should be carried out on live animals before a decision was made as to their suitability (84) but this idea was not followed through.

After these initial evaluations, the idea that water cannon should be used was discarded, a decision which did not find favour with the Home Secretary, William Whitelaw. In his autobiography he explained that his -

> "keeness for water cannon as a riot weapon was never shared by the police service. ... They were ... convinced that water cannon were too immobile and so provided sitting targets. Further, they argued that they ran out of water too quickly and were therefore out of action when refuelling. Yet I obstinately held to the view that no one likes getting wet, and yet a soaking does not cause lasting damage and is not likely to provoke a hostile response as baton rounds or the use of CS gas. Nor am I convinced by the argument that German cities are so different from ours that while water cannon are valuable in Germany, they would not operate successfully in Britain. I was, incidently, also supported by many representations on this subject from the general public, who strongly favoured the use of water cannon. Despite all that, I feel I must now bow to the greater expertise of the Chief Constables." (85)

Dear, it seems, expressed the reservations most Chief Constables appear to have had in his report on the Handsworth riot. They are, he said, -

> "only a superficially attractive option. They are unwieldy, cumbersome and when used on full jet they discharge all the water carried on board within a short time. Moreover they can cause severe injury to those against whom they are used, and become an easy target for petrol bombers, thus necessitating large numbers of police in close support to protect them. They are generally inappropriate other than for demonstrations on the open boulevards of European capital cities ... They would have been wholly inappropriate in Handsworth." (86)

Early in 1986, in the aftermath of the serious rioting in London and Birmingham the previous autumn, it was reported that the Home Office had ordered the Metropolitan Police to conduct further trials using different nozzles. One was intended to spray the water over a wider area to drench rioters; another was designed to fire a concentrated jet of water at low velocity to incapacitate the target without causing serious injury.

Despite this, the Home Secretary, Douglas Hurd, told the House of Commons that -

> "The debate is turning against water cannon partly because they are difficult to manoeuvre and partly because I don't think many people suppose that in the actual conditions of Tottenham on the Sunday night, water cannon would have been much use." (87)

Three months later, at a press conference held to co-incide with the publication of the Metropolitan Police's annual report for 1985, Sir Kenneth Newman suggested that "while water cannon would not be applicable in many scenarios we face, I would be prepared to use water cannon in some circumstances if it represented minimum force." (88) The following week, in an interview on BBC Radio's The World This Weekend, Home Office minister, Giles Shaw, told the interviewer that he was impressed by the water cannon he had inspected on a recent visit to West Germany, pointing out that German models were more manoeuvrable and more adaptable than they had been when their introduction to Britain was first considered in 1981. He went on to suggest that water cannon should "form a place in the panoply of resources" for dealing with serious public disorder in mainland Britain. (89)

However, in responding to the Commissioner and the Home Office minister, a Labour Home affairs spokesman, Alf Dubbs, described water cannon as a "confrontational" weapon, the use of which was "utterly undesirable". Suggesting that a Labour government would prohibit the use of water cannon, Dubbs went on to say that conventional policing could maintain order without it. (90)

In March 1987, in a parliamentary written answer, the Home Office finally ruled out the use of water cannon as a means of quelling serious public disorder. (91) But, Waddington comments, in a recent article, "it is unbelievable that a weapon so inefficient would be so widely used by those paragons of rational efficiency, the West Germans." Pointing out that water cannon are no less manoeuvrable than fire engines, Waddington

suggests that "trials have shown that competent operators can make the onboard supply last up to a couple hours."(92)

Water cannon is used in many liberal democracies. They are particularly suitable for static, stand-off situations, and could have been used to advantage on a number of occasions during the 1970s and 1980s, thus obviating the need to put both police officers and members of the public at risk during some of the many baton charges during that period. Both Grunwick in 1977 and Southall in 1979 were static situations, as were Warrington 1983 and Stonehenge 1985. Certainly, there were many occasions during the miners' strike in 1984/1985 and the printers' dispute in 1986/1987 were water cannon could have been usefully deployed at static situations, and which may have resulted in lower level of violence. For instance, Waddington suggests that if water cannon had been used at Wapping, they could have been continuously supplied from nearby hydrants and the drenching of the crowd in the cold January weather would probably have been sufficient "to cause the violence to cease."(93)

The major drawback is not one of manoeuvrability, or water supply, or vulnerability to attack, but one of cost. To be effective, they must be deployed in groups offering mutual support and, with the exception, perhaps. of the Metropolitan Police, police forces are likely to find the cost prohibitive.

Armoured Land Rovers

The discharge of firearms at unarmed police officers during the riot on the Broadwater Farm Estate in 1985 highlighted "the need for officers to be afforded adequate protection when they were required to advance into, or withdraw from, areas where lethal weapons are used."(94) The lightly protected vehicles, currently in use at that time, were also vulnerable to attack from the many walkways and balconies that existed in the Estate.

In February 1986, it was announced that the Metropolitan Police were considering the acquisition of armoured land rovers for use in cases of serious rioting.(95) Based on the long-wheel base land rover, which had

V8 engines and were known as Hotspurs, the Royal Ulster Constabulary had used them extensively in Northern Ireland for a number of years. The vehicles had re-inforced windows, covered with metal grills, armour-plating underneath to give protection from mines and explosives, which could be rolled underneath the vehicle, and non-explosive petrol tanks. The metal sides were strong enough to stop bullets and slits in the sides allowed baton guns to be fired whilst giving the firers maximum protection. Five months later, it was announced that the Home Secretary had authorised the immediate purchase by the Metropolitan Police of 24 "ballistically protected vehicles". (96)

The possession of these vehicles ensures that the police can operate more effectively in areas of high buildings or where the intensity of the rioting is such as to prevent police making progress on foot. A letter from the Home Office advised that "they should be used only in the most serious disorder where there is the risk of serious injury or loss of life if they were not used". They should be deployed only on the authority of an officer of ACPO rank and "should be under the direction and control of the senior officer in charge at the scene of the incident". (97)

Conclusion

Brief mention was made at the beginning of this chapter about the concern expressed by many people about the growing para-militarism of the police. Jefferson highlights the problem of "technological drift" by which he means that "once the technology is available it becomes easier to use it and become used to it." (98) To a large extent this is true. Shields, visored helments and flameproof overalls are now a regular feature of public order policing. But, despite the death of the a police constable at Tottenham in 1985; despite the injuries to large numbers of police officers at both Wapping, during 1986 and 1987, and during the Poll Tax demonstration in Trafalgar Square in March 1990; despite the inner city disorders of 1991, baton rounds and 'public order' CS gas have still not been used in mainland Britain.

But there is another point which needs to be made here. Whilst the critics of the drift towards paramilitarism give substantial advice as to how the police should improve their performance in preventing disorder,(99) they invariably refrain from suggesting how the police should restore order once it has broken out if they are to be deprieved of para-military equipment. Some people, such as Morris(100) and Mackenzie(101), advocate a separate para-military force to deal with serious public disorder on the basis that the same police officers cannot be expected to fulfill an everyday 'community' policing role and a paramilitary role concurrently. Whilst such an approach may be superficially attractive, the nature of policing in Great Britain, with its 50 fairly autonimous police forces,(102) all, it is claimed, under an element of local control, would almost certainly mean that such a body would be a national unit under the control of central government. Consequently, the advocates of such proposals tend to be in the minority.

In his annual report for 1985, the Chief Inspector of Constabulary, Sir Lawrence Byford, pointed out that the petrol bomb was now "accepted by many disorderly elements as a legitimate weapon of first resort in confrontations with the police." He continued -

> "With this in mind, and due to the stark escalation of violence in this country, the traditional equipment used for quelling public disorder may not be enough - as was evidenced at Tottenham. Reluctantly, therefore, the weapons of last resort, such as baton rounds and CS gas, need to be available to the police if their use may be the only means of dealing with major public disorder which seriously threatens life or property."(103)

Gregory points out that "increasing the ability of the police to physically contain public order problems, through training, equipment and organisation" is an alternative or complimentary approach ... to that of legal restraint."(104) The final word rests with Waddington. He claims that "so long as the threat of serious disorder exists and it remains the duty of the police (as opposed to some other body) to suppress it, paramilitarism will have some value."(105)

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69. In the case of baton rounds three warnings MUST be given before they are fired; in the case of CS gas, warnings MUST be given unless the officer-in-charge considers it impracticable.

70. Daily Telegraph, 20 May 1986. The rules of engagement relating to baton rounds stipulate, amongst other things, that:
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    2. they must not be bounced off the road.
    3. they must not be fired at less than 20 metres except where the safety of police officers or others is seriously threatened.

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CHAPTER SIX

STRATEGY

Introduction

Strategy is defined as the overall plan to combine and direct resources towards policing a potentially disorderly situation, and to deal effectively should disorder occur. Whilst generally the primary objective should be the prevention of disorder, there will be occasions when the nature of the protest makes disorder inevitable.

Few reports on disorder prior to 1985 disclosed the declared strategy of the police, giving the impression either that there was no pre-planned strategy, or, if there was, senior officers failed to articulate it, or that the strategy to deal with disorder was only formulated after the disorder had occurred. However, some historians have attempted to rationalise police strategies for dealing with disorder, in general terms, and it is perhaps worthwhile to examine these briefly before discussing present-day strategies in more detail.

The Early Years

In his excellent book, Policing Victorian London, Phillip Thurmond-Smith suggests that the ability of the police to control crowds -

> "was developed by trial and error. The unarmed police quickly learned the necessity of exercising restraint and avoiding provocation of crowds, and they also learned the importance of co-ordination and timing in despersing a crowd at the optimum moment before violence got out of hand." (1)

As has already been mentioned in the preceeding chapter, the police adopted "an entirely defensive role" in their first encounters with crowds, "standing their ground and letting people attack them "before hitting back with their staves."(2) This approach worked well all the time the crowd remained peaceful but in waiting for the crowds to physically attack them before responding, the police were often placed at a severe disadvantage; hence Place's suggestion that led to the introduction of the baton charge.(3)

Experience gained in those early years made the Commissioners aware of the dangers of taking offensive action against disorderly crowds with too few police officers. According to Thurmond-Smith, police orders of the day made it clear "that the Commissioners were chary of using the police to intervene in civil disorders, unless they were on the spot in sufficient strength to prevent a 'defeat' or any humiliation."(4) This was highlighted on 6th March 1848 when 15,000 people met in Trafalgar Square to protest that income tax was illegal. The demonstration itself was illegal because it contravened the Seditious Meetings Act of 1817 in that it was being held with one mile of Parliament which was then in session.

Initially, only between 20 and 30 police officers were present and there were no reserves. Critchley describes the outcome. The "presence, and evident weakness" of such a small number of police officers,

> "provoked the crowd. Hooligans tore down the hoardings from the unfinished Nelson's Column and chased the police with sticks and stones to Charing Cross. A running battle continued for upwards of an hour until strong police reinforcements arrived and forced their way into the Square, in turn driving the crowd out, and making several arrests."(5)

Although one is bound to question why so few officers were initially deployed for a meeting that was illegal, the danger of trying to disperse a crowd with too few officers had been learned in 1839 in Birmingham when ninety police officers, under Superintendent May, who had led the offensive action against the meeting at Cold Bath Fields in 1833, were sent to the town to police a National Convention, organised by the Chartists.(6) A

meeting, which had been declared illegal, was actually in progress in the Bull Ring when the police arrived. Superintendent May ordered the crowd to disperse but, almost immediately, violence errupted. The small contingent of police were outnumbered and were in danger of being overwhelmed when they were saved by the timely arrival of the military. It was the beginning of the Chartist riots in Birmingham. Under the circumstances, it is difficult to see what Superintendent May could have done other than to stand by and hope that the meeting would disperse peacefully of its own accord. The nearest police re-inforcements were in London. Despite this, just over half of the contingent returned to London shortly afterwards, leaving only 40 officers in Birmingham.

A few days later, the forty officers tried to prevent a meeting from taking place but found it to be an impossible task. The crowd armed themselves with iron railings and forced the police to take shelter in a yard before going on the rampage through the town. Order was only restored when the police, on this occasion armed with cutlesses, and again assisted by the military, charged the crowd and managed to disperse it. Following this, the police officers were recalled to London, leaving Birmingham to be policed by the military and a large body of special constables.

After the Sunday Trading Riots in 1855, Mayne informed the Home Office that the police should not attempt to disperse a disorderly crowd unless they were present in sufficient numbers to do so effectively. Any success by the crowd, he said, could encourage other people "to oppose the police with force and the consequences might be most serious". (7) In doing so he had learnt a lesson from the Birmingham and Hyde Park riots, and might well have been anticipating the Royal Commission's judgement, for when the report was eventually issued it suggested that "if the attempt" to disperse the crowds -

> "had been made by an adequate force it seems to us that the people might have been moved without resorting to the use of staves; but the attempts made with inadequate force produced much of the violence which cannot be justified." (8)

Eleven years later, Mayne still held this view as was made clear when he reprimanded Superintendent Loxton on the grounds that he had insufficient men when he dispersed a crowd of 50,000 people attending a Garibaldi meeting on Primrose Hill; fortunately for Superintendent Loxton there was no disorder.(9)

Critchley suggests that the Metropolitan Police perfected their skill in deploying resources "to prevent violence from breaking out, rather than to suppress it after it had done so" during the great Chartist demonstrations of the 1840s.(10) Pointing out that 'timing was important in dispersing a meeting if there was disorder", Thurmond-Smith describes how it was done -

> "A careful watch was made on large assemblies, usually by a few plain-clothes constables in the crowd who would relay information back to the strong detachments of police scattered about the area in convenient, discreet locations, so as not to provoke the crowds. In meetings in Hyde Park, the detachments, except for scattered officers standing away from the crowds, were invariably kept at the police stations and other buildings very close to the park, but not in view of the assemblies. Plain-clothes policemen would mix with the crowds to relay messages back to the commanders."(11)

In this way, suggests Critchley, "the police were able to time any intervention with ... precision", arresting the troublemakers "with the minimum use of force" whilst "the sudden appearance of a large number of policemen acted as a restraining influence on the vast majority of those in attendance."(12) By such methods, Critchley suggests, "the police were generally successful in preventing outbreaks of disorder while at the same time interferring only exceptionally with freedom of assembly and freedom of speech."(13) Such a strategy is still used today, most noteably at the annual Notting Hill Carnival in West London where large numbers of police officers are kept on standby in schools within the area in which the Carnival is taking place, ready to support those on patrol if disorder occurs.

However, on the occasion of the last of the major Chartist demonstrations in London, which was due to be held on Kennington Common in May 1848, the police, in stark contrast to earlier strategy, adopted a higher profile. This time, "with a massive show of strength" they blocked the bridges to Westminster to ensure that the demonstration did not march on Parliament.(14) Again, there are similarities with present day strategy in that, in 1988, the police blocked bridges to prevent a students march from reaching the Houses of Parliament. But, whereas the show of strength was sufficient to prevent the Chartists from even marching on Westminster, this was not the case in 1988. On this occasion, students attacked the police cordon blocking Westminster Bridge and the violence lasted for over an hour.

When it became known that supporters of the Reform League would assemble at a dozen different locations for the march to Hyde Park on 23 July 1866, Commissioner Mayne -

> "assigned extra reserves at the police stations nearest the assembly points. They were instructed not to interfere with the various processions moving towards Hyde Park, but were simply to make sure the roads were not obstructed. As usual the police orders also said that arrests should be avoided if possible, and that the crowds should only be dispersed if sufficient police were on hand."(15)

The decision to allow two opposing organisations to meet at the same time in Trafalgar Square in 1886 has already been mentioned.(16) Acting on behalf of the Fair Trade Movement, the London United Workmen's Committee were the first to announce their intention to hold a meeting on 8 February, and, claiming to be "a body of hardworking peaceable men, who intend to conduct their meeting with moderation and with temperate language", sought police protection. On hearing of this proposed meeting, the Social Democratic Federation, which "preached revolutionary socialism" announced "their intention of holding a rival demonstration in the Square, and newspapers reported that they had threatened to seize the platform from the United Workmen's Committee." The Committee responded "by offering to provide their own 'well regulated staff' to prevent anything unseemly happening".(17)

Police arrangements for the event were made under the personal supervision of the Commissioner, Sir Edmund Henderson, who allocated only sixty-six officers to Trafalgar Square, but arranged for a further 563 to be on reserve. Most of the reserves were held on the east side of the Square in the belief "that demonstrators invariably returned home along the routes by which they had come."(18) By 3 p.m. the meeting had become disorderly and many of the reserves had been committed to re-inforce those officers already in the Square. A short while later between 3,000 and 5,000 people left the Square and, entirely unopposed by the police, went on the rampage to the west of Trafalgar Square, smashing windows and looting shops in Pall Mall, St Jame's Street, Piccadilly and Oxford Street. It was several hours before the police regained control. The Commissioner's strategy, such as it was, failed, on this occasion, for two principal reasons. There were too few officers assigned to this particularly event an assumption by him that the crowd, on dispersing, would return from whence they had come, thus moving eastwards and southwards away from the Square, proved to be unfounded.

The Modern Era

The absence of any official inquiries into riots between 1886 and 1974 makes it extremely difficult to discover precisely what the police strategy was on those occasions when disorder occurred. Although there were some noteable exceptions, the police tended to rely upon the combined physical strength of large numbers of officers to prevent hostile crowds from achieveing their objectives; indeed, they still do on many occasions. Supplemented by the use of mounted police, using their horses, but not their truncheons, to strengthen foot cordons, it is seen as "an almost 'force-less' method of crowd control"(19) much in the tradition of Rowan and Mayne's original strategy.

However, Gregory points out that the "'force-less' method comes under pressure as soon as either police strategy or crowd attitudes change." If the police, for instance, seek to change from a strategy of containment to one of dispersal and, in doing so, start to divide the crowd into smaller groups, sections of the crowd are likely to resent it, and may well use

violence to oppose, what they see, as new, aggressive police tactics. Alternatively, the spread of rumours by agitators, or the sight of the object of their protest - e.g. in the case of various left-wing groups in the 1970s it was invariably the National Front; during the miners' strike, it was often working miners, seen as blacklegs by those on strike, or in the case of Orgreave, it was the sight of the lorries arriving at or leaving the coke depot - can quickly change the mood of the crowd. Then, as Gregory points out, "a placard of protest can become a weapon of protest", (20) and the police will either change their strategy or become more aggressive in carrying out an existing strategy.

In his report into the disorders at Red Lion Square on 15 June 1974, Lord Scarman gave the police some advice on the strategy to be adopted on similar occasions -

> "In making their plans for a double event of demonstration and counter-demonstration, separation in time and place sufficient to avoid confrontation should be for the police their first consideration. The degree of separation must remain a matter for informed and experienced police judgment; but in my view the police would be wise, in the light of events of 15 June, not to allow a future counter-demonstration to come as close to the object of its opposition as Liberation did, with police blessing, in Red Lion Square." (21)

Describing police strategy for handling demonstrations two years later, Sir Robert Mark, then the Commissioner of the Metropolitan Police, said -

> "There is usually no intentional separation of police and demonstrators. The one group escorts the other when walking in procession and even when facing each other outside an embassy or police station they are usually within touching distance, their mutual vulnerability being more evident than if seen at a distance." (22)

Since 1985

Since 1985, there has been some attempt by senior officers to articulate their strategy albeit after the event has finished.

Invariably, in planning for an event of which they have some prior knowledge, the police will articulate what they term as their objectives or policy or role in relation to that event. For instance, the Chief Constables's directive to the Kent County Constabulary issued at the beginning of the miners' dispute of 1984/1985 was:

> "That in achieving the primary objective of maintaining the peace by the prevention of violence, disorder and other criminal offences, the strict impartiality of the Police Service, both politically and with regard to commerce, must be maintained in the manner in which duties are discharged. These duties must be performed not only with tact, commonsense and good humour, but with a purposeful demeanour re-inforced with positive action when required." (23)

Following this directive, the declared objectives were described:

1. To permit workers and other members of the public to go about their lawful business without hindrance, intimidation or unnecessary disruption;

2. The safety of the public;

3. To ensure that any picketing or demonstrations are carried out within the criminal law;

4. When necessary, to discourage and/or prevent groups of pickets and supporters from entering the vicinity of an incident, thereby contributing to a breach of the peace.

5. To enforce the law.

The Wiltshire report(24) on the Stonehenge operation in 1985 also had five points in its declared intention of police responsibilities:

1. Monitor the progress of likely festival-goers and dissuade them from entering the festival site and adjacent land;

2. Assist land owners, where necessary, in preventing unlawful intrusion onto and occupation of land covered by any Court Order;

3. Support the Sheriff's officer and his Deputies in the execution of the process of the High Court;

4. Prevent breaches of the peace and maintain public order;

5. Allow legitimate visitors to visit the monument.

But these are not strategies.

Strategic considerations

For a variety of reasons, outbreaks of disorder are rarely identical. Either the numbers involved will be different; the terrain will be dissimilar; the ability of community leaders, union officials or march organisers, to influence potential rioters will vary from area to area and, indeed from occasion to occasion; or police availability and readiness will be at different levels. Invariably, a combination of these factors will make each outbreak of disorder different from previous ones. Additionally, during prolonged outbreaks of disorder which are spread over weeks, and sometimes months, such as was the case during the miners' strike in 1984/1985 and the printers' strike of 1986/1987, there are likely to be relatively short periods of violence interspersed with longer periods of calm; although during the latter, tensions are likely to remain high. Consequently there is no ideal strategy; rather there should be a series of strategies to meet changing circumstances.

In strategic terms, a riot can be divided into four phases, during each of which the overall commander has a number of options to consider.

Phase I

Periods of tension

During periods of tension, the strategy should be directed towards preventing disorder from breaking out. To this end there are four separate areas to be considered.

a) Style of policing

Broadly speaking, in cases of community or racial disorder, the operational commander has four choices:

i) He can deploy his resources in such a way that the community becomes aware that the police have recognised that the tension exists and have built up their resources to deal with any disorder should it occur. This is likely to mean increased foot patrols or foot patrols supported by increased mobile patrols. For instance, following the Handsworth riot in 1985, the police in Brixton were aware that there might be repercussions within their ethnic community, and it was agreed at one of the regular meetings of the Lambeth Community/Police Consultative Group that, as a precautionary measure, police should increase the number of local officers on foot patrol in Brixton. (25) A possible disadvantage of this course of action is that it might be seen as an hostile act by some people within the community and may precipitate disorder, particularly if it has been done without consulting community leaders.

ii) He can maintain normal levels of policing.

iii) He can reduce the level of policing by, for instance withdrawing all mobile patrols and/or reducing the number of foot patrols in the area, in an effort to reduce the risk of a confrontation likely to result in a trigger incident. (26)

iv) He can withdraw police from the area altogther for a set period for similar reasons as in (iii).

Whichever course he takes, success is heavily dependant on a high sense of discipline on the part of the officers patrolling the area. In April 1981, the police in Brixton mounted an operation to curb the high level of street crime. Known as Operation Swamp it entailed one hundred and twelve officers, all in plain clothes, operating in ten squads of between five and eleven officers, patrolling the streets of Brixton between 2pm and 11 pm. According to Scarman -

> "the operation envisaged the extensive use of the power of a Metropolitan Police Constable to stop and search people on the basis of reasonable suspicion that they are in possession of unlawfully obtained property ..." (27)

In their evidence to the Scarman Inquiry after the rioting in Brixton from 10th to 12th April 1981, some police officers and community leaders suggested "that in the week of the Operation tension on the streets of Brixton increased considerably". (28) Even after a fairly serious outbreak of disorder on 10th April, the police made a positive decision to continue with Operation Swamp. In his subsequent report Scarman described this decision as "unwise". (29)

In industrial disputes and political demonstrations the operational commander's choices, whilst similar, are likely to be less controversial if he goes for a high profile. The system of creating sterile areas, that is deploying large numbers of police around a certain area either to prevent people from gaining access to that area or controlling access to a particular group, is generally thought to have originated after a number of clashes between left wing demonstrators and police officers, who were preventing the former from reaching members of the National Front, culminated in the death of Blair Peach at Southall in 1979. But there is ample evidence to show that the idea of creating a sterile area has been used in the past. (30)

b) Consultation

The value of consultation, and the dangers of placing too much reliance on it in a public order context, are discussed more fully in a later chapter. (31) Depending on the type of event that is anticipated and bearing in mind the General Principle of Consent and Balance, the operational commander would be advised to seek the advice of prominent community leaders and the leaders of political groups, particularly where two groups are likely to oppose each other, in deciding the course of action to be taken and he should encourage such people to become active in attempting to defuse the tension. Similarly, in industrial disputes, union officials have often played a key role in keeping the peace and reducing the levels of violence in long-running disputes.

James Brownlow, then Chief Constable of South Yorkshire, describes how, in 1980, before the national steel strike began "my Assistant Chief

Constable (Operations) spoke to employers and trade union leaders alike and the dialogue was extended as more firms and other sections of the unions became involved." The purpose of these contacts was to explain "the law on picketing and public order" to all who were likely to be involved, and explain "the duties and the responsibilities of the the police" and how the police intended to undertake those duties and responsibilities.(32)

These initiatives did not prevent mass picketing, particularly from 11th to 14th February, or some violent confrontations with the police. This did not mean that the initiative in meeting the union leaders had failed; rather, according to Brownlow, it was because 'communications broke down between the police and union leaders" at the scene of confrontation "due to the fact that the latter were either not available or could not be identified amongst those who were demonstrating'.(33) However, his view "that this was a deliberate policy in the game of trying to outwit the police so as to influence the workforce by violence to withdraw its labour"(34) contrasts with his later comment that the contacts established during the initial stages "proved invaluable".(35)

A number of other examples, some of which were successful, others not so successful, are given in chapter 7, but the operational commander needs to be aware that such a strategy cannot be relied upon and in some cases may be futile. For instance, Geary suggests that any attempt by the police to consult with miners' leaders at Featherstone in 1893, where troops shot dead two strikers, would almost certainly have been of little use because miners' unions were "not sufficiently well organized at local level to adequately control the behaviour of their members."(36)

c) Capacity to deal with disorder

In the past senior police officers have either failed to recognise the potential for disorder at pre-planned events, or have failed to recognise an increase in tension within a community, or, if they have recognised it, have had a misplaced confidence in the ability of limited resources to deal with subsequent disorder, either with or without the assistance of trade union leaders, community leaders or march organisers. In a pre-planned

event it is likely that the command structure will already be in place, but in the case of unexpected disorder, such as occurred in the inner-cities over recent years, the command structure for policing a division on a day-to-day basis is inappropriate. Therefore, whenever there is an increase in tension the operational commander must immediately start to identify and build up the command structure and give subordinate commanders specific areas of responsibility in relation to the threat of disorder. This may mean sectorising the area in which tension exists and appointing a senior officer to each sector.

The operational commander must also ensure that that he has sufficient resources on hand to prevent disorder breaking out at a trigger incident or, if they are not immediately available, at least identify from whence they will come and how long it will take them to reach the scene of any disorder.

d) Intelligence

Intelligence has always played an important role in the public order commander's efforts to deal effectively with any disorder. Before a potentially disorderly event or during a period of tension within a community, including those which are industrially or politically based, the operational commander must make increased efforts to obtain information and an immediate start should be made towards mobilising intelligence teams. The gathering of information is dealt with more fully elsewhere.(37) Suffice to say, at this point, that intelligence is necessary not only to increase the chances of police effectiveness in responding to disorder once it starts but the operational commander may decide that the style of policing should be changed as a result of the intelligence he receives in an effort to prevent violence breaking out.

Each police force now has a department which is responsible for community affairs and, during the early stages, the operational commander is likely to rely fairly heavily on officers from this section for the gathering of such intelligence. But policing large-scale public disorder is a skill in just the same way as policing criminal activity is a skill.

Therefore, officers, who are likely to be used to gather public order information and translate it into intelligence require special training if they are to be effective.

Phase II

In the aftermath of the trigger incident

In the inner cities, the incident which has triggered a riot, has invariably been a confrontation between the police and a section of the local community. In some cases the trigger incident is easily identifiable, e.g. the accidental shooting of Mrs Groce by a police officer in 1985 which resulted in disorders in Brixton, and the death of Mrs Jarrett during a police search of her house in Tottenham which lead to the so-called Battle for Broadwater Farm, also in 1985. In other cases they are not so easily identifiable; indeed, they may only be identified as such after an examination into the circumstances surrounding the disorder. In some areas incidents which have, in specific cases, been identified afterwards as the trigger for a riot are, if not an everyday occurrence, at least a weekly occurrence. To-date, it has been impossible to discover why such an incident may trigger a riot one day, but similar incidents failed to trigger on other occasions.

At the Notting Hill Carnival in 1976, an attempt by police officers to intervene when a woman was punched and kicked by a gang of black youths, after she had remonstrated with a youth who had snatched her handbag, triggered the riot.(38) A section of the crowd attacked the police officers, who went to the woman's assistance, with a barriage of beer cans, stones, bricks and general rubble.

At Brixton, in 1981, the trigger incident for the disorder on the first of the three days was a totally innocent affair when two uniformed police officers attempted to assist a black youth who had been stabbed in the back.(39). However, the trigger for the serious disorder on the second day was the arrest of a young black man for allegedly obstructing a

police officer in the execution of his duty, by two plain clothes officers employed on Operation Swamp. (40)

In Liverpool, between 3rd and 29th July 1981, rioting occurred which was described by the then Chief Constable as 'the worst and most concentrated ever seen in that area". (41) Although there had been similar incidents during the weeks preceeding the rioting which had resulted in some minor disorder, the trigger for the initial outbreak of rioting on 3rd July, was the pursuit, by a police mobile patrol, and subsequent arrest of a youth on a motor cycle into the heart of Toxteth. (42)

Often, the incident occurs at or near what Sir Kenneth Newman described as a symbolic location shortly after he became the Commissioner for the Metropolitan Police. By this he meant a building which had a particular significance to the community, or a section of the community, such as a cafe or regular meeting place. There have been a number of examples in support of Sir Kenneth's theory.

In 1980, the police, in possession of search warrants granted under the Licensing Act, alleging the illegal sale of alcohol, and the Misuse of Drugs Act, alleging the use of cannabis, raided the Black and White Cafe, a symbolic location for many Afro-Caribbean people in the St Paul's area of Bristol. The police found far more alcohol than had been anticipated and a growing crowd became increasingly hostile as officers waited at the cafe for the return of a police van which had already taken one load of alcohol to a nearby police station. It is, of course, a matter for conjecture, but had all the officers left when the police van first departed to the police station, it is possible that the serious disorder that errupted in Bristol that evening would not have occurred.

At Handsworth in 1985, the incident which was widely claimed to be the trigger of the Handsworth/Lozells riots occurred at about 4.45p.m. on 9th September, when a number of police motor cyclists were enforcing the 'no parking' restrictions in Lozells Road and Villa Road, which is a main route for traffic travelling to and from the north of England. At this time, a police officer attempted to arrest a man whom he suspected of being

disqualified from driving but, with the encouragement of a rapidly growing crowd, the man broke away and ran into the Acapulco Cafe, a symbolic location for that area. As other officers converged on the scene, the crowd attacked the officers with stones, bricks and bottles as they went to arrest some of those involved. Two people were arrested. Eventually, in an attempt to stabilise the situation, the duty inspector instructed all police vehicles and police officers in uniform to withdraw from the immediately vicinity of the cafe. Eleven police officers were injured and seven police vehicles damaged during this incident.(43)

In some cases, there is a lull between the trigger incident and the riot. An often significant feature of this period is the increasing number of calls, generally from anonymous callers, which suggest that some activity is taking place which requires police attention. These calls are invariably false and are designed to 'suck' a small number of police officers into the area.

In other cases, rioting starts with the trigger incident. For instance, during an industrial dispute, when some people are on strike whilst others continue to work, it is often the arrival of the latter group that triggers the disorder. In his description of the South Wales Coal Strike of 1910 and the transport strike of 1911, Geary describes how disorder "typically occurred at the factory or colliery gate and only at times when non-strikers attempted to enter or leave".(44) Similarly, at Grunwick, in 1977, it was the arrival of the bus carrying those who were still working that invariably triggered the violence between police and demonstrators, and, in his subsequent report to the Police Authority, the Chief Constable of South Yorkshire, Peter Wright, described how on 24th May "violence errupted" as the convoy of coke lorries appeared at Orgreave.(45) Similarly, as miners started to return to work "barricades were erected and vehicles set on fire".(46)

Where rioting starts with the trigger incident, the operational commander should immediately be concerned with the strategies to restore order, although where the disorder occurs unexpectedly there will inevitably be a delay before the strategies can be implimented. However,

there is often a lull in the immediate aftermath of a trigger incident, before disorder occurs, such as there was at both Brixton and Tottenham in 1985. In the former case the disorder did not start until about eleven hours after the shooting of Mrs Groce. At Tottenham, there was a gap of some twenty-six hours between the search of Mrs Jarrett's home and the commencement of disorder on the Broadwater Farm Estate. In the report by the Metropolitan Police Public Order Review Team, Marnoch's strategy in Brixton after the shooting of Mrs Groce is described as being threefold:

(i) to obtain accurate information from local sources on the mood within the community;

(ii) to defuse the tension and avoid disorder;

(iii) to provide reserves of police should they be required. (47)

It is with these three main areas with which the operational commander should concern himself during this period.

a) Attempts to defuse the tension and avoid disorder

The first relates to the efforts he will take to defuse the situation. Often, the stories circulating in an area after a likely trigger incident bear little resemblance to the truth. For instance, in Brixton in 1985, rumours that Mrs Groce had been killed, had been shot twice, and had been shot in the back spread quickly through the community. In fact, none of these were true. A statement by the duty administrator at St Thomas's Hospital well before the rioting started, revealed that she had been hit by a single bullet which "entered her body at the top left shoulder (and) there was a bullet exit point in the middle of her back". (48)

An early meeting with community leaders is essential so they can be informed of the true facts. They can then circulate within the community in an effort to dispel the rumours. But operational commanders should not place too much reliance on the success of such a move. At Brixton, in 1985, Commander Marnoch made "numerous contacts with community representatives, councillors and others" in an attempt to enlist their

support to defuse the tension that existed in the area.(49) However, when the Chairman of the Lambeth Community Police Consultative Group, Astel Parkinson, visited the home of Mrs Groce, with the Deputy Police Community Liaison Officer, Inspector Crowe, at about lunchtime that day, to speak to the crowd outside her house in an attempt to defuse what was becoming an increasing hostile situation, he was told to leave.(50) A statement was released to the press as early as 11 a.m., expressing regret at what had occurred, admitting that it had been an error on the part of the police and indicating that a senior officer from the West Yorkshire Police would investigate the matter under the directions of the Police Complaints Authority.(51)

Similar action was taken at Tottenham. Soon after her death, two senior officers visited the home of Mrs Jarrett and spoke to members of her family. A senior officer from the Essex Police was appointed to investigate the incident under the directions of the Police Complaints Authority, and the police released a statement to the press in which "sincere regrets were expressed at the unfortunuate death of Mrs Jarrett".(52) After a minor outbreak of disorder outside Tottenham Police Station shortly after midnight, a meeting, chaired by the officer who had overall responsibility for policing the area, Deputy Assistant Commissioner Richards, and attended by ten people from outside the police service, including the Deputy Mayor and the Chief Executive of the London Borough of Haringey, Mrs Jarrett's two sons and a well-known community leader, Mrs Dolly Kiffen, was arranged for the following morning. After a lengthy discussion, the meeting agreed that "all parties would appeal for calm within the community" and "the enquiry into the death of Mrs Jarrett should be completed expeditiously". Community Leaders also demanded that the report be made public, a request that Richards agreed to pass to the Police Complaints Authority.(53)

The community leaders may make demands on the overall police commander. A fairly common demand at this stage of the proceedings is that the officer(s) involved in any disputed incident or the trigger incident should either be charged forthwith, or at least suspended from duty pending any investigation. The police commander will have to decide

how far he should go in meeting these demands. In the Brixton incident, the officer who accidently shot Mrs Groce, Inspector Lovelock, was immediately seen by the police divisional surgeon and placed sick suffering from shock. He was subsequently suspended from duty on 4th October, pending the outcome of the investigation by the senior officer from the provinces. (54)

At the meeting with Community Leaders in the Tottenham case Richards refused to comply with the demands that the four officers involved in the search of Mrs Jarrett's house should be suspended, a decision which Gifford, who with others conducted an Inquiry into the events at the bequest of Haringey Council, described as "short sighted and insensitive". He suggested it was "the one action which the police could have taken which would have given some assurance to the Black community that the circumstances of Mrs Jarrett's death were being taken seriously". (55)

In political demonstrations, where there is a history of violent confrontation between two opposing groups, the mere appearance of the other group can trigger off the violence. In such cases the police have often been able to reduce the risk of serious disorder by persuading the leaders of one group to agree to a change in their original arrangements. For instance, in 1936, in the so-called Battle of Cable Street, Oswald Mosley agreed to abandon his attempt to march through the East End of London when it became clear that to do so would result in serious disorder. Similarly, in 1977, at Lewisham, although there were violent clashes between the police and left-wing demonstrators, the level of violence was reduced when National Front leaders accepted a police direction to re-route their march through another part of Lewisham to that which had orginally been agreed.

Another option open to the operational commander is to change the style of policing implimented during the first phase. He may, of course, decide to occupy the likely area of disorder in strength. But whilst this may discourage disorder on one occasion, it may act as a further trigger incident and precipitate the disorder on another. Such was the dilemma faced by Deputy Assistant Commissioner Richards at Tottenham in 1985.

b) Capacity to deal with disorder

Once an identifiable trigger incident has taken place the operational commander must ensure that he is ready to deal with disorder. Any resources mobilised in the first phase must be brought to a state of readiness and matched up with the command structure identifed in that stage. Areas of operation should be identified and officers should be fully briefed of what is required of them should disorder break out. It is at this stage that the operational commander and, indeed, the subordinate commanders, should be asking the question 'What do I do if this happens, or that happens' in respect of their own spheres of operation. In other words an attempt should be made to anticipate the actions a disorderly crowd might take as a result of the trigger incident, in order to be be better able to counteract it.

At Brixton, in 1985, due to the increase in tension during the course of the morning, three District Support Units had been placed on standby about two miles away at Cannon Row Police Station by 11.20 am. The Operations Room at New Scotland Yard was opened at 2.15 p.m. "to fully co-ordinate police deployment and provide reserve units" and less than an hour later, a forward control room was opened at Brixton Police Station.(56) Similarly, in the case of Tottenham, it had been decided "to set up a limited reserve of police officers at Wood Green during the week-end of October 5th - 6th, purely as a precaution against potential disorder", even before the incident involvinjg Mrs Jarrett.(57)

However, although senior officers were made available, in neither case was a proper command structure established at this stage. At Brixton, Commander Marnoch was initially the operational commander and a Chief Inspector was in charge of the control room which had been opened at Brixton Police Station. Both the divisional commander and his deputy were at the police station when the people from Normandy Road arrived outside, but two other senior officers, who subsequently played key roles in the police response, were elsewhere and took some time to reach the scene.

At Tottenham, Deputy Assistant Commissioner Richards was the operational commander and Commander Polkinghorne was placed in charge of the control room at Wood Green. But because no attempt had been made to anticipate any likely pattern of disorder, the four senior officers available for immediate deployment at the time rioting broke out on the Broadwater Farm Estate took up positions of their own accord, having met none of the men who subsequently came under their command prior to their deployment..

c) Intelligence

Finally, increased efforts should be made to obtain advance warning of the crowd's intentions. Using those officers already deployed to gather information during the first phase, this is done by creating an intelligence cell, headed by an officer, who has been trained to handle information and intelligence relating specifically to public disorder.

Phase III

During rioting

In broad terms the police commander has five strategic options available to him once serious disorder breaks out:

a) Mediation

Whilst the police commander would be criticised if he abandoned any opportunity to use mediation as a means of restoring order - indeed, he would find phase IV much more difficult to achieve if he failed to, at least, attempt to work with community leaders, trade union officials or demonstration organisers during this phase - there is no evidence to suggest this has been successful in the past. In inner city riots, community leaders invariably make two demands on the police at this stage. Firstly, that the police should make a 'strategic withdrawal' from the area and secondly, that all those who have been arrested should be released.

At the height of rioting during the Notting Hill Carnival in 1976, Paul Stevenson, from the Community Relations Commission, told reporters that he had asked Deputy Assistant Commissioner Gibson, the operational commander, if the police "could make a strategic withdrawal". Continuing, Mr Stevenson suggested that -

> "while they are here this tension will continue and the police are now finding themselves sucked into a situation where there's no real policy other than containment and I think that what's got to happen now is that every uniform police officer should be strategically withdrawn from the area."(58)

In Bristol, in 1980, a decision to withdraw from the riot area by the Chief Constable, Brian Weigh, was bitterly criticised by police officers, shopkeepers, politicians, newspapers and members of the public. Weigh made his decision in the hope that, as they were "the object of the violence", the removal of the police officers from the area "would quieten the crowd" which would "itself help the return to order".(59) The police remained out of the area for nearly five hours during which time community leaders appear to have made little attempt to stop the violence, or, if they did, were singularly unsuccessful in doing so. Indeed, the judge at the subsequent riot trial described it as a "period of re-arming, not a prelude to normality."(60)

At the height of the rioting in Brixton on 11th April 1981, Commander Fairbairn was approached by two members of Lambeth Borough Council, a local Anglican Vicar and a local black leader, who told him that "in their view the only way to reduce tension was for the police to withdraw from the area and allow the crowd to disperse." Fairbairn refused because of the risk of the disturbances spreading but the four people did agree to act as mediators and speak to the crowd. Scarman describes what happened next -

> "The four moved forward, missiles being thrown towards them, and three of them ... passed beyond the police lines and the cars overturned by the crowd. (The fourth) made his way by side streets round the back of the crowd. Once they had passed the upturned vehicles, the mediators were seized by some of the crowd who told them their terms for dispersing. They wanted the police

to withdraw, they wanted an end to police harassment and they wanted those arrested to be released."(61)

The mediators returned to Commander Fairbairn with these demands but he remained adament that there would be no withdrawal, because, he said, he "did not believe that those who had said they would disperse if the police withdrew could, even if they wished, enforce their view on others in the crowd."(62) Scarman rejected the suggestion that Commander Fairbairn should have heeded the advice of the mediators, who claimed that "since the fury of the crowd was directed at the police, that fury would cease if its object was removed". He pointed out that -

> "The arson and looting in Railton Road was already under-way by the time of the attempted mediation. It is only necessary to imagine the criticism which would have fallen on the head of Commander Fairbairn if he had withdrawn and, as I believe, the looting and disorder had continued, in order to realise how misdirected this argument is."(63)

At Brixton, in 1985, about 200 people initially gathered outside the police station. After some had been prevented from gaining access to the station via the yard at the rear, a senior officer, accompanied by a member of the Lambeth Community/Police Consutative Group, addressed the crowd through a loud hailer from the steps of the police station. The police officer appealed to the crowd to remain calm and introduced the Rev. Irvine Smith. Before he had an opportunity to speak, a petrol bomb landed at his feet, singing his trousers, and this was immediately followed by a hail of missiles. The two withdrew and officers dressed in protective clothing and carrying shields took up positions across the front of the building.(64)

At Tottenham, there is some evidence that representatives from the West Indian Leadership Council did attempt to "calm the situation" once the riot had started(65) but, although they were apparently able to influence a few individuals they had little or no effect on the course of events that night.

b) Early Resolution

Early resolution as a strategy is designed to be pre-emptive, negating any advantage which might accrue to would-be rioters if their conduct were to go unchecked. If it is to be effective, it will often mean a numerically inferior body of police officers moving against a numerically superior crowd, some of whom are showing signs of disorderly behaviour. To be successful, the police officers involved need to be well-trained, highly disciplined, have confidence in their own ability and, perhaps more importantly, the ability of their senior officers. They must have the ability to respond with speed and therefore need to be highly mobile. By their very nature, crowds, particularly those formed when large numbers of people suddenly emerge onto the streets or converge on a particular place, in response to some real or perceived incident, take time to organise themselves and it is hoped that the superior training and skill of such officers will overcome any initial resistance by the crowd.

Early resolution has only been articulated as a strategy relatively recently, but is is worth noting that in 1836, a judge pointed out that "one great use of these police constables is to prevent mischief in the bud, and to interfere as early possible before it breaks out".(66)

Although the general impression is that the police suffered a series of setbacks during the 1980s, insofar as their handling of inner-city riots were concerned, there are examples of the early resolution strategy being used quite successfully during this period. For instance, in April 1982, police in Notting Hill moved in quickly to disperse about 300 youths after barricades had been erected across All Saints Road. Later, the Home Secretary, in a statement to the House of Commons, said -

> "... I believe the operation conducted by the police was an example of what is needed. It is very necessary ... that very firm and clear action is taken at the first opportunity. This was done in Notting Hill and it was very successful."(67)

Pointing out two years later that London was a very volatile city, the Metropolitan Police Commisioner, Sir Kenneth Newman, said that during the summer of 1984 there "were many mini-riots which had the potential to escalate to Brixton 1981 proportions." However, they were so "quickly and effectively extinguised ... that they hardly rated a mention in the press."(68) According to David Walker, the same could be said of Liverpool were, "on more than one occasion ... situations that could have developed into bigger and uglier incidents" were prevented from doing so by prompt police action.(69)

The strategy of early resolution is not meant to undermine or replace the use of community leaders, trade union officials or demonstration organisers, who should continue to be given every opportunity to handle any real or perceived cause of tension. However, if it is to be successful, it must be implimented quickly and with speed, before the rioters or would-be rioters have an opportunity to organise.

c) Disrupting.

The larger a crowd gets the more confident they become. In order to prevent this happening the operational commander may decide on a strategy of disruption. Its success is dependant on mobility and flexibility; it therefore involves the deployment of a number of mobile units to prevent small groups of people from becoming a large crowd, by dispersing people away from the scene at the earliest opportunity. Also, because there is likely to be only limited opportunities for members of the crowd to acquire bricks, stones, bottles and other such material, it prevents the stockpiling of missiles in anticipation of their use once the riot gets under way.

Generally this strategy can only be used during the early stages of disorder, i.e. before a large crowd has assembled, although it can be used on the periphery of a riot, in conjunction with another strategy, to prevent small groups of people, arriving in the area, from joining the rioting crowd.

There are a number of examples of the successful use of this strategy. For instance, on 9th July, 1981, after the police had maintained a relatively low profile during rioting the previous day, the Chief Constable, James Anderton, ordered 54 police vans, each crewed by a sergeant and ten constables, into the riot area. Their task was to disperse groups of youths immediately they began to congregate, thus preventing crowds from forming.(70) Two days later, in Brixton, when there was renewed violence and sporadic looting, the police, who had been waiting in coaches in large numbers in side streets throughout the day, moved swiftly "in highly mobile groups" to prevent "gangs from forming into any formidable size".(71)

On 1st October 1985, four black defendants appeared at Liverpool City Magistrates' Court. Three were charged with affray, the fourth with impeding the arrest of another, arising from an incident at the Toxteth Carnival on 10th August, when a Brixton man was stabbed during a running street fight. The man died a week later. Many of the black community in Liverpool were angry, accusing the police of randomly arresting the four and there were scuffles outside the court. The defendants were refused bail and, later that evening about 300 youths seized cars and a post office van, setting light to them in Toxteth.(72) The police responded, using a strategy of disruption, by repeatedly driving vehicles at the youths to keep them on the move and prevent them from forming into a cohesive group.

d) Containment

The generally accepted idea of containment, particularly in an inner-city riot, is to keep the crowd in a particular area in order to prevent the riot from spreading, at the same time, stopping other people from joining those already involved in the disorder.

Containment may be the only strategy an operational commander can adopt during the early stages of a riot, particularly if the police have been caught unawares. On his arrival at the scene of the rioting in Brixton on 11th April 1981, Commander Fairbairn "saw at once that he had insufficient officers to disperse the crowd facing him" and "decided that

the best he could do was to try to contain the situation until he had sufficient officers to move forward to clear the area."(73)

At Tottenham, in 1985, police cordons were placed across the four main entrance roads to the Broadwater Farm Estate, in what many people believed was designed to "prevent the rioters leaving". However, Richards gave new meaning to this generally accepted understanding of containment when he described his strategy as one of "containing the attacks on police to a limited number of defensible locations".(74)

In situations such as these, a strategy of containment should not be seen as an excuse for inactivity because it can easily become increasingly dangerous the longer it goes on. Richards, for instance, appears to have given no thought to an alternative strategy, despite the presence of numerically sufficient resources, once it was realised that the strategy of containment, whichever interpretation is put on it, was inappropriate because of the high casualty rate amongst his officers.

However, it must be borne in mind that people who feel trapped are likely to become more violent thus increasing the danger to the police officers involved in attempting to restore order. It is important, therefore to leave some kind of escape route to the rioters. An added reason for leaving an escape route, particularly during the early stages of a riot, is that it allows innocent people, caught up in the initial outbreak of disorder, to leave the area.

A strategy of containment becomes a static situation for the crowd. Unless it is very carefully managed it also becomes a static situation for the police and experience has shown that a large number of officers are likely to be injured, particularly if the containment cordons are deployed within missile-throwing range, or within striking distance of the disorderly crowd.

In October 1968, during the great march to protest against American involvement in Vietnam, the Metropolitan Police decided to adopt a strategy

which was described as "passive containment". Moore described what this entailed -

> "The police would concede the streets to the demonstrators and even allow them to sit or lie down in the road for as long as they liked, but they would not be the cause or conflict between the two sides. The police would remain passive even to the extent that if an attempt was made to reach the American Embassy it would be repelled by sheer weight of numbers rather than by drawing truncheons to force the demonstrators away."(75)

e) Dispersal

Claiming that a dispersed crowd "loses its awesome potential for violence and destruction" Waddington suggests that "the most sensible strategy to combat a violently disorderly mob is to disperse it."(75) In broad terms there are two kinds of dispersal -

i) Open-ended dispersal;

and

ii) Dispersal towards police cordons.

A good example of the first type occurred in Brixton, in 1985. Once the crowd started attacking the police station, Chief Superintendent Webber decided he had two options -

a) To allow the crowd to stay in the vicinity of the police station, or

b) To move the crowd away.(76)

He could hear shop windows being broken in Brixton Road and he feared an attempt might be made to storm the police station. Had the crowd succeeded the consequences would have indeed been serious. So, he chose the second option. Ideally, he would have preferred to have had sufficient time to deploy officers in the streets surrounding Brixton Police Station, particularly in the shopping area to the south, in order to ensure a controlled dispersal but he didn't. Consequently what followed was an open-ended dispersal. Although he was quickly able to drive the

crowd away from the police station and create a moving situation rather than a static one, many shops were looted and, in some cases, burnt to the ground.

Insofar as the police are concerned the most attractive strategy for dispersing a disorderly crowd is to disperse it towards cordons of police officers. The use of cordons is described in greater detail in the preceeding chapter but the advantage of this as a strategy is threefold. Firstly, the rate of dispersal can be controlled; secondly, the crowd can be broken up into smaller, more manageable groups; and thirdly, it might be possible to arrest some of those who have committed offences. The disadvantage of such a strategy is that it requires a large numbers of officers, particularly if the crowd is spread over a wide area. If arrests are to be made at the same time, the number of officers required will be even larger.

Phase IV

The return to normality

The final strategic phase is the return to normality. Again, the operational commander has three main areas in which he needs to take action.

a) Levels of policing

The operational commander will want to bring the area back to normality as quickly as possible, but, at the same time, he will want to ensure that serious disorder does not break out on a subsequent occasion. As a first step he therefore needs to consider very carefully, the levels of policing and the levels of visibility. The options available to him are similar to those identified under the first phase, but, in this case, because rioting has already occurred, he is likely to go for a higher profile, which inevitably will lead to criticism from some quarters.

Scarman rejected the suggestion that the deployment of too many police officers in the Brixton area on the Sunday morning after Saturday's serious rioting, in April 1981, led to increased tension "which eventually sparked off the disorders of that day". He pointed out that the police "were naturally apprehensive of a recurrence of the disorders - rightly, as was proved - and anxious to have sufficient officers on hand to deal promptly with it." Pointing out that "until the disorders did break out they kept many of their units in reserve, away from Brixton", Scarman stated tha the police "could hardly fail to respond to the disorders of the previous day, whcih had been on a scale beyond that of anything previously seen in Britain this century."(78)

In the immediate aftermath of the serious rioting in Birmingham in 1985, "much of the antagonism towards the police was centred on what some of the black community viewed as the 'provocative presence' of protected personnel carriers and officers in protective clothing marshalled in the immediate vicinity of the Villa Cross."(79) However, at one particularly hostile meeting with between 30 and 40 black youths, the senior police officer present, whilst being adament that police patrols would continue at the same level, agreed to relocate vehicles and officers on standby to less obtrusive areas.

In the aftermath of the Tottenham riot, Lord Gifford was critical of the levels of policing, suggesting that it merely served to keep tension in the area at a high level. He reported that on the day following the riot on the Broadwater Farm Estate -

> "the police remained on and around the estate in force. In the evening the Police Research Unit staff noted around 200 officers on the estate, the majority dressed in riot overalls and carrying shields; two coaches full of police parked in Adams Road; another coach at the junction of Mount Pleasant Road and The Avenue; and ten transit vans parked in The Avenue. In the whole Tottenham and Wood Green area, they calculated that nearly 1,500 officers were deployed."(80)

b) Defusing the tension

There are those who say, probably quite rightly, that after serious disorder within a community or in which a group of people who have a comon interest have been involved, such as those belonging to a trade union, things can never be the same again. Certainly this phase of the operation will never be easy.

Nevertheless, the operational commander needs to be pro-active in defusing the tension that will inevitably exist after order has been restored. This may mean holding press conferences to explain exactly what happened, the role of the police during the riot and the steps they took to prevent the disorder in the first place. It may mean taking positive steps to restore confidence in the community as a whole by directing efforts towards those who take a more responsible attitude towards public tranquility.

In his report on the miners' strike in South Yorkshire, Peter Wright, the Chief Constable, pointed out that inherent difficulties would need to be overcome if the relationship between the community and the police was to return to the situation it was in before the strike. He recognised "that bitterness exists in certain areas and the more the individual was committed to actively supporting the strike, the more unfavourably will he view the police."(81) In Kent too, the closing report on the strike suggested that "there can be no doubt that the year long dispute seriously damaged the relationship between the police and the mining community" in the county.(82)

Dear reports that during and immediately after the riots in Handsworth "there had been continuous discussion between Senior Police Officers and leaders of all ethnic communities in an attempt to return the area to a state of normality and to allay malicious and unfounded rumour." At a meeting at the Mohammed Ali Centre in the early hours of 11 September 1985, the police provided two megaphones to "a spokesman for the Rastafarian factions, who offered to tour the district in cars requesting groups of marauding black youths to leave the streets."(83)

In responding to offers to mediate from local community leaders in Handsworth, who claimed that there only chance of success would come if the police presence in the riot area was reduced, senior officers from the West Midlands Police said, "there would be no change in the strength of the police presence in the area until the situation had been assessed as to whether or not the intervention by the black leaders had been successful."(84)

Increasingly sophisticated surveillance techniques and the increased use of video and photographic material to identify people playing an active part in the rioting or taking part in other criminal activity such as looting, means that police investigations will be prolongued and will have an impact on some sections of the community for weeks, if not months. Unless handled with extreme care and sensitivity, such operations are likely to impact against a quick return to normality.

In the immediate aftermath of the Handsworth riot, in which, it will be recalled, two people died in the Post Office fire, a team of over 100 detective officers was set up by the Assistant Chief Constable (Crime) to conduct enquiries into the many criminal offences arising from the riot. Indicating that over 900 crimes were reported during the weekend of rioting in Brixton, the Public Order Review report records that "a post-riot operation by CID officers ... led to 219 people being charged ... for offences which include murder, rape, arson and robbery."(85) And, at Tottenham, where there were only a small number of arrests on the night of the riot, "the subsequent large-scale CID investigation ... led to 147 people being charged with a variety of serious crimes, ranging from murder to possession of offensive weapons."(86)

c) State of readiness

Finally, the operational commander must review the state of readiness of the Force to respond to further disorder should it occur.

Conclusion

The success of everyday policing in a community invariably depends on the greatest possible latitude being given to the individual constables to operate within the general aims and objectives of policing. Conversely, the success of policing serious public disorder lies in mutual - not independent action and for mutual action to exist there must be discipline and intelligent direction. Partial success is likely to lead a rioting mob to strike even harder to take control of an area and resist with even more force fresh attempts by the police to restore public tranquility. Therefore the plan formulated as a result of the overall commander's declared strategy must be easy to understand and, insofar as it is possible, easy to accomplish so that the rioters are immediately placed at both a strategic and tactical disadvantage, sufficient to convince them that any continuation of the violence is futile.

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CHAPTER SEVEN

A RE-EXAMINATION OF THE GENERAL PRINCIPLES OF POLICING AND THEIR APPLICABILITY TO PUBLIC ORDER

There is one further area that the operational commander needs to be constantly aware of; and that is the general principles of policing insofar as they are applicable to serious public disorder. In the introduction reference was made to the fact that whilst there is broad agreement on what is covered by the principles of policing, specific agreement on what precisely the principles are is missing. However, two, The Principle of Prevention and the Principle of Minimum Force, do appear on most lists. To these two, a third, The Principle of Consent, has been added which incapsulates three separate principles listed by Reith, i.e. public approval, willing co-operation of the public and maintaining the historic tradition that the police are the public and the public are the police. It also covers both of Scarman's principles, consent and balance, and independence and accountability; and three of Pike's, police discretion, sense and sensitivity, and indepedence and accountability. (1)

THE PRINCIPLE OF PREVENTION

Introduction

The principle of prevention has its origins in the Anglo-Saxon methods of 'keeping the peace' and the notion that crimes could be prevented by the vigilence of one's neighbours. However, by the beginning of the 19th century, London, in particular, was subjected to regular outbreaks of serious disorder and suffered from "the uncontrolled lawlessness of drunkeness and morality". (2) The original approach to the prevention of

serious disorder was the imposition of severe penalties and restrictions. For instance, the Fielding brothers, Henry and John, put forward a proposal "designed to prevent and control general disorder by imposing severe restrictions on drinking, gaming and disorderly houses".(3) A direct parallel can be drawn with the recent increase in urban disorder in many cities, towns, and even villages, particularly in England, with the Government, after a short experiment in seven towns, announcing that it intends to pass a law which will effectively ban drinking in the streets in certain areas of all towns and cities throughout the country.

Despite a belief by the Executive that severe penalties and restrictions was the way to curb serious disorder, one of the first initiatives to be taken by the newly formed Metropolitan Police was that of preventative deployment.

Preventative deployment

Preventative deployment, that is the deployment of police officers in such a way that it stops large crowds from assembling, was introduced as early as 1831. Incensed by the continuing success of the moderate Radical movement under Francis Place, the Ultra-Radicals made plans to seize full control of the whole Radical movement during the latter part of that year. As part of their plan, the leaders of the Ultra-Radicals "advertised the holding of a mass meeting on 7th November at White Conduit House, the ultimate purpose of which was to secure a resounding victory in a pitched battle with the police." Various weapons were distributed to the members but the Ultra-Radicals had not chosen their site particularly well. The police received so much information about the group's intentions, much of it probably from the moderate Radicals themselves, that Commissioner Rowan was able to deploy his forces in such a way that people were prevented from "assembling in strength at or anywhere near the arranged meeting place." As a result there was no rioting.(4)

The rise of Chartism during the 1840s gave the police plenty of opportunities to perfect their early attempts to maintain public order and there were a number of examples of where a strategy of preventative

deployment was adopted in order to prevent disorder. In London, for instance, in an effort to rekindle their flagging cause, Chartist leaders planned to sack and loot the City of London, under cover of darkness, on 16th January 1840. This would be a signal for other groups of Chartists to rise up in towns and cities throughout the country. However, a meeting of Chartist leaders, which was supposed to be secret and at which plans were to be finalised, two days before the intended day of action, was brought to an abrupt conclusion when a hundred policemen "acting on the principle of preventing disorder by preventing the instigation and formation of riotous mobs"(5), quietly surrounded the hall and arrested them all.

The outstanding lesson the police learned during those early years was that the wisest use of manpower was always to prevent violence from breaking out, rather than to suppress it after it had done so. This remains so today but the methods used are sometimes controversial. Such was the case in 1984 during the miners' strike when, in an attempt to prevent serious disorder at pits where miners were still working, particularly in Nottinghamshire, the police adopted a method which became known as the intercept policy.

The aim of the policy was to prevent secondary picketing and consisted of the setting up of police roadblocks, both on the motorway accesses into Nottinghamshire and on all crossroads and juctions in the vicinity of working pits. Police officers were instructed to use their powers under the Road Traffic Act to stop vehicles carrying people who might be striking miners or their supporters. By statute law, the police only have the right to ascertain the identity and address of the driver and the owner of the vehicle, and demand the production of certain documents relating to the vehicle, but the officers were also in possession of a list of questions designed to discover the driver's destination and the reasons for going to that destination. If the officer believed that the occupants of the vehicle were striking miners or their supporters who were going to demonstrate outside a pit other than the one at which they normally worked, the driver was instructed to turn around and leave the area or face arrest for obstructing the officer in the execution of his duty. The extent to

which the police relied upon the intercept policy can be guaged from an affidavit given by Chief Inspector Shepherd to a court approximately six months into the dispute. In the period March to September, it was estimated that the police had prevented over 290,000 miners and their supporters from reaching pits in Nottinghamshire alone.(6)

Considerable controversy surrounded the intecept policy. Opponents of the scheme claimed that the evidence to support an apprehended breach of the peace and its connection with those being stopped "was frequently very vague", the police relying upon "their general experience in the present and other industrial disputes and what police officers had seen on the television."(7) Adeney and Lloyd suggest that "casual passers-by and many middle of the road politicians were shocked and alarmed by the virtual isolation of the Nottingham coal fields."(8) Wilsher, in describing how "for days at a time parts of Nottinghamshire became a virtual no-go area", suggests that "some of the legal powers claimed by the police ... generated disquiet."(9) Not all police forces apparently agreed with the intercept policy; in both Derbyshire and South Yorkshire conscious decisions were made not to use it.

The police relied for the legality of this policy on their common law powers to prevent breaches of the peace. When the first case to challenge this power came before the Divisional Court, the Court accepted the legality of the intercept policy, even though the risk of a breach of the peace was at an unspecified pit in Nottinghamshire and not at the place where the arrest took place.(10)

Having received the support of the courts for such a policy, the police used it on two further occasions during 1985, firstly in responding to marches by the campaign for Nuclear Disarmanent on a cruise missile base at Molesorthy in Cambridgeshire,(11) and later when people threatened to break injunctions forbidding them from moving onto Stonehenge for a festival during the summer solstice.(12)

Bans as a means of prevention

Another method of attempting to prevent disorder, often used since 1829, has been the banning of the event likely to lead to the disorder although it has to be said that, in general, there has been a marked reluctance by the police to seek to suppress public meetings and processions. In the 19th century the decision to ban a particular event was often taken by the Home Secretary, either against the advice of or without the knowledge of the police.(13)

The legality of many of these bans was in doubt. However, the 1936 Public Order Act gave police chiefs the power to seek to ban processions from taking place for periods up to 3 months, in any area in which it was believed disorder was likely to occur as a result of a procession.(14) In this context police powers are wide. Firstly, the chief officer only has to have 'reasonable grounds' for believing serious public disorder will occur; secondly, it does not matter who might cause the disorder. In the case of all police forces outside London, the chief constable seeks the approval of the district or borough council, who, if they intend to grant the order, must first, in turn seek the approval of the Home Secretary.

The law does not require there to be any contact between the chief constable and the Home Secretary. In practice, however, chief constables are advised to inform the Home Secretary when any forthcoming march may give rise to disorder, whether or not they intend to seek a ban. However, if he does intend to seek a ban, he is advised to supply the Home Office with details of the ban and its likely effect before he approaches the county council.(15)

In the case of the City and Metropolitan Districts of London, the respective Commissioners may, with the consent of the Home Secretary, make the order themselves.

A reluctance to ban marches and demonstrations

Although the passing of the 1936 Public Order Act led to a succession of bans, particularly in areas where the British Union of Fascists were active, there was a lengthy period, between 1950 and 1980, during which, for a variety of reasons, chief officers were reluctant to use the powers given to them by the Act. Describing in his book how, after 1952, a tradition of not banning marches and demonstrations developed, Sir David McNee, who was Commissioner of the Metropolitan Police from 1977 to 1982, suggested that "lawful demonstration is part of the liberty of the nation and a ban is a denial of that liberty."(16) Earlier, the previous Commissioner, Sir Robert Mark, suggested that the Metropolitan Police -

> "have always been disinclined to seek approval of the Secretary of State for an Order prohibiting political processions for a specified period on the grounds that this encourages extremist minority groups to threaten violence with the object of achieving the suppression of opposition opinion."

He continued -

> "we believe that attempts by coercion or force to suppress free speech are not only wrong but unlawful and that behaviour of that kind must be resisted no matter what the inconveneince or cost. To give way to such threats is not just to defer to mob rule but to encourage it."(17)

Great pressure was put on Sir David McNee in August 1977 by local politicians and churchmen to ask the Home Secretary to approve the banning of a National Front march through Lewisham, particularly after it became known that a number of groups intended to oppose the march. McNee refused and there was serious disorder. In answer to the widespread criticism of both himself and the Home Secretary in not banning the march, McNee said -

> "I am not concerned with the politics of demonstrations - if extreme opponents of one faction, threaten violence to seek a ban, the other side will use the same technique, and in the event the democratic process will become eroded."(18)

In his autobiography, McNee later expanded on his views, claiming that "a ban would not have prevented disorder" at Lewisham. He explained -

> "against people determined to ignore it, a ban creates only additional problems of enforcement. A public meeting, without a march, would have been sufficient excuse for violent opposition, as illustrated by what happened at Southall. Moreover, the National Front had informed my officers that if a ban was imposed, they would march outside the area of the ban or hold a meeting. A ban might therefore have relieved the Borough of Lewisham but it would have left the Metropolitan Police - or perhaps some other force - less well prepared to deal with the inevitable disorder. (19)

However, at the beginning of 1978, when a National Front candidate seeking election in East London, proposed to hold a march through an area where a substantial section of the population was Jewish and Asian, McNee, with the approval of the Home Secretary, imposed a ban on all public processions other than those of a religious, educational, festive or ceremonial character customarily held within the Metropolitan Police District, for two months. In its place, the National Front arranged to hold an election meeting in Ilford High School, reulting in the deployment of nearly 6,000 police officers in a series of preventative cordons to keep the anti-fascists away.

A change of policy

In January 1981, thirteen young black people died in a fire in Deptford. The black community believed that the fire had been started by white extremists, and, on 2nd March, thousands marched from South London to Hyde Park, via Fleet Street, to protest, amongst other things, about the police handling of the investigation. There was some disorder on the march and a number of shops were damaged and looted. Three days later, in response to a request from the National Front to be allowed to march through Lewisham, the Commissioner sought and was granted a ban on marches in London for one month. This was followed by a series of bans, in Leicester, Wolverhampton, Leeds, Barnsley, Doncaster, Rotherham and

Sheffield, for various periods between seven days and one month, as the National Front searched for an area in which to hold a march.

Two weeks after serious rioting in Brixton, in April, the Commissioners sought and was granted a further ban on marches in London because of a planned National Front march, this time through Ealing. As usual procesions of a religious, educational, festive or ceremonial character normally held in London, were to be exempt, but, on this occasion, the National Council for Civil Liberties, acting on behalf of the Campaign for Nuclear Disarmament, argued in the High Court, unsuccessfully as it turned out, that the Commissioner was 'ultra vires' in ordering a blanket ban on marches because it affected many marches imposing no threat to serious public disorder. Less than a week later, the National Executive Committee of the Labour Party met the Home Secretary to express their reservations about blanket bans on marches.

As the National Front continued their efforts to find an area in which to hold a march and further disorder occurred in the inner-cities in July and August, more bans were imposed around the country. Altogether, in 1981, the total number of bans approved under the Public Order Act was 42. Although the number was reduced quite dramatically in the following years - 13 in 1982; 9 in 1983; 11 in 1984; and 6 in 1985(20) - there was, quite obviously a massive change of mind amongst senior police officers between 1977, when McNee refused to seek a ban at Lewisham, and 1981.

The police dilemma

The dilemma senior officers face was described by John Woodcock, the Chief Constable of South Wales, when he pointed out that "Great Britain prides itself on its freedom to speak, march and demonstrate and this freedom is regarded as the fundamental basis of our democracy." In our desire for freedom, however, there is "a constant danger of one person's ideas of this impinging on another's liberty."(21) In many cases, one of the more fundamental liberties enjoyed in a democratic society may be curbed. For instance, in introducing preventative measures, such as a ban, the police may well be placing restrictions on the right to free

speech, the right to go where one wants to and the right to mix with who one chooses, providing the criminal law is not broken in any of these cases. In a Home Office Circular issued to all Chief Officers of Police in England and Wales in 1981, which set out the procedures to be followed in applying for a ban, it was stated that "a ban on marches is a serious curtailment of liberties."(22) The Circular went on to state -

> "The Home Secretary is concerned that such restrictions should be kept to the minimum necessary to prevent serious public disorder. Though the terms of a ban will depend upon local circumstances and the chief constable's professional judgment, recent experience suggests that a ban covering say, two weekends will often be sufficient to defuse a tense situation. Certainly orders should be restricted geographically and temporally so as to go no further than what is absolutely necessary in the interest of maintaining order.(23)

But, as Sir Robert Mark pointed out in a lecture to students at The Police Staff College in 1975, "no useful purpose is achieved by prohibitions or regulations incapable of enforcement." He went on -

> "demonstrators who can rely on massive support, such as the Committee of 100 in the 1960s, are unlikely to be deterred by such restrictions, and political extremists are likely to welcome them. For both, disregard or defiance is sure to achieve maximum publicity at very little cost."(24)

Gregory sums up the dilemma that exists about seeking to ban processions. In answering the question as to what extent the ability to protest should be protected, both as a form of right and as a matter of fact, he says -

> "A right to protest is of little use without the opportunity to exercise it. However, there still remains the issue of how much risk to life and limb it is reasonable to ask of a policeman so that some citizens may protest."

He concludes, "In a democracy with a common law tradition it has to be admitted that no finite answer to these issues is possible."(25) It seems, therefore, that the only answer is to leave it as it is. Each

occasion has to be judged by the individual chief officer on the cirumctances that prevail at the time.

Other preventative legislation

Much of the legislation in relation to public order is designed to prevent rather than respond to disorder. For instance, people are prohibited from carrying offensive weapons which could be used offensively,(26) wearing anything that could be construed as a uniform(27), and from organizing, training or equiping members of an association to use or display physical force with the intention of usurping the role of the police or armed forces, or to promote any politcal objective.(28) The chief officer of police may also impose conditions on the persons organising or taking part in a procession(29) or a public assembly(30) if he considers they are necessary to prevent disorder, damage, disruption or intimidation. Such conditions must be given in writing. But, in addition, if the senior officer at the scene of a procession or assembly has the same fears, he may impose conditions at the time, for the same reasons. In such cases, the conditions may be imposed orally.

Conclusion

In his book, A Short History of the British Police, Reith suggests that the test of police efficiency is "the absence of crime and disorder, and not the visible evidence of police action in dealing with them."(31) Clutterbuck puts it a different way. The sad truth, he says, is -

> "that disorder is ... an example of failure. Ex post facto measures to deal with disorder are nothing more than putting water on a fire which has already begun. The trick is to prevent the fire in the first place."(32)

Over the years various preventative methods have been developed and refined. In many cases, suggests Williams, "the police and other authorities deliberately choose prevention as the most effective and the least controversial means of handling the delicate problems raised so often by public meetings, gatherings, processions and assemblies."(33) Typical

methods used to prevent disorder during the early years included the setting up of sterile areas or taking the ground before people arrived for the meeting. Certainly, since it was first done by Macready in South Wales, (34) the police have controlled the number of pickets during industrial disputes and, since 1936, the police have been able to seek to ban a march and/or give directions to those taking part.

Nevertheless, despite the growth of preventative legislation, and the development by the police of various preventative strategies, there have been a number of occasions when serious disorder has occurred. On some occasions this has been because the preventative options have not been sensibly applied; on other occasions disorder was inevitable given the circumstances that existed at the time.

THE PRINCIPLE OF MINIMUM FORCE

Introduction

The use of minimum force has been one of the general principles of policing for over two centuries. Indeed, Critchley describes it as perhaps the most important principle of all, suggesting that it emerged "at latest during the 18th century and it was probably much earlier". (35) Certainly, Rowan and Main emphasised it from the outset, suggesting, in their first instruction to the newly formed Metropolitan Police, that if tact and good humour was used "the public can normally be induced to comply with directions and thus the necessity for using force, with its possible disapproval, is avoided." (36) According to Thursgood-Smith, attempts were made to improve the techniques of the Metropolitan Police in controlling disorderly crowds "by minimising the use of force and by adding some degree of science to crowd psychology". (37)

The Nineteenth Century

The principle of minimum force is particularly relevant when responding to serious public disorder. During the early years, the police faced considerable hostility, particularly from "politically motivated

mobs" who "sought to discredit the police."(38) But Pike suggests that "false allegations of brutality and contrived confrontations" during those early days, "failed to provoke a reaction from the new police and the value of good discipline was much in evidence."(39) Some would no doubt say that nothing has changed - that the situation remains the same today.

Virtually every outbreak of serious public disorder has been accompanied by accusations that the police resorted to a level of violence which went beyond the concept of minimum force. In his evidence to the committee of inquiry which sat after the Cold Bath Fields riot of 1833, Colonel Rowan said that he had "addressed the men" before they had been deployed, telling them that "in executing their orders" they were "to be firm and temperate, to strike nobody, to hurt nobody, unless they were resisted".(40) However, in his concluding remarks to the committee, Rowan said -

> "The Commissioners are not prepared to affirm that every blow given by the truncheons of policemen was duly proportionate to the degree of provocation or resistance made by the party struck; and if unnecessary violence can be proved to have been used on the occasion, none would regret it more than the Commissioners."(41)

In response, the committee found that the conduct of the police in dispersing the meeting "was not attended with greater violence than was occasioned by the resistance they met with". However, in clearing the area surrounding the meeting place, some police officers had followed -

> "persons to a greater distance than was necessary, and that under these circumstances they were not subjected to that efficient control which, in a moment of excitement and irritation, and after much provocation, could alone prevent individual instances of undue exercise of power."(42)

There was, however, widespread condemnation of the police after a crowd had been dispersed in Hyde Park on 1st July 1855. One newspaper suggested that the police had committed "savage and unnecessary assaults ... upon an unoffending people";(43) another that "many of the Queen's subjects were most brutally handled by the police.(44) A letter to The

Times on 3rd July protested against "the outrageous brutality displayed by the police force" accusing them of making "periodicical onslaughts among the crowd, striking indiscrimminately with their truncheons all who happened to be in their way" whilst another likened the police unto "a group of armed highwaymen."(45)

Meanwhile, in Parliament, despite claims by the Home Secretary that the police had merely cleared the road after it had been obstructed, the allegations continued and one member suggested that the conduct of the Metropolitan Police had been "illegal and ferocious". Eventually the Home Secretary agreed that there would be a "full and searching inquiry" into the conduct of the police.(46)

The order to clear the road had come from the officer in charge on the ground, Superintendent Hughes, who had instructed his men "to use their staves to clear the carriageway road"(47) after some members of the upper classes had been prevented from taking their customary Sunday afternoon drive in the Park. However, the Inquiry found that "in endeavouring to discharge a difficult and embarrasing duty he gave too much sanction to the use of staves and exercised less control over his men than a due regard for safety of unoffending individuals required."(48) Subsequently, in a letter from the Home Secretary, the Metropolitan Police Commissioner was informed that it was with great regret that he found -

> "the result of the inquiry has been to establish, in the opinion of the Commissioners, charges of serious misconduct on the part of some members of the force, while they report that ample testimony was borne to the moderation and forebearance of the other members of the body on the same occasion."(49)

Despite such occasions, Critchley points out that during the first sixty years after the formation of the modern police service, "had there not been an overwhelming majority of restrained demonstrators on the one hand and an overwhelming majority of tolerant policemen on the other, it is beyond doubt that rioting would have been very much more severe."(50)

Whilst this remains true today, the number of occasions on which such allegations are made appear, if anything, to have increased, partly, no doubt, because of the publicity that surrounds them. Williams suggests "there were many allegations of ill-treatment in the early days of militancy."(51) For instance, in 1910, Lord Robert Cecil claimed, in the House of Lords, that at a meeting of suffragettes "a number of women engaged in a perfectly peaceful demonstration were very roughly handled indeed, to put it mildly, by those whose duty it was to keep order."(52) Similarly, during the industrial unrest immediately prior to and after the First World War, there were many allegations that the police used excessive force in keeping order. Indeed, Bowes describes the period between the two World Wars as one which was particularly significant for "the brutalities of the police", particularly on the "impoverished and unemployed."(53) There is space to mention only a few examples at this point.

On 11th June 1911, "there was much violence ... when the police dispersed a crowd of 3,000 people" in Rotherhithe "who were trying to prevent vans leaving the docks".(54) According to Morgan, the violence "on the part of the police far exceeded that of the crowd"(55) and the Home Secretary agreed to an inquiry, appointing Chester Jones, a metropolitan magistrate to conduct it. Jones found that the police action in clearing the large crowd was broadly justified because of the size and threatening character of the mass of people involved but "in the subsequent pursuit some members of the Police Force ... were guilty of excesses, and some persons have undoubtedly a right to complain of the treatment they received."(56)

The behaviour of the police during the General Strike is invariably described as one of restraint and moderation and there is no doubt, that in many parts of the country, the relationship between police and strikers was good. But there were outbreaks of violence and allegations of over-reaction by the police. In London, on 4th May, for instance, there were "fierce street battles" during which "the constables rained blows on the

rioters with their clubs and numerous disturbers of the peace were in bad shape when, with the aid of re-inforcements, the police finally cleared the streets."(57) Eight days later, the police in East London acted out of vengence, according to Bowes, when, with batons drawn, they twice charged a peaceful meeting of dockers outside Poplar Town Hall, leaving thirty-five men to be treated, mainly for head injuries, at a local hospital. When a local Roman Catholic priest, Father Jack Groser, approached the police and attempted to explain that the meeting was peaceful, he too was struck down. The same night a squad of police officers entered what had been the strike headquarters of the Poplar Branch of the National Union of Railwaymen, "batoned those present, including the railwayman mayor of the borough, then departed without explanation."(58)

There were many instances, too, when the police were alleged to have used excessive force against groups of anti-fascists, protesting against the the British Union of Fascists during the 1930s. For instance, Williams describes how "there was bitter reactions to the manner in which the police allegedly dispersed an Anti-Fascist gathering at Thurloe Square in March 1936".(59) Mention has already been made in Chapter 5 as to how the meeting was dispersed by both mounted and foot officers, with batons drawn. Despite requests in the House of Commons for a public inquiry into the incident, none was forthcoming and a Commission of Inquiry was therefore appointed by the National Council for Civil Liberties. Amongst other things, the Inquiry found that the crowd had offered no resistance to the police and that the baton charge had been "carried out with a totally unnecessary degree of brutality and violence".(60) The police did not respond publicly to the publication of the report.

The period during and immediately following World War II was one of relative peace and tranquility in both industrial and political terms, so there were few clashes between the police and public. Nevertheless, there were accusations that the police used excessive force in handling a mass sit-down demonstration, organised by the Committee of 100(61) in Trafalgar Square, in September 1961(62), at a demonstration near the American Embassy in October 1962 during the Cuban missile crisis,(63) in mid-1963, during a series of demonstrations organised to oppose a visit by the King and Queen

of Greece,(64) and, finally, during anti-American demonstrations held in 1968, protesting about American involvement in Vietnam.(65)

Since 1970

During the last twenty years, there have been a number of inquiries, both official and unofficial, in response to serious public disorder during which the question of excessive force has been examined. In the first of these, instigated by the Home Secretary after a protester died during a demonstration in Red Lion Square in 1974, the criticisms of police action on the day, including that of excessive force. In his report, Lord Scarman described the allegation that more force was used than was necessary in despersing the demonstrators, as "the most serious charge against the police"(66) and he said "nothing justifies the excessive use of force."(67) However, given the level of violence used by the crowd in their initial assault on police lines, he states that it was not surprising "that some officers did draw and use their truncheons or that there were some forceful arrests in the course of the disorders".(68) In his findings, Scarman suggested that whilst he did not "exclude the possibility of one or two incidents of misuse of truncheons", he rejected "any suggestion of general misuse."(69)

Whilst the unofficial inquiry into the events at Southall on 23rd April 1979, deplored the violence by demonstrators "which resulted in injuries to 97 police officers", a number of allegations, arising from three separate incidents, were made against the police. Firstly, the Inquiry found that the dispersal of the crowd by the police in Uxbridge Road at about 6.20 p.m., after a section of the crowd had made a deliberate attempt to break through the cordons of foot officers, involved "excessive and unnecessary violence."(70) Secondly, the attack on people in No. 6 Park View Road and the wanton destruction of the contents of the house by police officers, was unlawful. Thirdly, despite the throwing of missiles by a section of the crowd in Northcote Avenue, which resulted in one officer suffering a broken jaw when he was hit by a brick, the Inquiry felt it did not "justify the violence with which the police dispersed the crowd down Beechcroft Avenue, in the course of which a number of people were

injured, Blair Peach fatally."(71) The report went on to say that the most disturbing aspect of the injuries to demonstrators was "the large number of head injuries" and suggested that on occasions, the evidence showed "that police officers used their truncheons, not for self-protection but as instruments of arbitrary, violent and unlawful punishment."(72)

In another official inquiry, Scarman rejected the allegation that the police, in general, over-reacted in their handling of the Brixton disorders in 1981, but he had "little doubt from the weight of evidence that there were certain instances in which police officers over-reacted during the disorders, behaved aggressively and used excessive force."(73)

There were widespread allegations of police violence during the year-long miners' strike. Fine went so far as to claim that the scale of police violence suggested it was "not the wrong doing of a few 'bad apples' but the sanctioning from above of a wider definition of 'reasonable force'."(74) However, this view was partly refuted by McCabe and Wallington who claimed merely that "some individual police officers" used "unnecessary and indeed gratuitous violence."(75)

The most widely publicised event during the strike was the so-called Battle for Orgreave on 18th June 1984. The police were victorious in that the miners failed to shut the Coking Plant but were strongly criticised in relation to the use of truncheons by both mounted officers and short-shield units. In one particular incident widely shown on television, a police constable was seen striking a minor repeatedly with his truncheon whilst the latter lay on the ground. This one incident, said the Chief Constable of South Yorkshire, Peter Wright -

> "very nearly lost us Orgreave in the eyes of the public. It gives credibility to all the other statements of police misbehaviour which were rife."(76)

Adeney and Lloyd stated that "many senior police officers who watched what happened on television" took the view that "truncheons were used far too liberally."(77)

On at least three occasions, the Police Complaints Authority have found that excessive force has been used when the police have faced hostile crowds. Firstly, the Authority reported that, in March 1985, "errors of judgment by two senior police officers and the excessive use of force by their subordinates enabled demonstrators to turn a visit to Manchester University by the then Home Secretary, Leon Brittan, into a violent and unnecessary confrontation."(78) Secondly, after an investigation into the actions of the police in preventing hundreds of people from reaching Stonehenge, in June 1985, the Authority announced that "in the act of making arrests some officers clearly used excessive force."(79) Thirdly, after a particulary violent night outside the News International Plant in Wapping, in January 1987, the Authority announced that, whilst they accepted that police officers were faced with extreme provocation and most had acted in a displined and professional manner, "there was clearly indiscriminate use of truncheons on the part of some of these officers."(80) Indeed, in this last case, a total of 26 officers were charged with various offences, including assault and perjury but for various legal reasons, none actually stood trial.

What is reasonable force?

Under common law, the law enforcement agencies in this country have always been permitted to use force in order to undertake their lawful duties. Such force could only be justified, however, if people resisted or attempted to prevent those agencies from achieving what they were legally entitled to do. Since 1967, in responding to serious public disorder, the police are required to act within Section 3(1) of the Criminal Law Act, 1967, which permits a person to use -

> "such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders and of persons unlawfully at large."

But what is reasonable force and when does reasonable force become unreasonable? The problem in answering this question is that there is no legal definition of 'reasonable force'. Indeed, Evelegh goes so far as to

suggest that "the meaning of 'reasonable in the cirumstances' on any particular occasion is so imprecise that it does not provide a realistic guide to what action the Security Forces are authorised to take."(81) The main problem for police officers, suggests Evelegh, is "to know not what is 'reasonable' to himself, but what will be 'reasonable' to the courts and to public opinion, for it is they who will be the judges of his actions."(82) Pike suggests that "the boundaries between the application of lawful force and unlawful force are invariably blurred" and "attempts to provide satisfactory criteria to meet every situation have proved largely futile".(83) Waddington suggests that the 1714 Riot Act "conferred legality" on the "indiscriminate use of force by transforming all those present at a riot into felons against whom fatal force could be used." Since its repeal in 1967, however, "there has been no ambigous power to use force for the dispersal of a riotous crowd".(84)

Conclusion

Evelagh suggests that "the doctrine of 'reasonable force' is the answer to the rioter's prayer."(85) In practical terms this may well be the case but in a civilised society there is no alternative. The object is to restore order and secure its acceptance without an aftermath of bitterness and there is a general recognition that, whilst drastic measures, either to restore order or in the nature of reprisals, might prove effective in the short time, they could awaken sympathy for rioters within a community and, in the long run, militate against the restoration of normality.

By adopting the principle of minimum force, the police have suceeded in maintaining order in a manner which has, by and large, attracted public support. Pike suggests the principle of minimum force -

> "is highly valued and is at the core of the relationship between the police and the public. The restraint shown by police officers in many situations is evidence of the principle in practice."(86)

But, there is no doubt that some officers have, on occasions, used unreasonable force. Every inquiry ordered by the Home Secretary since 1833 and, more latterly, each investigation under the supervision of the Police Complaints Authority have found this to be the case. So, says Waddington, "it is futile to deny that police officers 'loose their cool' and commit individual acts of brutality." But, he suggests, instead of "trying to identify and prosecute those individual officers" there should be a fundamental re-examination of "some of the public order tactics which have been inherited from a previous generation." In particular, he says, there should be a review of "the tactics of baton and mounted charges as the principal means of forcible dispersal."(87)

The police must be able to respond to changing and, if the evidence of the last ten years is anything to go by, increasingly violent confrontations. Nicholas suggests that "common sense dictates that an attack or the real threat of an attack" which might result in serious injury or death "can only be overcome by the use of force of a greater degree." The law, says Nicholas, "reflects and supports this proposition."(88) On the other hand, the police cannot afford to over-react to disorder. If they are to maintain public confidence and continue to police society with the support of the majority of the poeple, they must adhere firmly to the principle of minimum force and "must concentrate on deploying that minimum force with maximum effectiveness".(89) At the same time, in the application of this principle, it must be recognised that, in the noise and confusion of a riot, it is difficult to measure precisely the level of force required in any particular circumstances.

THE PRINCIPLE OF CONSENT AND BALANCE

Introduction

Whilst consent and balance has long been recognised as one of the primary principles of policing, even though it has not always been followed or, indeed, expressed as such, it is only comparatively recently that it has been associated more specifically with public order policing. Identified by Lord Scarman in his report on the Brixton Riots of April

1981, it applies equally to the policing of industrial disputes, political demonstrations and, indeed, any event likely to give rise to serious public disorder.

Stead points out that "in a Liberal Democratic country the government does not have at its disposal sufficient force to coerce its citizens into accepting laws and policies that a minority of them actively oppose."(90) The population of Great Britain is about 60 million. The total number of police officers to police this population is about 140,000. It follows that if the generally unarmed police are to carry out their duties effectively, without the aid of the military or any third force, they need to have the broad consent of the communities in which they operate.

In 1829, Sir Richard Mayne set out the three main functions of the police. They were the prevention of crime, the protection of life and property and the preservation of public tranquility, in that order. Over one hundred and fifty years later, Lord Scarman said that it was necessary to strike "an acceptable balance between the three elements of their function."(91) But what is an acceptable balance? It has already been argued, in an earlier chapter, that the primary function of the police is the preservation of the Queen's peace. Thus, says, Scarman, the police officer's first duty is to co-operate with others in maintaining the normal state of society.(92)

The Early Years

The first Commissioners quickly recognised that if the police were to be effective in the discharge of their duties, they must first of all win "the approval, goodwill and respect of the public".(93) Instructions were therefore given that all officers must -

> "cultivate good relations with the public by combining modesty and firmness, and dignity of manner and address, with good-humour and kindly friendliness, and by showing infinite patience under provocation."

In order to achieve these good relations they were told -

> "to behave in a manner that would induce the public to regard them as friends and servants, and to see that the exercise of their authority as policemen was neither bullying nor tyrannical, but simply and solely a service to the public."(94)

Insofar as public order is concerned, Critchley suggests that "from the start, when they were first practising non-violent methods of crowd control against the Reform Bill demonstrators and the Chartists, the police have been wholly dependant for their success on the continuing approval and goodwill of the public." When violence did break out, as it clearly did in Hyde Park in 1855, he claims "it was often due to misunderstanding, intransigence, or over-reaction by the police or military."(95)

However, consent and balance was not something that was easily achieved during industrial disputes in the nineteenth century; indeed many would say, in the light of the Grunwick dispute in 1978, the miners' strike in 1984/85 and the disorders in Wapping during 1986/87, that the police are still unable to achieve it to any satisfactory degree. One reason for this may be because throughout the nineteenth century the police were used, both by government and employers, "against the struggle of working men's unions and political rights" in such a way that it "left a legacy of suspicion" against the police service "that is far from extinct".(96) Throughout this period, local magistrates had a dominent role, deciding if and when to call the military, where they would be deployed once they arrived, when the riot act should be read, and if troops should open fire. The local police chiefs, and even the Home Secretary, were subservient to the role of the magistrates, many of whom owned the very businesses involved in the dispute.

Inner-city riots

But it was the inner-city riots during 1980 and 1981 that brought the question of policing by consent to a head. At the time there were areas within a number of Britain's major towns and cities where the police did not have the support of the community. Whilst the reasons for this were

many and varied,(97) it was the actions of the police in almost every case which led directly to the outbreaks of violence. And this occurred for one very good reason. The prevention and detection of crime had taken precidence over maintaining the Queen's Peace. The role of Operation Swamp in triggering the riots in Brixton in April 1981 has already been mentioned. In attempting to put it into perspective, BBC reporter, John Clare, suggested that "in strictly crime prevention terms, and if you divorce the police from the rest of society, the operation made a great deal of sense". But, he added, "that's the real problem; you can't police society as if nothing else mattered."(98)

In his report into the Brixton riots in 1981, Scarman suggested that "the conflict which can arise between the duty of the police to maintain order and their duty to enforce the law, and the priority which must be given to the former, have long been recognised by the police themselves, though they are factors to which commentators on policing have in the past paid too little attention."(99) In commenting thus, Scarman gave the police more credit than they perhaps deserved for, despite the views expressed by senior officers, in the vast majority of cases, the prevention and detection of crime was paramount up until that time.

Certainly there was a continuous debate during the 1970s and the early 1980s, between the so-called 'hard-liners' who believed that the most important function of the police was to enforce the law and the 'soft-liners' who believed that the way to reduce tension, particularly in the inner-cities, was to pursue a policy of community-based policing.(100)

Senior officers are constantly at pains to point out that there is no conflict of interest between effective law enforcement, which ensures that the credibility of the police is maintained and public tranquility preserved, and a system of policing by whatever name it is known, which is designed to maintain, renew and strengthen that tradition of policing with public support. Indeed, in the document 'Policing policy and serious public disorder', issued by the Metropolitan Police in 1986, it was suggested that effective law enforcement was a central part of community policing.(101) But many junior officers, and it is they who are

constantly in a face-to-face situation with the public, see community policing as "a hot air exercise",(102) which prevents them from arresting people seen committing criminal offences and, ultimately leads to the development of 'no-go areas'.

However, shortly before he retired as Chief Constable of Devon and Cornwall in 1982, John Alderson stated that community-based policing was no soft option, emphasising that it did not prevent "the application of force, where that is essential." He went on to say -

> "Through mutual consultation, and the forging of understanding and respect, many communities provide the firm foundation upon which police action can be made more effective."(103)

He pointed out that research had demonstrated that the successful detection of crime could not be achieved in any other way, a point emphasised by Sir Kenneth Newman, then the Metropolitan Police Commissioner, in the James Smart Lecture in 1984. Newman stated that policing with the consent of the public is an operational necessity because "more than 70 per cent of arrests are directly attributable to information or action initiated by the public."(104)

Policing by Consent

In that same lecture, Newman spelt out his views on policing by consent, particularly at the political level. By choosing to live in any given society, he claims citizens form -

> "a notional contract to surrender a portion of their freedom, to assign their own right to make decisions in certain prescribed matters and allow others to take them on their behalf, provided those to whom power has been granted use their powers within the limit of the contract. While those in authority keep within the prescribed limits, those who have given the permission are under an obligation to obey."(105)

The contract functions properly, suggests Newman, when "there is first government by consent and secondly, a high level of acceptance of the

citizen's moral obligation to the law".(106) Under this contract, civil disobience might be justified "if a tyrannical government" rode "roughshod over fundamental constitutional conventions." However, it "cannot be justified ... when the essential features of government by consent," such as regular elections, an independent judiciary, "are still intact."(107)

But Newman points out that there is an anomaly in the expression 'policing by consent' because "by definition, within the context of a society of consent the police exist in part to apply authorised coercion when willing compliance is not forthcoming."(108) It follows that there must be ways of inducing people to behave in certain ways and to sometimes do things they would prefer not to do.

Newman also points out that -

> "if the government of the day is unsuccessful in gaining either tacit or express approval for its major social and economic objectives, the resultant tensions will have consequences for the police. Equally, if citizens, especially prominent citizens, deny the moral obligation to obey valid law, the police will be affected."(109)

A recent and much publicised example of what Newman is saying was the introduction of the poll tax in England and Wales in 1990, which sparked off demonstrations, some of them quite violent, in many towns and cities throughout the two countries. In this case, many people thought it to be an unfair tax, and the government had quite clearly failed to gain the approval for its introduction from a fairly substantial section of society. At the same time, the passing of the legislation introducing it was valid.

If the role of the police is one of coercion when people fail to comply volutarily to valid legislation, how can the police be said to police with the consent of the community in which they operate? Quite simply, according to Newman -

> "even when the police are applying coercion, they are policing by consent provided they are acting within laws, and accompanying constraints, duly passed by Parliament or established by common law."(110)

Turning to the realities of policing by consent, Newman suggests that an unco-operative public "can make the work of the police extremely difficult and very likely impossible." Suggesting that if ever such a situation became a characteristic of British society, the country "would be in a profound social crisis facing the stark alternative of anarchy or the use of official force on a scale which would alter the character" of Great Britain. (111)

Police discretion

It follows therefore, that the co-operation of the public is the foundation of an effective police system. But co-operation is unlikely to be gained by the rigid enforcement of laws. If every policeman enforced every law precisely as Parliament intended, life would be intolerable. Therefore police officers must exercise a degree of common-sense and flexibility in enforcing the law and it is this aspect of law enforcement which is commonly known as police discretion.

Whilst accepting that there is one law for everybody, Scarman suggests that "successful policing depends on the exercise of discretion in how the law is enforced." Pointing out that "the good reputation of the police as a force depends upon the skill and judgement which policemen display in the particular circumstances of the cases and incidents which they are required to handle" he suggests that "discretion is the art of suiting action to particular circumstances." (112) Alderson points out that in areas where social conditions are good, the "insensitive use of the police will result in complaints through formal channels provided for such contingencies" but "where they are bad they will result in riot." It follows, in the context of their main function, keeping the Queen's peace, that it is much more important for the police to be used sensitively where social conditions are bad. (113)

There are, however, dangers in adopting such an approach. If the law is enforced unevenly, many police officers, and indeed, members of the public, will see this as an attack on the concept that everyone is equal

before the law and subject to impartial justice. The Times, in an editorial written in 1983, went further -

> "It would be a grave mistake to meet the undoubted problems of ethnic provocation by a systematic easing up on enforcement in response to hostility.
>
> If such a policy was recognised it would be quickly condemned as unfair, as leading to disrespect of the law, and as a particularly objectionable form of reverse discrimination. It would lead also towards no-go areas."(114)

In an attempt to overcome what was seen as a lack of discussion and contact in many areas, particularly those which were prone to disorder, Scarman recommended the introduction of formal consultative committees. In response, legal provisions, requiring the setting up of community/police consultative committees in all areas, were made by Parliament in order that the both police forces and police authorities would obtain the views of the community on policing(115) and greater emphasis was placed on what is generally known as 'community policing'.

Conclusion

Whitaker claims that "order in a community primarily rests on the self-restraint individuals exercise quite independently of any police force."(116) Many of those who take part in demonstrations, or industrial disputes, or who take to the streets in the inner cities have legitimate grievances about which they hold firm views. But increasingly, there is today, a widespread readiness to question authority, to seek some justification for the policeman's action or instruction beyond the mere fact that he believes it necessary to preserve the peace or prevent crime. The fact that to obey the police officer's instruction may mean that the individual citizen is being asked to abandon his pursuit of a specific goal, whether it be to picket, or to demonstrate, or to protest in some other way, will frequently add to the tension of the situation.

Writing in 1940, Charles Reith claimed that "the basic secret of the success and efficiency of the British police" lay "almost wholly, in the

unique relationship with the public which the police have created and are at constant pains to maintain."(117) The number of occasions during which serious disorder occurred in the 1980s, particularly in the inner-cities and during two lengthy industrial disputes, makes it difficult to recognise the validity of such a statement and yet there have been long periods which have been relatively free from serious disorder since the introduction of the modern police system.

In its submission to the Scarman Inquiry into the Brixton disorders, the Commission for Racial Equality reported -

> "The establishment of good relationships between the police and those active in community organisations will not in itself guarantee confidence between constables and young blacks at street level. The confidence of the community is influenced above all by the experiences of its members and their friends and it is only when the police and others treat every young black and young white as a potential community leader that full mutual respect will be restored."(118)

This statement applies equally to people exercising their democratic right to peacefully demonstrate or to take part in industrial action. The attitudes of the communities in which they reside will often be influenced by the experiences of those people during the demonstration or whilst manning picket lines during an industrial dispute.

Writing in 1970, Critchley warned that -

> "The rapport established for years between a predominently working-class police, organised for the most part in small local units, and the mass of the population, will not necessarily survive the present changes in police organisation (the grouping of forces into larger units, changes in recruitment policies, and growing professional skills) and accompanying changes in the class structure in Britain."(119)

But, as is emphasised in the concluding chapter, the police are by no means masters of their own destiny in building a rapport with the various communities. Writing in The Times well over 25 years ago, Peter Evans pointed out "that public support for the police is at its lowest when the

gap between public and government is widest."(120) It could be argued that both comments, by Critchley and Evans, were prophetic, in the light of the almost unprecedented violence during the 1980s, both in the inner-cities and in industrial disputes. The changes in recruitment, e.g. the demand for higher standards of eduction, means that police forces are moving away from their working-class origins towards becoming, if not middle-class, then certainly lower middle-class. Also the confrontational style of the Conservative Government during this time, not only, it could be argued, towards the under-privileged and the trade unions, but also towards ordinary people through, for instance, the poll tax legislation, led to a number of serious clashes between the police and sections of the public who saw government policies as a threat to their existing standards of living.

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CHAPTER EIGHT

STUDIES OF POLICING SERIOUS PUBLIC DISORDER

AND THEIR ANALYTICAL DEFICIENCIES

Achieving the primary objective - government responsibilities

The primary objective of an efficient police force is the preservation of public tranquility. In this context it is the responsibility of Government to ensure that -

a) the conditions in which serious public disorder occurs cease to exist, insofar as it is possible;

b) the legislation relating to the prevention and control of disorder, or the threat of it, is both appropriate and adequate;

and

c) the police have the necessary equipment and opportunities for training to deal with disorder should it occur.

The police are answerable to both the law and the community. Whilst they are required to exercise independant judgement, they police a community on behalf of that community; and laws, passed in Parliament by members elected by the community, are enforced on behalf of the community. Therefore, the independent judgement of the police must not only operate within the law but must operate with the support of the community.

But in their relationship with the community, the police are not masters of their own fate and there is a need to distinguish between what they can and what they cannot achieve in this respect. In a lecture to students at The Police Staff College in 1978, Lord Scarman, who had, by this time, inquired into civil disturbances in Northern Ireland in 1968, at Red Lion Square in 1974 and at Grunwick in 1977, pointed out that "the lesson which emerged from all three inquiries is that there is a strict limitation upon the range of problems capable of solution by police action."(1) The general climate in which police officers work is created by other organisations, including central and local government. Unemployment, the economic condition of the nation, the effectiveness, or otherwise, of the educational system, international relations, and a host of other things are important factors which affect the area in which police officers are required to work, but over which they have little or no control; and although they can work to eradicate it from their own ranks, the police can do little about the degree of racial prejudice and discrimination that exists in society. The police need to recognise the limitation of their power in shaping public reactions to their activities; at the same time, no matter how good relationships are between the police and the community generally, the public need to recognise that there will always be a section within some communities who, for a variety of reasons, will oppose the police.

Operational independence - myth or reality?

Chief officers of police are constantly at pains to point out that they are operationally independent; indeed, this is the line taken by most writers on the police. Whilst this may be true in relation to normal, everyday police operations, it is far from the case when it comes to maintaining public order. With the exception of the Metropolitan Police, for which the Home Secretary has a direct responsibility, the administrative organisation, e.g. finance, and provision of equipment to individual forces for everyday policing is the responsibility of the local police authority. But, as has been pointed out throughout this paper, the Home Secretary has increasingly played a direct role in the provision of public order equipment. It could also be argued that through the

involvement of his officials on various advisory committees and in the running of the Mutual Aid Co-ordination Centre, and through the distribution of written circulars, he has become involved in the formulation of common minimum standards in public order training and, on occasions, in the operational response to disorder.

There are other pressures on chief officers which detract from their operational independence when dealing with major issues such as serious public disorder. Many have an eye on the future. Either they want to become chief officers of larger forces, or they may wish, eventually, to become one of Her Majesty's Inspectors of Constabulary. In both cases, the approval of the Home Secretary is required, so many will be wary of acting against his wishes. Indeed, in his recent book about chief constables, Reiner claims it was rumoured that at least one chief officer "resigned prematurely" because he felt the Home Office were displeased with his "less than whole-hearted co-operation" with the National Reporting Centre during the miners' strike: consequently, reports Reiner, he felt "that there was no further career prospects for him in the police."(2) And then there is peer-group pressure. For instance, it is either a brave, or foolhardy, chief officer who flies in the face of his colleagues as the Chief Constable of Devon and Cornwall Constabulary, John Alderson, did in the early 1980s over the inner-city disorders. Alderson was critical of the way some forces had failed to adopt a more positive approach to 'community policing' and of the way they had responded to the innder-city disorders. He quickly found himself ostracised by a number of his colleagues, and he, too, resigned prematurely.

Learning from the military

In the introduction to this paper, a number of examples were given of instances where serious public disorder has been compared with military battles; where the damage inflicted on property during a riot has been compared with that caused in war. Ranks of policemen drawn up behind shields are reminiscent of the Roman legions but the regular deployment of mounted officers, often in a manner reminiscent of a cavalry charge and the appearance of conventional firearms amongst the rioters, on the one hand,

and baton guns in the police ranks, on the other - although the latter have not yet been used on mainland Britain - brings the similarities much nearer to the eighteenth and nineteenth century battle. The military have a history going back 2,000 years and beyond; the police have only 160 years of history to draw on. So, it is, perhaps, natural that in improving their effectiveness in dealing with serious public disorder, once it has broken out, the police should draw on the experiences of the military when it is appropriate.

In this paper, the main strategic and tactical considerations involved in responding to actual or threatened disorder have been examined, three of the general principles of policing have been related specifically to preventing or quelling serious disorder, and the importance of communications and intelligence has been stressed. Indeed, the police are heavily dependent on communications and intelligence for the successful handling of serious public disorder just as the military are in times of battle. Therefore, despite Waddington's criticisms(3), it is not, perhaps, surprising that the police have adopted a chain of command which is compared with that of the military in times of battle.

Waddington bases his argument on what he claims is a fundamental difference between a battle and an outbreak of serious public disorder. Because it can be anticipated, he claims that "the fighting of a military battle is something for which preparations can be made and strategy determined," whereas, because "civil disorder can erupt almost anywhere at any-time" the police response is "almost entirely reactive".(4) His claim shows a surprising lack of knowledge of public disorder generally. In the vast majority of cases, disorder can be anticipated, providing the system of intelligence gathering is effective. It has occurred often during pre-planned events, such as at Red Lion Square in 1974, at Southall in 1979, at Stonehenge in 1985, or during industrial disputes, such as at Grunwick, principally in 1977, Warrington in 1983, at Wapping in 1986 and 1987, and there were many examples during the year-long miners' strike, particularly in 1984. In comparison, so-called serious spontaneous disorder, normally associated with the inner cities, is comparatively rare. Of the three serious outbreaks in 1985, only Handsworth could be classed as spontaneous.

Insofar as both Brixton and Tottenham were concerned there could not have been two bigger trigger incidents than the shooting of Mrs Groce, in the case of the former, and the death of Mrs Jarrett, in the case of the latter. Even with spontaneous disorder, although the timing of the disorder cannot necessarily be anticipated, the place invariably can.

But Waddington also claims that it is unwise to adopt a military type command and control system because it will result in sensitive decisions being taken on the ground by the Silver and Bronze commanders, not the Gold commander, who merely sits back and hopes that the strategy he has laid down is correct. In this context, the Gold police commander is no different to his military counterpart in battle. However the chain of command is organised, there will be occasions when junior officers will have to make sensitive decisions on the ground if serious disorder is to be quelled effectively. If the Gold commander becomes embroiled in tactical considerations at ground level, the police will merely be where they were prior to 1986.

Operational considerations

The identified principles cannot be taken in isolation; neither can command and control about which little has been previously written. The Principle of Prevention, and of Consent and Balance are extremely relevant during periods of tension within a community or at an event which has the potential for violent confrontation. Once serious disorder breaks out, the Principle of Minimum Force becomes highly relevant but the operational commander still needs to concern himself with the Principle of Consent and Balance if he is to stand any chance of establishing or re-establishing good relations with the community, as a whole, or with members of a trade union or protest group when peace is restored.

Each of the principles interlinks with one or more of the various stages of strategy, identified for the first time in this paper. The principles, particularly that of Minimum Force, have an influence on tactics. Without efficient command and control, the police are unlikely

to be effective in formulating or implementing appropriate strategies or tactics.

The importance of the human element of command

According to Reiner "public order was the most dramatic and prominent policing issue of the 1980s" and the overwhelming number of chief constables felt that "public disorder had increased in both frequency and seriousness."(5) It is, perhaps, surprising, therefore, that the police, as a whole, appear to have failed to fully recognise the human element of command.

In a presentation made to groups of senior officers attending a series of public order courses at The Police Staff College during the mid-1980s, Christopher Payne, who was then the Chief Constable of the Cleveland Constabulary,(6) consistently claimed that -

> "outbreaks of serious disorder require quick, firm and positive action on the part of the authorities, including the police. Thus the strategies and tactics call for a high measure of pre-planning and preparedness."(7)

The operational commander must watch for, and be aware of, changes in social and material conditions likely to affect public tranquility, and be prepared to respond to any potential or actual disorder within the limits prescribed by the law, by Government and by the community. This preparation falls into five main divisions:

a) a thorough knowledge of the various preventative measures that can be taken;

b) an understanding of the capabilites and use of the equipment approved, and in many cases provided, by Government;

c) the theoretical and practical training of those who are most likely to be in the forefront of any response;

d) the preparation of plans and support systems to respond to threatened or actual disorder;

e) the development of his own skills in this area of police work.

Unfortunately, the last twelve years are littered with outbreaks of disorder where, for one reason or another, this advice has not been followed. Bristol in 1980, Brixton and Liverpool in 1981, Handsworth and Tottenham in 1985 and Trafalgar Square in 1990 are merely the most noteable of a large number. The increasingly violent nature of serious public disorder demands that a police force must meet the events as they unfold according to a well-conceived plan; if the plan is poor it will, in today's climate of violence, become increasingly difficult to rectify mistakes or lost opportunities. Scarman, in 1981, highlighted the lack of preparation in senior officers;(8) so, too, indirectly, did the Dear Report following the 1985 Handsworth riot;(9) so, too, did the report by the Police Complaints' Authority into the Wapping disorder of January 1987, although parts of this report were disputed;(10) and the Metcalfe Report into the 1990 Poll Tax riot in Trafalgar Square.(11) Indeed it can be argued that had operational commanders been more effective during the 1980s, the police would possess less para-military equipment and would not have been so close to using baton rounds.

The key to the success of a police operation to prevent or quell disorder lies with the operational commander in precisely the same way as it does with the military commander in battle. Indeed, once serious disorder has broken out, it can be argued that the police commander, if he is to be effective, must start thinking more like a military commander insofar as the movement of large scale formations and the achievement of identifiable objectives is concerned.

There are, and have always been, some enlightened police officers in command positions who have given thought to the strategic and tactical problems associated with serious public disorder but far too many appear to have little understanding of the problems that are likely to occur; not only in the marshalling, movement and briefing of large-scale formations but in the use of basic tactics and an understanding of the requirement of a cohesive strategy. They do not understand because they have failed to study it. A primary reason for this is the lack of appropriate material from which to study.

It is a fallacy to believe that every senior or middle-ranking police officer will make a good operational or subordinate commander in responding to serious public disorder, in precisely the same way as it is a fallacy to believe that every military officer will make a good commander in battle. In the same way that there are those who have a talent for computer or communication systems, administration, organisational planning (as opposed to operational planning) or criminal investigation, there are some who have a talent for the handling of serious public disorder. (12) During the inner-city riots of 1981, in 1984 during the early days of the miners' strike, and again in 1985 during the second round of inner-city disorders, the identification of those who could and could not command, took place during the actual disorders themselves. It was very much a matter of trial and error, sometimes with quite serious consequences both to the individuals and to the officers deployed under their command.

By their very nature, police officers who have a leaning towards the handling of serious public disorder tend to be strong willed; however, they do need to be flexible. James Anderton, until recently, the Chief Constable of the Greater Manchester Police, in an article written shortly after the 1981 riots, suggested that one of the minimum requirements in dealing with future disorder must be "increased flexibility of action by operational commanders". (13) But they can only be flexible if they are aware of all the strategic and tactical options available to them.

It was said at the beginning of this paper that serious public disorder is a complex activity. Many police commanders find it difficult to respond in a manner which is seen to be both effective and efficient. But the difficulty does not lie in the fact that learning is required to understand the strategic and tactical considerations, or the principles involved; after all, a reasonably intelligent brain can memorise what has been written in this paper. There may be no difficulty in applying these considerations and principles during the planning stage; whilst it is obviously an advantage, it is not a particularly great achievement to draw up a good plan of operations. The difficulty lies in implementing the plan and in applying the considerations and principles to the policing of threatened or actual disorder.

This difficulty can be partly overcome by developing an ability to analyse history and forming conclusions by an objective study of past events. Personal experience of policing serious public disorder is invaluable, primarily because it helps to understand the very real problems that exist. But since the next outbreak of serious disorder is rarely like the last, it is insufficient. In any event, as time passes without serious disorder, the number of police officers who have command experience diminishes. Commissioner Henderson found this to his cost in 1886.(14) It is worthwhile re-iterating, at this point, that none of the senior officers who responded to the serious disorder in Brixton in 1981 were involved in 1985, simply because they had either retired or had moved on to other positions. Therefore the study of past experience is both relevant and necessary.

Some people might query the relevance of knowing about Colonel Rowan's response to the events at Cold Bath Fields in 1833 to the response of Deputy Assistant Commissioner Meynell to the Poll Tax riot in Trafalgar Square in 1990. But the purpose behind such knowledge is clear. It is necessary to discover and learn how the broad principles guided the actions of Rowan, Mayne, Henderson, Warren and others during the nineteenth and early twentieth centuries, but more particularly, the strategies and tactics they used in applying these principles. Because of changing conditions, it was necessary for them to constantly re-appraise their methods of handling serious disorder during this period and this will continue to be the case. The modern operational commander, too, must be ready to meet constantly changing circumstances: if he has knowledge of how the operational commanders of the past re-acted to this requirement, then he has greater experience on which to base his own decisions.

Conclusion

Violence is essentially newsworthy and it is possible for a section of the community, or a group of strikers, or protesters, to achieve publicity which is out of all proportion to the numbers involved or the cause. History has shown that there will always be issues over which people are

either prepared to engage in violent confrontation, or will get drawn into situations in which serious public disorder is inevitable.

Because of the infinite variations in human behaviour, both in the police officers involved in responding to potential or actual serious disorder, and in the community or group, who may cause, or already be involved in, violenct confrontation, the successful policing of such occasions or events is dependent, to a large degree, on the skills of the operational commander. It follows that only those who have acquired those skills are likely to be successful, particularly in the long term.

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6. He was also Chairman of the Public Order Sub-Committee of the Association of Chief Police Officers.

7. Payne, C.F. The Political Dimension: Presentation to the Senior Officers (ACPO) Community Disorder Carousel Course at the Police Staff College on various dates between 1983 and 1985. Unpublished.

8. Scarman, The Rt Hon The Lord. The Brixton Disorders 10-12 April 1981. Cmnd 8427. Her Majesty's Stationary Office, London, 1981, p.29, para.104.

9. Dear stated that the launching of simultaneous movements into the riot area of handsworth in 1985 from side streets "would have split the Police Force to a dangerous extent, caused police action to be fragmentary and would almost certainly have foundered." Dear, Geoffrey J. Handsworth/Lozells - September 1985: Report of the Chief Constable, West Midlands Police, to the Home Secretary. West Midlands Police, undated, p. 64. Dearôs assessment is almost certainly correct but only because operational commanders had not been trained to conduct such manoeuvres.

10. Fully discussed in Chapter 4.

11. Pointing out that "some senior officers felt inhibited by the presence of more senior colleagues", Metcalfe stated that "it is crucial for those involved at the more senior level of command that they know what is required of them and the level of decision-making within their authority." Metropolitan Police. Trafalgar Square Riot Debrief: Saturday 31 March 1990 by Deputy Assistant Commissioner John Metcalfe, QPM, LL.B. Metropolitan Police, 1991, p. 13.

12. The Metropolitan Police Public Order review into the Civil Disturbances 1981-1985 points out that "The skills of a field commander dealing with public order are different from those involved in other aspects of police work.", p.19, para. 8.1.

13. Anderton, James. Normal service will be resumed. In Police, monthly journal of the Police Federation for England and Wales, Vol.XIV, No. 2, October 1981.

14. For details, see Chapter 4.