Themes in Comparative History

Policing and its Context 1750-1870

Clive Emsley

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First published 1983 by
THE MACMILLAN PRESS LTD
London and Basingstoke
Companies and representatives throughout the world

ISBN 0 333 28894 7
ISBN 0 333 28895 5

Typeset by Oxprint Ltd, Oxford
Printed in Hong Kong

To my mother,
and in memory of my father

General Editor's Preface

SINCE the Second World War there has been a massive expansion in the study of economic and social history generating, and fuelled by, new journals, new academic series and societies. The expansion of research has given rise to new debates and ferocious controversies. This series proposes to take up some of the current issues in historical debate and explore them in a comparative framework.

Historians, of course, are principally concerned with unique events, and they can be inclined to wrap themselves in the isolating greatcoats of their 'country' and their 'period'. It is at least arguable, however, that a comparison of events, or a comparison of the way in which different societies coped with a similar problem – war, industrialisation, population growth and so forth – can reveal new perspectives and new questions. The authors of the volumes in this series have each taken an issue to explore in such a comparative framework. The books are not designed to be path-breaking monographs, though most will contain a degree of new research. The intention is, by exploring problems across national boundaries, to encourage students in tertiary education, in sixth-forms, and hopefully also the more general reader, to think critically about aspects of past developments. No author can maintain strict objectivity; nor can he or she provide definitive answers to all the questions which they explore. If the authors generate discussion and increase perception, then their task is well done.

CLIVE EMSLEY

Preface

My father was a policeman; but I never knew him since he was killed serving in Bomber Command three months before I was born. As a boy I remember my mother telling me the story of how he caught pneumonia as a Detective Constable after several nights in the cold and wet investigating the murder of a child. Not all of her recollections were quite as heroic; apparently he never had to pay for tickets in the local cinema, and he was able to get free seats for most West End shows. At least one of his colleagues, while a bobby on a night-time beat in part of south-east London, seems to have spent some time sleeping on the job by taking illicit advantage of the facilities offered by some sports pavilions. I owe a debt of gratitude to the officers and men of my father's police division who always gave me a Christmas box right up until I completed my career as an undergraduate. But the image which I have of my father and the debt which I owe his division have not, I think, led me to write anything approaching an official history.

Acknowledgement is due to the Open University Research Committee for a grant enabling me to complete work on the book and to various librarians and archivists in England and France who coped with my enquiries. Crown copyright material is reproduced by kind permission of the Controller of HM Stationery Office.

Many friends, colleagues and students have listened, with apparent interest, and have given me help and advice during the preparation of this book. My particular thanks are due to Tony Bennett, John Styles, Jean Tulard and Bernard Waites, to Pierre and Irène Sorlin for the generosity and kindness while I have been in Paris, and to David Englander and Stuart Hall who read and commented on a final draft. Peggy Mackay coped valiantly with typing my manuscript; my wife, Jennifer, coped valiantly with me – and now, I trust, will see the much-needed decorating undertaken.

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Contents

1. Introduction

In the middle of the eighteenth century, Europe's absolutist rulers, seeking a model police force, looked to France. Paris appeared the best-policed city in Europe; one Lieutenant of the Paris police allegedly boasted that when three persons gathered for a conversation, one of them was sure to be his agent. Englishmen, with notions of liberty which they maintained set them apart from most people in continental Europe, regarded the French system with horror; the last thing they wanted were the 'spies' of the Paris Lieutenant, or the militarised, mounted policemen who patrolled provincial French roads. In 1829, however, the Metropolitan Police were established in London; ostentatiously this was a civilian force, unarmed, uniformed in top hat and tails, and with orders to prevent crime. Coincidentally a uniformed civilian police, the *sergents de ville*, also took to the streets of Paris in 1829. Twenty five years later, when Napoleon III sought to improve the Paris police, he looked to the Metropolitan Police of London. So too did other police reformers, whether in autocratic Berlin or democratic New York. By the middle of the nineteenth century the model police force was that of London. A neat reversal of roles appears to have taken place between England and France in the space of a century.

This reversal of roles in itself presents an interesting question, but not, I think, the key one, which is to ask why preventive policing developed as it did in industrialising capitalist societies. While the changing police systems of England and France form the core of this comparative study, it is with the latter question that the book is concerned. Of course there are problems with comparative history in that it sometimes suggests, implicitly or explicitly, that all societies are developing on roughly the same kind of lines; thus the country which industrialises or bureaucratises before its neighbours can be seen as more 'advanced' on the road to 'modernisation' or 'progress' wherever these may be. There is the additional problem that the quest

for comparisons and contrasts might lead to some dubious links justified only by the determination to produce comparative history. Awareness of this disease does not guarantee immunity.

A further problem arises with the word 'police'. The Greek πολιτεία (*politeia*) meant all matters affecting the survival and welfare of the *polis*. In Latin *politia* meant the state: an association which, unlike any other, had the right to enforce prescribed limits on public and private behaviour. Power in the state was in the hands of the emperor, but only in his public capacity. Under the emperor's authority the prefect of a Roman city could issue regulations concerning public order, buildings, fire, religion, assembly, health, morality, prostitutes, beggars and foreigners; and regulations were enforced by magistrates, patrolmen and various other officials. The system disappeared with the Empire, but some of the ideas were resurrected in medieval universities to justify the authority of a prince over his territories and within the tradition of Roman law the word 'police' gradually acquired the meaning of internal administration, welfare, protection and surveillance. By the early eighteenth century in France the word had come to mean the administration of a city and the harmony which this administration was expected to bring. In England however, with its common law tradition, the word was virtually unknown until the middle of the eighteenth century when the reforming Bow Street magistrates began to use it in a similar sense to the French; it gained something of its modern meaning and rather more currency as the century drew to a close. A narrower meaning also emerged in France during the Revolution. The *Code des Délits et des Peines ratified on 3 brumaire*, Year IV (25 October 1795) declared:

> Article 16. Police is designed to maintain public order, liberty, property, individual safety.
> Article 17. Its principal characteristic is vigilance. The whole of society is the object of its concern.
> Article 18. It is divided into administrative police and judicial police.

This division between *la police administrative* and *la police judiciare* further complicates the issue since it was non-existent in the English-speaking world. Administrative policing in post-Revolutionary France ran in a hierarchy down from the Minister of the Interior, through the departmental prefects, and their subordinates. It was further divided into *la police municipale* (traffic control, the prevention

of crime and disorder) and *la police générale*, by which the state could take any measures considered necessary for 'legitimate defence'. *La police judiciare* came under the remit of the Minister of Justice and was responsible for the repression of criminal offences; as a consequence it included a variety of legal officials as well as functionaries who would be unrecognisable as policemen in either England or the United States.

Since neither England nor France had an organisation which contemporaries would have understood to be 'the police' during the eighteenth century, and since *la police* of nineteenth-century France included a much wider group of functionaries than the police of nineteenth-century England or the nineteenth-century United States, the question arises: who are 'the police' that I am proposing to compare in this book?

I have taken combatting crime and maintaining public order as the rather rough and ready functions to define the subjects of the book. This enables me to ignore members of *la police judiciare*, but to include the employment of troops to maintain, or restore, order. In addition I will be making little reference to 'political' or 'secret' police and *agents provocateurs*. Of course any state will take measures to preserve itself, and while the French have a word (or rather three words) for it – *la police générale* – British governments have unquestionably involved themselves in such activities; most notoriously, perhaps, are Oliver the Spy and George Edwards who were at least partly responsible for leading men to the scaffold in Regency England. Such 'policing' requires a survey in its own right, and probably also requires a shift in orientation away from what might be termed as the 'democratically' evolving societies of England and France, which form the core of this study, and towards those of eastern Europe with more autocratic and paternalist traditions.

'Crime' and 'order' are not easily definable entities, but the definitional problems of these I leave for the second part of the book as I do the efficiency of the police in coping with them. There are difficulties in taking this functional definition of the police since policemen perform so many other functions. A study of police manpower in Britain during the 1960s estimated that the bulk of police time was taken up by simple patrolling; criminal investigation may have accounted for about 30 per cent of the remainder, traffic and court work for about 23 per cent and 10 per cent respectively.[1] A New York cop put the matter rather more eloquently:

> Cops aren't just crime fighters – we're in the aid business. Each time I answer an emergency, I have to think, 'What am I on this one – minister, psychiatrist, social worker, marriage counseller or law-enforcement agent?'[2]

The 'aid business' was a task of policemen during the nineteenth century also, and while it is difficult to define the 'aid business' clearly it cannot be ignored in any study of police, particularly when popular attitudes to them are considered.

The terminal dates of the book cover the years which historians have periodised as the 'age of revolutions', refined by Eric Hobsbawm into the 'dual revolution' encompassing on the one hand major economic and industrial change, and, on the other, major political and social change. The former, of course, was most apparent in Britain during the late eighteenth and early nineteenth centuries; the latter witnessed its most bloody and cataclysmic manifestations in France. Within this framework historians have described and analysed the withering of old social groupings and the development of new ones, changes in crime and popular disorder, and the increasing role of the state and state bureaucracies in the lives of individual members of society. The emergence of uniformed, professional police forces intrudes on each of these areas and the angle of vision of different historians of the police has, as ever, profoundly influenced their conclusions.

In the tradition of British historiography there is a Whig interpretation of police developments in England most forcefully expounded in the work of Sir Charles Reith. It was Reith's view that the creation of police in England preserved society from 'uncontrollable crime and mob violence'. The late eighteenth and early nineteenth centuries were 'the golden age of gangsterdom in England' and there was an 'increasing menace of disorder', yet, astonishingly, the 'subject of a centrally controlled police force was taboo.' Gradually, as the awareness of rising crime and street violence grew, so sanity prevailed, enabling the Home Secretary, Sir Robert Peel, to establish the Metropolitan Police in 1829. Foolish and ill-informed opposition continued for some years, but gradually the new police won the support of the population, who recognised them as 'the most wonderful police institution in the world', and saw that 'the police [are] only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen, in the

interests of community welfare and existence.'[3] Such a brief summary hardly does justice to Reith's industry in amassing material, yet few would probably dispute now that his conclusions were often naive and uncritical. However, in more sophisticated forms the Whig interpretation of English police development still has influential advocates who have portrayed the 'inefficiency' of the police system before 1829 in suppressing crime and disorder in contrast to post-1829 'efficiency'. As one critic has noted they accept a 'consensual conception of government' in which the state is neutral and the evil people who commit crimes and foment disorder are outside society itself. 'Thus, the *public* identified with the police, has been purified of its evil segment.'[4]

French historians have emphasised gradual evolution in the development of their police. Marcel Le Clère began his short history of the French police with a chapter entitled 'From the Egyptians to the Francs', and his chronological table began in 615 AD with Clotaire II's establishment of *commissaires–enqueteurs* to ensure 'the perpetual tranquillity of the kingdom'.[5] Like Le Clère, Jacques Aubert, introducing a collection of essays on the French police from 1789–1914, commented that 'from the moment when men assembled in society, their community has established an authority to guarantee security, but this authority would be useless if it did not have a force capable of making its laws respected.' The police constitute such a force and in France, 'as with the rest of the administration of which it is an integral part, the police traditionally assumes the care and continuity of the state; regimes pass, the police remain.'[6] This view is similar to that of Reith: the police are necessary and impersonal, designed to preserve society, not any government or system, for the good of the community.

The fundamental assent of the population 'in a policed society (as distinct from a police state)' was emphasised in an influential article by Allan Silver; but Silver pinpointed changes in the industrial propertied classes alongside the creation of the police forces.[7] In the pre-policed period rioting was part of a system of demands and responses between the ruled and their rulers and police functions were entrusted to citizens acting as local officers, such as sheriffs, constables or magistrates, or serving as members of some kind of militia or posse. City-dwellers tolerated the levels of crime and disorder grudgingly until the early nineteenth century when their concern about the change in the targets of rioters from symbolic ones to

property, their reluctance to involve themselves as volunteers or co-opted police, and their concern that the use of such police (generally drawn from the economic and social superiors of rioters) exacerbated class violence, coalesced into a demand for order which produced the policed society.

In a comparative study of cities in the United States Allan Levett concluded that the establishment of police was a response by urban elites to their inability to control the social order as they had done previously.[8] Immigrants, migrant workers and the poor in general constituted the 'dangerous classes' in the fast-growing, impersonal cities. The extent to which the new police exercised control over the 'dangerous classes' was constrained only by the extent to which those classes could organise themselves to exert political pressure on the elites. Similar conclusions were reached by Robert Storch in a series of articles on the new police in England; the police were 'domestic missionaries' designed to impose new kinds of social control on the new working class. 'The other side of the coin of middle-class voluntaristic moral and social reform (even when sheathed) was the policeman's truncheon.'[9]

Police as an instrument of class power fits well with what might be conveniently termed as a 'structuralist' view of nineteenth-century society which has pinpointed a common tendency, beginning with the Enlightenment, for an individual's time and space to be totally controlled. Michel Foucault's *Discipline and Punish* presents one of the most stimulating analyses of this phenomenon, though Foucault himself has repudiated the label 'structuralist'. His aim is to chart changes in the relationships between forms of knowledge and the shifting strategies and institutions through which power is exercised. In the case of the prison, he connects the development of penal and other total institutions (asylums and hospitals) in the nineteenth century, with the emergence of new forms of knowledge (psychiatry and medicine) which embodied a new, enclosing and restricting orientation to the body. Although the changes which he has described coincide with the 'dual revolution', he maintains silence on the nature of the connections between the two. In contrast Michael Ignatieff's gloomily powerful description of the rise of the penitentiary in industrialising Britain draws a direct link between reformers who sought to grind 'criminals' good, and a new capitalist class who sought to grind profits from the inmates of their factories. The police loom on the fringes of both men's work. For Foucault, from the

eighteenth century the Parisian police at least began to exercise 'a permanent, exhaustive, omnipresent surveillance'; and since they became identified 'with a society of the disciplinary type' which emerged in the aftermath of the Enlightenment, the police offered little resistance to state power.[10] Ignatieff relates police development directly to the changes in class structure. The police were a 'reliable cadre of working-class disciplinarians' established to tighten discipline on the public streets and 'hunt down the small game' of vagrants, prostitutes, drunks and petty misdemeanants.[11] This 'structuralist' view of police development provides a timely and potent antidote to the Whig view, and both Foucault and Ignatieff provide a multiplicity of valuable insights. The problems are, on the one hand, the determinist nature of this interpretation,[12] and on the other the fact that, for all its power, the argument that police forces were established and developed to impose discipline cannot be proved by reference to the canon of historical evidence.

I am conscious at this point of the practice of many academic authors in identifying Scylla and Charybdis and then boldly charting a course between the two. Worse still are the attempts by historians rejoicing in the power of empiricism to eschew all theory and insist that the facts speak for themselves, that one fact leads to another, and that historical development is all accidental. I am probably guilty of the former; not, I trust, of the latter. The essence of my argument in what follows is that changing ideas and social structures played a crucial role in the development of police forces; but so too did pragmatism, compromise, self-interest and the historical traditions of individual states. The book is planned in two parts. The first part, four chapters, surveys developments in organisation, administration and personnel in the English and French police systems between roughly 1750 and roughly 1870; a fifth chapter broadens the survey with a brief look at Prussia, and a rather more detailed look at the United States. The second part of the book, building on information contained in the first, attempts thematic surveys of the police and crime, the police and order, and the police and public opinion.

2. Systems and Practices before the French Revolution

On the surface the policing systems of France and England during the eighteenth century reflected the differences in the overall administration of the two countries. France was ruled by an absolute monarch who had at his disposal a developing, centralised and professional bureaucracy. England boasted a constitutional monarchy; in theory King, Lords and Commons delicately balanced and checked each other's powers. Professionalism and training were not thought to count for much in either central or local government, and there were fears that a growth in the number of professional servants of the Crown would have a detrimental effect on English 'liberty'.

There were two elements in the French police system which attracted favourable comment in much of continental Europe: the administration of Paris under the *lieutenant général de police de la ville* (hereafter Lieutenant of Police) and the mounted force which patrolled the main roads of provincial France – the *maréchaussée*.

The post of Lieutenant of Police had been created by Louis XIV in 1667. The centralisation of police authority in the hands of a royal appointee fitted in well with the Sun King's policy of strengthening his own power at the expense of feudal privileges. But Paris was, at this time, arguably experiencing an urban crisis brought about by an enormous influx of population in the first half of the seventeenth century. Partly as a result of this growth perhaps, contemporaries began expressing concern about crime and disorder in the streets, made much of by some police historians. But the most recent historian of the Paris police has suggested that it was the apprehension generated by the advance of the plague from the channel ports 'which opened the crown's eyes' to the urban problems in Paris and prompted the reform.[1]

The Lieutenant of Police had a variety of functions reflecting the broad contemporary definition of 'police'. He was responsible for supervising markets, food supply, commerce and manufactures, and for repressing crimes, vagrancy and prostitution. He was also a judge, occasionally hearing serious offences as a representative of the royal council, but every Friday afternoon his court in the old fortress of the Châtelet resolved disputes between city guilds, artisans and masters, or infringements of his own regulations like the failure to lock a street door at night, the blocking of a street with rubbish or building materials, serving wine after hours. Occasionally his court also dealt with cases of prostitution, vagrancy, resistance to city officials, gambling, illegal assembly by journeymen or apprentices. Proceedings in the Lieutenant's court were quick; more importantly, from the middle of the eighteenth century, they were also free.[2]

Like most offices under the *ancien régime*, that of the Lieutenant of Police was venal; each of the fourteen men who served between 1667 and 1789 paid 150,000 *livres* for the privilege, the status and the power, as well as the annual income of at least 50,000 *livres*. But the ability to purchase the office in itself did not enable a man to become Lieutenant of Police. All of the incumbents had received a legal training and had to climb the rungs of the French bureaucracy where ability and powerful patrons were both important.

By the middle of the eighteenth century the Lieutenant of Police had some 3000 men under his command. Almost half of this number were involved in patrolling the city streets and maintaining guard posts. The force with the longest pedigree was the *guet*, the descendant of the old city watch. In the first half of the century the *guet* had given up its half-hearted attempts at patrolling and was left simply maintaining a guard-post in the Châtelet. All ranks in the force were purchased; the pay (5 per cent annual interest on the initial outlay) was meagre, but the exemptions from taxes and various other privileges were worth having. In 1771 however the Crown abolished the force and transferred it into a fourth company for the principal deterrent patrol in the city, the guard. Armed and equipped like a military unit, the guard was made up of about 900 men in 1770, and about 1200 on the eve of the Revolution. The oldest company dated back to 1667; it was mounted and circulated through the city streets with two-thirds of the men patrolling at night time only. In 1719 a second company was established to guard the Seine ports and patrol the boulevards which had replaced the old walls. The following year a third company was created to patrol the streets on foot. As the century

progressed this company was tied more and more to guard-posts. In 1771 it comprised forty-two sections of a dozen men each. These sections covered twenty-one guard-posts for twenty-four hours at a stretch; six men were on duty in each post while the other six patrolled the surrounding district. The guard ports facilitated communications between the different sections; they also meant that citizens in need had a fixed point at which to seek assistance. The posts were generally situated close to markets and the posts which supplied them, reflecting concern about food riots. There was also a disproportionately large number of men stationed in the fashionable quarter of Saint-Germain des Près, suggesting a determination to protect the persons and property of the wealthy.

The guardsmen were not wealthy. Of 834 men who enlisted between 1766 and 1770 for whom details exist, 240 were the sons of artisans, 142 the sons of *laboureurs*; few came from much higher on the social scale. They were recruited chiefly in Paris itself, notably from among former soldiers. Some old, sick veterans who could no longer serve in the army seem to have made it into the guard. The ranks also included a number of deserters who had gravitated to Paris, like Anselme Desmaisons who 'had deserted from several regiments and admitted having thrown one of his superiors in the sea'. The pay was poor; the requirement that men find their own lodgings and the cost of supporting wives and families reduced the men roughly to the level of unskilled workmen. But at least the pay was regular; furthermore, since their duties allowed them one day off in every two, many guardsmen, in defiance of regulations, took additional employment notably as pedlars or selling lottery tickets. The men stationed on the Seine ports boosted their pay by involving themselves in the smuggling of wine and *eau-de-vie*.[3]

The ideal guardsman was expected to be ever-watchful, even when off duty. During the 1760s it was proposed to reduce expense by using the regular army to patrol Paris and maintain order. The proposal was rejected on the grounds that keeping peace in the streets was only part of the guardsmen's task; general surveillance was also important.

> [The guards] live separately, each in his own domicile, scattered throughout the city; each takes care to know what is happening in his street, in suspect corners, in the *cabarets*; they check the people who habituate the latter, and by informing the *commissaires* and *inspecteurs* of police what they have learned, by watching themselves