



Mike Fitzgerald
and John Muncie

SYSTEM OF JUSTICE

An Introduction to the
Criminal Justice System
in England and Wales

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Preface

This book is about the adult criminal justice system in England and Wales. It seeks to offer an introduction to the organization and workings of the structures and processes which make up that system. The book is divided into three main sections on the police, the courts and the prisons, each providing a brief critical description of the organization, personnel, powers, policies and practices of each of the three areas. Each section concludes by raising some of the major issues or controversies in the area described.

In this short introductory book we could not hope to cover the full range of issues, nor could we do more than begin to point up the interconnections between the areas. Although we use the phrase 'criminal justice system', this is more of an organizational device. For what confronts us is not a clearly defined, well-organized, interlocking system of justice as such, but rather a set of institutions and processes which are themselves the historical outcome of frequently contradictory and conflicting customs, laws, precedents and practices. Throughout the book, then, we identify structures but emphasize processes. These are themselves primarily shaped by the social conditions of which the network of criminal justice we describe is but one expression. We have made extensive use of references, both to acknowledge our sources, and to provide readers with guidance to work which offers more detailed insight into particular parts of criminal justice, or to the wider issues in law and order.

The idea for the book emerged from our involvement in the Open University course 'Issues in Crime and Society' (D335), which offers an 'anatomy of criminal justice'. Our approach is, not surprisingly, strongly influenced by that developed by Mike Fitzgerald and Joe Sim in *British Prisons* (second edition, Blackwell, 1982), from which the framework of analysis and argument for the section on the penal

system is derived. We wish to acknowledge the particular help and encouragement in preparing this book provided by Elaine Fishwick, Paul Fitzgerald, Stuart Hall, Carole Jasilek, Tony Jefferson, Carol Johns, Michelle Kent, Helen Lentell, Joe Sim and Pennie Smith.

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Part One

THE POLICE

Wherever the Law draws the line, the police are required to hold it. Conflicts with the state, with employers, with specific laws and regulations, with policies and conditions, are inevitably displaced on to the police in any serious confrontation. As a society we lay on them the responsibility for discharging what may be mutually irreconcilable responsibilities: they must enforce the Law impartially, defend the liberties of the citizen, while maintaining public order and the Queen's Peace.¹

Since the formation of the first paid professional police force (the Metropolitan Police) in 1829, the task of reconciling the irreconcilable has fallen to the police service in England and Wales. Set up amid profound public distrust, suspicion and outright hostility, the police were established as an independent, autonomous, non-partisan force charged with the responsibility of upholding public order and enforcing the law, *with the consent* of the policed.

'Policing by consent' has been the historic guiding principle of the police service. As Critchley has remarked:

If the police were to lose public support and goodwill on any significant scale, it seems clear that their traditional character could not long survive. Britain could then expect what she has long resisted – a tougher, more authoritarian, more oppressive system of police; and public confidence, once lost, would be

¹ Hall, 1979, 12.

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hard to regain. The price, ultimately, would be to set at risk liberties that have been cherished for centuries.²

This section outlines the control, organization, role and methods of the police service in England and Wales. Throughout, the principle of 'policing by consent' is woven through the detailed discussion of policework. The section concludes by drawing together the various strands of contemporary policing to examine how far what Critchley defined as an expectation has become a reality – and at what cost.

² Critchley, 1978, 328.

Control and Organization

Formally, there is no national police force in England and Wales. Rather, there are 43 police forces, each maintaining some degree of autonomy and independence, and accountability to the specific areas they police. Thirty-one of the forces share the same boundaries as the metropolitan and non-metropolitan counties, established during local government reorganization in the mid-1970s. Ten forces are 'combined', policing two or more counties. London is policed by two separate forces: the Metropolitan Police are responsible for an area within a radius of some fifteen miles from the centre of the capital but excluding the 'City' area which has its own force.

In March 1982, there were 118,470 serving officers in England and Wales, compared with 46,353 in 1950. The overall size of force varies quite markedly, from a strength of around 900 in the smaller non-metropolitan police forces, for example Warwickshire and Northamptonshire, to over 6,500 in metropolitan counties such as Greater Manchester and the West Midlands.³ These numbers continue to rise, so that by the end of 1982 there were 119,575 serving officers, of whom 25,283 were employed in the Metropolitan Police force, the largest force in the country.⁴

More significant perhaps than these overall figures is the ratio of police officers to citizens. In 1951, there was one police officer to 694 citizens. By 1982 this had reduced to 1:420. Whatever the actual strength of individual forces and despite significant variations, there was markedly greater uniformity in the ratio of police to citizens in 1982 than in 1951. In the metropolitan counties, for example, the ratio was 1:394; in non-metropolitan counties, 1:487;

³ CIPFA Statistics, 1981-82, 04.83.

⁴ *Hansard*, 23 March 1982, column 299.

in London, 1:293 (Metropolitan Police) and 1:412 (City of London).

Paralleling this growth in the number of police officers has been the mushrooming number of civilians employed in police forces. In 1950, there were 4,269 civilians employed in all police forces. By 1982, there were 43,484 civilian staff, producing a ratio of people employed in the police force of one to 305 citizens. (1:372 in non-metropolitan counties; 1:307 in metropolitan counties; 1:289 in City of London; and 1:179 in the Metropolitan Police force.)⁵

This rapid growth in the size of police forces has taken place at the same time as the accelerating process of amalgamation between forces. Between 1964 and 1974, the number of forces reduced from 117 to 43, and this amalgamation process is continuing. In 1979, for example, a merger between Durham and Cleveland forces was considered. As 17 forces in England and Wales are of a similar size to these two, more merger proposals can reasonably be expected. Indeed, the Chief Constable of Greater Manchester, James Anderton, proposed the creation of ten regional forces to police England and Wales.⁶

Each force is headed by a Chief Constable (Commissioner in London forces) who, under the Police Act 1964, is responsible for the 'direction and control' of the force. The Royal Commission which preceded the 1964 Act was of the opinion that, over a wide range of duties, chief constables were virtually uncontrolled:

. . . he is accountable to no one, and subject to no one's orders, for the way in which, for example, he settles his general policies in regard to law enforcement over the area covered by his force, the disposition of his force, the concentration of his resources on any particular type of crime or area, the manner in which he handles political demonstrations or proces-

⁵ CIPFA Statistics, 1981-82, 04.83.

⁶ *The Times*, 19 March 1981.

sions and allocates and instructs his men when preventing breaches of the peace arising from industrial disputes, the methods he employs in dealing with an outbreak of violence or of passive resistance to authority, his policy in enforcing the traffic laws and in dealing with parked vehicles, and so on.⁷

Although the number of chief constables has reduced since 1964, to the present 43, the increasing regionalization of the organization of the police has significantly extended their power and influence. Together with the much-extended influence and involvement of the Home Office in policing, these increased powers have cast further doubt on the effectiveness of existing controls over the police in England and Wales.

CONTROLLING THE FORCE

With the exception of the Metropolitan Police force, there are three major forums of control over police forces: Parliament, through the Home Secretary; Local Authority Police Committees; and the law. The Metropolitan Police force is directly accountable to Parliament and the Home Secretary, and the law.

The Home Secretary and the Home Office

The Home Secretary has overall responsibility for policing in England and Wales. The Home Secretary is, in turn, accountable to Parliament for promoting the efficiency of every police force in England and Wales. Under the Police Act 1964, Home Secretaries

approve the appointment of chief constables, and may require a police authority to retire a chief constable in the interests of efficiency, call for a report

⁷ Cited in Critchley, 1978, 228.

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from a chief constable in the interests of efficiency, call for a report from a chief constable on any matters relating to the policing of his area, or cause a local inquiry to be held. They are also empowered to make regulations with which all police authorities must comply, covering such matters as rank; qualifications for appointment, promotions and retirement; discipline; hours of duty, pay and allowances; and uniform and equipment.⁸

The 1964 Act also enhanced indirectly the powers of the Home Secretary and the Home Office. The Home Office was given the leading role in police administration. Until the passing of the Act, the Home Office had been playing an increasingly active role in fostering common policies among forces in some operational matters. Since the Act came into operation, the Home Office has broadened its role in operational areas, for example in crime prevention and in dealing with terrorism and vandalism; but it is primarily through the central management of the police that the Home Office has extended its influence.

Central arrangements govern the qualifying examinations for the promotion of policemen and the bulk of their training, and the Home Office has ultimate control over the appointment of all senior officers. Local forces continue to enlist their men, but a national plan was drawn up for developing the cadet system as a major source of recruitment. The common services fund, under Home Office management, pays for forensic science laboratories, wireless depots, training centres, promotion examinations, recruiting publicity, the provision of a national coordinator for regional crime squads, the Police College, the national computer, and a proportion of the cost of the Police Council for Great Britain . . . and there is now a regular series of meetings between the inspectors of

⁸ *Criminal Justice in Britain*, 1975; HMSO, 12.

constabulary and Home Office administrators which provide a wide forum for discussion of operational and other matters which affect the whole police service.⁹

These common services are paid for from the Crown Services Fund, to which police authorities contribute in proportion to the size of their force.

The Home Office has itself been reorganized to take account of these activities.

Beneath the Permanent Under-Secretary in the Home Office hierarchy there are five Deputy Under-Secretaries; one of these is in charge of the Police Department. Under him in the Department are four Assistant Under-Secretaries and eight Assistant Secretaries. Each of the latter is in charge of one of the eight sections of the Department. Their responsibilities include:

- F1. pay and conditions; special constables and 'first police reserve';
- F2. police powers and procedure; criminal records; regional crime squads; detective work; complaints;
- F3. road traffic legislation;
- F4. amalgamation; public order; security liaison; subversive activities; relations between police and blacks; fire-arms;
- F5. equipment; uniforms; training;
- F6. coordination of action in civil emergencies; police war-planning;
- F7. police use of computers;
- F8. coordination of scientific and technical support services.¹⁰

⁹ Critchley, 1978, 302.

¹⁰ Bunyon, 1976, 99-100.

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As Bunyan comments, it is interesting to note that:

the more contentious areas are all of recent origin; for example, security liaison, subversive activities and police/black relations (F4), and the co-ordination of action in civil emergencies and police war-planning (F6). On a general level it is clear that these subjects now constitute a recognised and admitted interest of the Home Office. The staffs of these sections are independently engaged in gathering and evaluating reports from the police throughout the country and from the Special Branch for both the Ministry and their political counterparts.¹¹

The Home Office also maintains the Inspectorate of Constabulary which, although not part of the Police Department of the Home Office, works in close harmony with it. Since 1974 the Inspectorate has been streamlined in an attempt to make it more effective. There are five inspectors, supported by four specialist assistants, all responsible to the Chief Inspector of Constabulary. Inspectors are normally former senior police officers and the Inspectorate is responsible for carrying out an annual inspection of each force, which it presents directly to the Home Secretary.

As Whitaker has observed, the Inspectorate's visits to forces are at last becoming less of a formality:

up until recently they have been so cursory and well advertised in advance that one police officer said that 'by the time the band had played at the parade, buttons had been inspected, the most promising recruit had had his hand shaken, and the papers laid out on top appreciated, the visit was over.' Even that was an improvement on the technique of earlier days when, for example, Carlisle's force were inspected by being lined up on the station platform as the inspector's train passed through.¹²

¹¹ Bunyan, 1976, 100.

¹² Whitaker, 1979, 112.

For inspection purposes, forces are grouped together in regions, with an office under the auspices of an Inspector which 'has under its surveillance not only the efficiency of each force, but also the joint agencies which serve the needs of groups of forces'.¹³ It is the Inspector's responsibility to foster inter-force collaboration and to chair a committee of chief constables to supervise the operations of regional crime squads. The Inspectorate's influence belies its formal lack of executive powers.

Home Office influence is also exerted through the Police Advisory Board, chaired by the Home Secretary, which considers general questions affecting policing as a whole. The Board, chaired by the Home Secretary, comprises representatives of the Home Office, the local authority associations and all ranks of the police service in England and Wales. Its impact on policing was felt at its first meeting in January 1966, when it set up three working groups to consider problems of police manpower, equipment, and operational efficiency and management. The working groups reported by the end of the year and produced one of the most comprehensive and influential reports of its kind on policing procedures, policies and practices, *Police Manpower, Equipment and Efficiency*.

The report, for example, introduced the concept of 'unit beat policing'. This aimed 'to offer a more efficient system of policing, closer contact with the public, a better flow of information to the centre, a more worthwhile and interesting job for the ordinary policeman than traditional beat-patrolling had been able to offer, and a significant saving of manpower'.¹⁴ Within a year 60 per cent of the population of England and Wales was covered by the new system of policing. By controlling resources, the Home Office had thus profoundly altered the character of policing in England and Wales, substituting the panda car for the 'bobby on the beat'.

'Unit beat policing' also provided the Home Office with

¹³ Critchley, 1978, 303.

¹⁴ *ibid.*, 307.