

POLICE POWERS

AND THE INDIVIDUAL

St John Robilliard and Jenny McEwan

Police Powers and the Individual

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and Jenny McEwan*

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Preface

Writing about life as a serving policeman between the wars, C. H. Rolph (*Living Twice*, Gollancz, 1974) records, 'The unlawful arrests were many and various, and the recognition that they were unlawful an unpopular piece of pedantry.' He goes on to paint a general picture of an easy-going police practice which often had little regard for the formality of the law, such as the 'cuffing' of teenagers or summary punishments for minor offences. What a difference in climate he would observe today – massive changes in social conditions, altered perceptions of acceptable conduct, demands for legal aid, police monitoring units, and increased stress on individual civil liberties and human rights. All have turned a sharp spotlight on to the police and policing, with the ironic result that as the kind of unlawful activity described by Rolph has become unacceptable a counterdemand has been generated for an increase in *lawful* police power. The most important result of this process to date is the 1984 Police and Criminal Evidence Act, which attempts to provide a framework of powers and duties for general police activity and which, through the medium of the Codes of Practice issued under it, goes on to give detailed instructions as to the manner in which the powers within that structure should be exercised. Unfortunately, the 1984 Act is not a comprehensive code, and the full extent of current police powers can be grasped only by examining its provisions in the light of the common law and the muddled assortment of powers which remain, piecemeal, in the statute book.

As teachers of police courses for the past decade, we do not underestimate the importance of a detailed study of these areas of the law; this book attempts to provide a critical analysis of the legal issues. However, the operation and effectiveness of the legal changes will not be fully understood unless they are placed in a social context. For this reason we compare the legal problems with observed police

practices and consider the effect on public opinion and support for the police force. The police and the public need each other; our task in this book is to assess whether the law enables the police most effectively to perform their central functions, whilst retaining that regard and support from members of society on which they ultimately depend.

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June 1986

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