

# Police in the Age of Improvement

Police development and the civic  
tradition in Scotland, 1775 – 1865



**WILLAN**  
PUBLISHING

David G. Barrie

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Published by

Willan Publishing  
Culmcott House  
Mill Street, Uffculme  
Cullompton, Devon  
EX15 3AT, UK  
Tel: +44(0)1884 840337  
Fax: +44(0)1884 840251  
e-mail: [info@willanpublishing.co.uk](mailto:info@willanpublishing.co.uk)  
website: [www.willanpublishing.co.uk](http://www.willanpublishing.co.uk)

Published simultaneously in the USA and Canada by

Willan Publishing  
c/o ISBS, 920 NE 58th Ave, Suite 300,  
Portland, Oregon 97213-3786, USA  
Tel: +001(0)503 287 3093  
Fax: +001(0)503 280 8832  
e-mail: [info@isbs.com](mailto:info@isbs.com)  
website: [www.isbs.com](http://www.isbs.com)

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First published 2008

ISBN 978-1-84392-266-7 hardback

British Library Cataloguing-in-Publication Data

A catalogue record for this book is available from the British Library.

Project managed by Deer Park Productions  
Typeset by GCS, Leighton Buzzard, Bedfordshire  
Printed and bound by T.J. International Ltd, Padstow, Cornwall

# **Police in the Age of Improvement**

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## List of abbreviations

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|      |                                    |
|------|------------------------------------|
| ACA  | Aberdeen City Archives             |
| DCA  | Dundee City Archives               |
| DCL  | Dundee Central Library             |
| DAC  | Dumfries Archive Centre            |
| DI   | Dick Institute (Kilmarnock)        |
| ECA  | Edinburgh City Archives            |
| ECL  | Edinburgh Central Library          |
| GCA  | Glasgow City Archives              |
| GUL  | Glasgow University Library         |
| ML   | Mitchell Library (Glasgow)         |
| NAS  | National Archives of Scotland      |
| NLS  | National Library of Scotland       |
| PCL  | Paisley Central Library            |
| PKCA | Perth and Kinross Council Archives |
| PP   | Parliamentary Papers               |

## Acknowledgements

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In researching and preparing this book I have received generous assistance from several colleagues, librarians and archivists. Christopher A. Whatley, Bob Morris and Charles McKean kindly commented on a number of chapters. Their views were much appreciated and extremely helpful. T.M. Devine and W.H. Fraser supervised the doctoral thesis on which a small (very small) part of this study is based. Both were extremely generous in giving useful advice and support. Robert D. Storch and Clive Emsley provided insightful comments in reviewing the book proposal. Iain Hutchison and Frank Montgomery did a good job in proof-reading the manuscript, often at fairly short notice. A large debt is owed to Brian Willan for his patience and understanding. His willingness to grant extension after extension made the completion of this project possible. To all, I am extremely grateful. Naturally, none of the above is responsible for any mistakes which may remain or any of the arguments which have been advanced.

Archivists and librarians in the following institutions provided much appreciated assistance: Glasgow City Archives; the Mitchell Library (Glasgow); Glasgow University Library; Glasgow Caledonian University Library; the National Archives of Scotland; the National Library of Scotland; Edinburgh Central Library; the Signet Library (Edinburgh); the Andersonian Library (Glasgow); Dundee City Archives; Dundee Central Library; the A.K. Bell Library (Perth); Perth and Kinross Council Archives; The Dick Institute (Kilmarnock); Paisley Central Library; Dumfries and Galloway Archives; Aberdeen City Archives; and Fife Council Archive Centre.

A note of thanks must also go to the historians whose work has been cited in this book. Their efforts made it easier to make sense of what seemed like an endless dredge through source material. I apologise if their work has in any way been misinterpreted.

Special thanks are owed to the Economic and Social Research Council for providing a small research grant (RES-000-22-1758) which enabled this book to be completed. I am grateful also to the School of Law and Social Sciences at Glasgow Caledonian University for providing institutional support for this project.

Finally, and most importantly, thank you to my family for their encouragement and help.



To Mum and in memory of Dad

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## Chapter I

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# Introduction

### Introduction

Police history in Scotland has been largely neglected. Unlike the case with other parts of the British Isles, there has been little scholarly investigation into the Scottish police's origins and development.<sup>1</sup> What work has been produced tends to be anecdotal accounts by former officers or commemorative institutional histories.<sup>2</sup> While informative, these rarely venture beyond amusing case studies and are tinted with the oversimplistic patriotic boast that modern policing emerged in Scotland before England.<sup>3</sup> Serious academic scrutiny has been limited to the odd article and unpublished thesis, but these often focus more on public administration and urban improvement rather than law enforcement.<sup>4</sup> The main published exceptions to this are Carson and Idzikowska's pioneering study and a few short, but interesting, articles.<sup>5</sup> However, these are fairly narrow in outlook. The latter concentrate primarily on early law enforcement initiatives in Glasgow rather than across the country, while the former ignores the economic, social and political pressures behind reform in urban centres in favour of the police institution's ongoing evolution to the end of the nineteenth century.<sup>6</sup> Consequently, the history of police in Scotland remains very much in its infancy.

Scottish historians in this field have focused more on the forces of conflict and disorder rather than law and order. This 'history from below' approach has produced fascinating studies on social protest, working-class militancy and political radicalism, but little on the day-to-day agencies that had to deal with crime and crowds beyond 'Godly

discipline', eighteenth-century paternalism and the supply of the food market.<sup>7</sup> Where police records have been used, the tendency has been to examine the impact of urban and industrial growth on public health, municipal provisions and local government.<sup>8</sup> Less attention has been given to the mechanisms of control and the economic, social and political context in which they emerged and operated.

The older, pioneering studies into British police history, meanwhile, were mainly written from a parochial, English perspective. In fact, it is probably more accurate to argue that these were constructed from a metropolitan viewpoint given that provincial England was often given the same limited attention as Scotland. Allied to its size and importance, the traditionally held assumption that police reform occurred first in London in 1829 resulted in an unfortunate, if understandable, overconcentration on the Metropolitan Police. At best, these studies make only fleeting reference to Scottish policing and usually only when it has implications for law enforcement in England.<sup>9</sup> More often than not, Scotland is completely overlooked. Reith, in *British Police and the Democratic Ideal*, does not refer to Scotland; neither does Pringle in *Hue and Cry: The Birth of the British Police*, Tobias in 'Police and the Public in the United Kingdom', nor Jeffries in 'The British Police Tradition'.<sup>10</sup> Jennifer Hart's book on the *British Police* is one of the few to devote any serious attention to Scotland. However, the historical dimension is limited and rarely ventures beyond national legislation and trends.<sup>11</sup>

Such scholars were the pioneers of police history in Britain so the limited outlook of their research is, in many ways, understandable. They produced extremely valuable work for which historians will continue to be indebted. Moreover, to some extent, the Anglo-centred nature of these histories reflects nineteenth-century parliamentary discussions on police reform and England's central importance within the British context. England was very much at the centre of national debates on police in the first half of the nineteenth century. Documents on which many older British histories are based – parliamentary reports, committees and inquiries – were concerned mainly with London and the provincial areas of England and Wales. Scotland, by contrast, received less attention. Those who wish to study police development in Scotland do not have a voluminous index of parliamentary papers on which to draw. The first select committee inquiry on the constabulary police in Scotland was not published until 1852–3.<sup>12</sup> Any attempt to analyse national developments requires a time-consuming investigation of local police records, many of which are scattered throughout the country in local archives.

Nonetheless, there was often a tendency in many older British police histories to assume, first, that the origins, pattern and nature of police reform in Scotland reflected developments in England and Wales; and secondly, that the Metropolitan Police Act provided a model of law enforcement that was adopted throughout Britain and the wider world. Unfortunately, neither argument is entirely convincing. Although the metropolitan model provided the main thinking on police reform in England,<sup>13</sup> its impact was less important in Scotland, as this study will show. As a result, it is misleading to draw conclusions about Britain based solely on the English experience. The first quarter of the nineteenth century saw police forces established in all of Scotland's major burghs and large parts of Ireland. Yet, according to Jeffries, 'the whole idea of "police" was strange and unwelcome to the British public' before 1829, while Charles Reith argues that before this date the 'police idea had to be invented'.<sup>14</sup>

In more recent years, there has been a proliferation of excellent studies on provincial police reform by leading international scholars in the field of criminal justice history.<sup>15</sup> These works have considerably broadened and deepened the historian's understanding of the complex manner in which the police institution emerged by moving beyond government and parliamentary records and examining the attitudes, concerns and priorities of local élites. They display a greater recognition of the important role the periphery – and, in particular, the rural gentry and municipal leaders – played in shaping reform.<sup>16</sup> But, with the exception of a few studies on Welsh and Irish police history,<sup>17</sup> the focus has been primarily on English towns and counties. The Scottish experience remains the missing piece of the puzzle. It is time this story was told.

## **The Scottish experience**

Police development in Scotland in the first half of the nineteenth century took a different course from that of other parts of the United Kingdom. The 'police' concept in Scottish towns had a far wider meaning than in England, Wales and Ireland, embracing a range of provisions associated with civil and criminal administration. These services were under the management of elected police commissioners, not town councils as was the case in incorporated English towns after municipal reform in 1835. The origins, nature and pattern of development also differed. Unlike other parts of Britain, Scottish

burghs were not compelled by central government to establish police forces. Town authorities chose to initiate police reform with local initiative, rather than central instruction, being the hallmark of urban police development in Scotland. Although in provincial England and Wales the extent of central direction which followed police reform was fairly limited, authorities in the municipal corporations were, nonetheless, instructed to establish police forces under the terms of the 1835 Municipal Corporations Act. Central government, however, seemed relatively content to let Scottish burghs decide their own fate. The first national legislation relating specifically to Scottish burgh policing – the 1833 Burgh Police (Scotland) Act – was permissive rather than obligatory, as were all other subsequent national burgh police statutes in the first three quarters of the nineteenth century.<sup>18</sup> The 1857 County and Burgh Police (Scotland) Act ensured that all towns would be policed by compelling county authorities to establish police forces and assume responsibility for policing burghs which were without full-time police officers.<sup>19</sup> But similar mandatory instructions were not given to Scottish burghs themselves. As a result, towns adopted national police legislation at their discretion with most of the larger urban centres ignoring such statutes in favour of local initiatives.

Why the centre seemed relatively content to let Scottish burghs determine their own policing arrangements calls for explanation. Whetstone, in her study of Scottish county government in the eighteenth and nineteenth centuries, argued that Westminster adopted an attitude of 'benign neglect' on Scottish issues. English ministers were, in other words, 'not usually sufficiently interested in Scotland to make concerted efforts to alter its institutions'.<sup>20</sup> Certainly, it is true that the issue of police in Scotland did not provoke the same degree of interest, debate and controversy in Parliament as that of police in London or England as a whole. Having said that, a great amount of parliamentary time and energy was vested in scrutinising Scottish local police bills and framing permissive national legislation. Parliament by no means short-changed Scottish towns. Indeed, some national Scottish enactments were, in many ways, in advance of similar statutes in other parts of Britain.<sup>21</sup> That the larger Scottish urban centres were not compelled to establish watch forces in line with most large English cities had much to do with the separate legal and municipal traditions of each country.<sup>22</sup> Although the 1707 Act of Union increased English influence over Scottish affairs, many Scottish institutions and customs were preserved, including the Scottish legal system and privileges applying to royal burghs. The administrative



and legal histories of both countries subsequently developed along separate lines and called for different legislative approaches.<sup>23</sup>

Moreover, allowing Scottish burghs a degree of discretion in determining their own affairs was very much reflective of public legislation in this era. The first half of the nineteenth century was characterised by local initiative. The overwhelming majority of bills were local, private and permissive. This was especially the case for public health issues which were often included in police legislation in Scotland. In essence, the approach taken with Scottish burghs was similar to that adopted for the unincorporated towns of England and Wales under the terms of the permissive 1833 Lighting and Watching Act in that central government provided a legislative framework for local authorities to adopt at their discretion.<sup>24</sup> The compulsory approach to watching – the policing of the streets at night by watch forces – in the municipal corporations of England and Wales differed because it was intertwined with wider political developments. Municipal reform in 1835 provided a convenient opportunity to rationalise the numerous improvement measures which had been introduced in many boroughs from the mid eighteenth century.

Finally, the different approaches taken by Scottish and English towns was also a legacy of the fact that many of the larger Scottish burghs had introduced local police Acts before being compelled to do so. Throughout the country, the main Scottish urban centres responded to the challenges posed by rapid urban growth by petitioning Parliament for statutory powers to levy assessment to fund a wide array of municipal improvements. Normally, these initiatives were similar to the Glasgow Police model, introduced in 1800, of empowering elected police commissions to oversee the management of public services. The police powers were so extensive that most large local authorities in Scotland preferred to promote their own bills throughout the century. A significant consequence of this was that police systems were introduced at different times to meet different needs. This produced a distinct pattern of uneven, fragmented development, thereby rendering it impossible to ascertain precisely when modern policing was introduced in Scotland.

## **A curious neglect**

With police systems having been established in most large Scottish burghs before reform in England, it is somewhat surprising that