

NEW SOUTH WALES POLICE

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THIRD COMMISSIONER'S DINNER

POLICE HEADQUARTERS, SYDNEY

21 OCTOBER, 1985

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LIES IN THE SUPPORT OF THE PEOPLE

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The Hon. Justice M.D. Kirby, CMG
President of the Court of Appeal*

INCREASED RESOURCES - YET LOW MORALE

This is a difficult time to hold high rank in the police service. The difficulties can be seen most vividly in events such as the Tottenham riots in England. The earlier Brixton riots and the crowd misbehaviour in Brussels illustrate important challenges to modern police services on the other side of the world. Stress, violence and death on the job have become common features of the life of police in Britain and Australia. A recent news item described Britain's "thin blue line" as "stretched tight".¹

The sources of the challenge to modern policing are many. The special difficulties that face police in Australia have been listed by Richard Harding. They include the high levels of unemployment, the high degree of urbanisation of Australian society and the additional difficulties presented to policing by a multi cultural and pluralistic society.²

The unprecedented levels of unemployment, particularly youth unemployment, are unlikely to go away. Indeed, if we are to believe Barry Jones, major structural reorganisation of our economy is the inevitable bi-product of substantial

technological change. We live at a moment in history when three mighty technological developments have occurred at once. I refer to nuclear fission, biotechnology and informatics. It is the last, the linkage of computers and telecommunications, that promises the most dramatic impact on the availability of employment. Yet employment, the peaceful expenditure of hours in law abiding pursuits, has been the way in which the citizenry, released from serfdom on the farms, has been occupied (in large numbers and for a large part of life) in activities that have been socially supportive.

What if all this changes? Already we can see the symptoms. The high levels of unemployment, particularly youth unemployment, breed despair. It is not without significance that the prediction of Aldous Huxley in his Brave New World was that social harmony in the future world would be secured by the distribution of a drug designed to take people's minds off their predicament. The spread of unemployment and the spread of drugs occur together. They are obviously not coincidental developments.

The police commanders of the future must face a rapidly changing society. The stimulus of change is science and technology. But the fall out includes a large proportion of people, especially young people, for whom work will be exceptional. How are their days to be filled? How are they to have an opportunity of achieving the marvellous consumer goods they will see in the streets and advertised on television? How is hope to be injected into their lives? How is their self image to be enhanced, notwithstanding their comparative lack of

opportunity and lack of promise of things to come?

Perhaps it is a reflection upon these acute difficulties for the future of police that produces reports of low morale in Australia's police services. The recent Neesham Report on the Victoria Police found, in a survey of the Victorian police, that 46% believed morale within that Force was "low to very low". Only 11% thought morale was "high". Almost a third of the police questioned believed that police powers (or lack of them) were a major reason for poor morale. Other major factors cited were political decisions affecting the Force, heavy work loads and inadequate pay.³

As is well known, the report also contained a widely publicised statement concerning public perceptions of the police. Overall opinion of police in New South Wales and Queensland was reported as lower than the opinion in other States. In 1984, 45% of the people in New South Wales were said to rate their police "high to very high" in perceived honesty. This compared with 66% in Tasmania, 63% in Western Australia, 62% in South Australia, 60% in Victoria and 47% in Queensland. Averaged over the period 1976-84 the police in South Australia ranked highest and Queensland the lowest. But New South Wales police were ranked fifth out of six States over that period.⁴

On the question of whether police do a good job, New South Wales police consistently polled less favourably than other States except Queensland. Again, the police services of South Australia and Tasmania rated consistently well. But neither of these jurisdictions has the size and dimension of the problems of policing which face the New South Wales Force.

That Force is now by far the biggest in the country. It has grown by nearly 25% in the last decade. With nearly 10,500 members, it is a large force by world standards. In the United States of America, it would rank third or fourth in size. So it is a major policing enterprise with acute problems of its own facing a changing society where values and perceptions of policing are not always supportive.⁵

The question must be posed, where the Minister reports major increases in resources, and the statistics show a rise in numbers and facilities, why the morale of Australian police is reported as low? What is the solution to this disharmony between investment and perceptions of successful policing from inside and outside the Force?

THE LESSON OF ROBERT PEEL

I am convinced that the clue to many modern problems can be found by re-examining the lessons of the past. Judges do this through the doctrine of precedent. Old ways of doing things are stretched and adapted to provide the solutions to present problems. In a sense, this says nothing more than that problems tend to recur and wise minds of the past can suggest solutions to us.

Modern police should never forget the way in which the Metropolitan Police of London was established. It is, after all, the service upon which the other police units throughout the English speaking world have been patterned.

The English traditionally resisted the notion of an established police force. They preferred a local watchman system. A few rudimentary organisations such as the Bow Street runners offered assistance to local parishes. But the notion

of a large, let alone national, police service was anathema to the English. At the beginning of the 19th century a House of Lords Committee established to inquire into the continental systems of police and to report on their suitability for England, condemned the idea. It was antithetical to English notions of liberty. It was opposed by Tories, concerned at the risk to local landowner's prerogatives. It was opposed by Whigs, who feared the power of the Crown. It was opposed by radicals, who preferred citizen initiatives. The achievement of Sir Robert Peel, against this harmony of opposition, is all the more remarkable. How did he do it? The answer is that he determined from the start to adopt as his guiding principle the need for the police to win the respect and support of the community they served.

Until the establishment of the Metropolitan Police, law and order had been maintained largely by watchmen enforcing criminal laws of heavy handed punishment. One hundred and sixty crimes were capital offences, carrying the death penalty. In a single day it was not unusual for 40 persons to be hanged in London. The same attitude was exported to the colonies, including New South Wales. The notion was that if punishment were dire enough, citizens would be terrified into law abiding behaviour. But violence bred violence. Cruel punishments and transportation were the result. Peel introduced a new dimension.

He insisted upon the reduction of the offences carrying the death penalty. One hundred serious offences were removed from the capital list. He also declined to carry arms. The carrying of arms was, from the start, exceptional and the use of it rare indeed. Although, in Australia, police carry arms, happily their

use is, and should remain, a rarity. On the spot use of fire arms to enforce the law is specially out of tune with a society that has abolished the death penalty. It is an extreme facility to be used extremely rarely.

Peel also declined the scarlet uniforms that were first offered to him. Not only would these look too much like the military. They would disassociate the police from the classes of society they were to serve. Accordingly he chose blue. He chose uniforms designed to make his men look taller. Careful attention was paid to appearance. The result of these and many other innovations was the establishment of a service which became the model for the English speaking world and long the envy of many countries.⁶

Now we hear that this "thin blue line" is stretched tight. We read of riots, violence, of racial tension in England and of attacks on police and even murder of police. The debate in England is between those, like the present Home Secretary, who urge strengthening of the police force, the issue of riot equipment, the enhancement of police powers and more "law and order". On the other hand, there is Lord Scarman, who in his report on the Brixton riots urged an attack on the fundamental causes. These include economic malaise that are beyond the powers of the police to cure. But they also include perceptions of distance from the local community, particularly the ethnic communities and a belief, in some quarters, of differential treatment. Scarman urged the police to reach out to these groups and to make exceptional efforts to bring their members into the police service so that it can be perceived (as it was in Peel's day) as a service for the whole community.

These differing models for responses to enormous social changes in England again require our attention in Australia.

YEARS OF ACHIEVEMENT

In reflecting upon the challenges before our police, we should not be downcast. For in recent years, despite the banner headlines, the achievements have been most significant. The headlines, sometimes with justification, sometimes not,⁷ have latched onto the difficulties which occur when individual officers, or the system, itself fail. But little attention is paid to the achievements. One of the difficulties, in the nature of the media in a society such as Australia's, is securing even passing attention to the important reforms and achievements. No doubt every police officer would have his or her list. As a citizen, my list, in respect of the New South Wales service, would include the following:

1. The Board

The establishment of a Police Board. It is, as the Minister has said, a "window" for the community into the police and a window by which the police, at the highest level can be made sensitive to community concerns and perceptions. The great good fortune of the New South Wales Police in securing, in Sir Morris Byers, a lawyer of the highest experience and integrity and universal admiration, is manifest. His selection was an inspired choice of the Premier. The State is fortunate that he has offered his services in this new role. Also a source of satisfaction is the fact that the relations between the operation of Police and the Board have been good and continue to improve. The early hints of tension, following the Lusher Report⁸, have melted in the face of the

contributions of the Board, the determination of the Police Commissioner and the loyalty of police to the law, which establishes the Board.

2. A10

The establishment of internal affairs units throughout Australia has contributed to the attack on corruption, inefficiency and poor public service. The introduction of the internal affairs section was a key part in the report of the Australian Law Reform Commission on the handling of complaints against the police.⁹ But it was not something the Commission dreamed up. It was a master stroke devised by police themselves, notably by Sir Robert Mark with his A10 section of Scotland Yard. This idea has spread and has been effective because it operates where it was developed, in the environment of a hierarchical police service.

3. Media

To improve relations with the media, there has been a marked increase in attention to communication of the police point of view. The Community Relations Bureau and the efforts of individual police have helped turn around the great wall of silence that previously existed. I do not underestimate the difficulties of police relations with the media. The media have a "bang bang" view of policing. They are all too willing to concentrate upon the sensational, the trivial, the sordid and matters that are prejudicial to the police. They are, as Professor Henry Mayer recently pointed out, in the business of drama and conflict, not necessarily fair reporting.¹⁰ A recent United States study of police

accountability and the media collected a number of depressing lessons which are worthy of examination in Australia.¹¹

4. Special Groups

Picking up some of the themes in the recent Scarman report, our police have begun to reach out to groups in the community with special needs, in their relations with the police. I refer to the liaison established with Aboriginal, ethnic and homosexual groups and, doubtless, others. There are also the special efforts now being made to provide sensitive attention to the victims of crime, including women. An interesting item from the United States portrays the police perceptions of spouse abuse and a comparison of the view points of male and female officers.¹² The authors report that male policemen tended to be critical of police women and vice versa. The men tended to consider the women lacking in assertiveness. The women tended to consider the men impatient and likely to escalate a conflict. Of course, it is important to avoid stereotypes. It is also important to avoid unfairness in career opportunity. But the use of mixed groups and especially in domestic situations may have lessons for Australia. In the United States, urgent attention is being given to the police response to domestic conflicts following the recent award to a Connecticut woman of a verdict of \$2.3 million compensation against the local police department for failing to do enough to protect her from her husband, despite her complaints.¹³ I do not say that a similar result would follow from Australian law. But an increase in the number of disaffected individuals suing police is likely to be a feature of the years ahead.

5. Training

There has been a steady improvement in police training. I was delighted to note the establishment of the police education Advisory Council. I hope to be associated, in informal ways, with that Council. I watched with satisfaction the establishment of the new residential academy at Goulburn which will replace the inadequate resources at Redfern. The Australian Police College at Manly is in its last years. The need for national police education facilities and for the exchange of experience and ideas at a high level between police services throughout Australia, is beyond question. I express the hope that the apparent abandonment of the idea of a Perth facility will not terminate the establishment of a national police training facility for post graduate police education. The universities and Colleges of Advanced Education can also play their part. Policing for the future will be a highly educated profession of great sophistication and technological expertise. Police education must keep pace with the new demands being made on police.

6. Computerisation

The latest annual report of the New South Wales police records the shift to computerisation. There is no doubt that this will greatly enhance the efficiency of police. The need to ensure for the due protection of civil liberties is a matter that has occupied the Australian Law Reform Commission.¹⁴

7. Appointments

Under the stimulus of the Police Board, the introduction of new systems of appointing and promoting police, particularly in the higher levels, on merit reflects the changing nature of policing today. It also reflects the recognition of the vital importance of winning back the support and respect of the community. If the public opinion polls are only partly right, there is a long haul ahead. In this, the police are not alone. The legal profession itself has lost something of its public respect in recent years. Abject respect, based on blind faith, will not be restored. Our society is now better educated, better informed and more questioning than in days gone by. But it is more likely that the police service will earn the respect of the community if it is commanded by people alert to the great social changes that are occurring and determined to adapt policing to the challenges and opportunities presented by those changes.

8. Community policing

One of the challenges is the adaptation of the police service to the notions of community policing. This is not a panacea, to provide solutions to all of the difficulties of the police. Nor should it become distorted into a cost saving effort to shelve responsibility, knowing that others will not take it up. But more attention to crime prevention, to the strategic use of patrol services and to interaction with the community and community groups are tasks high on the agenda of police in the future.¹⁵

9. Law Reform

Finally it is good to report, at the end of a decade in the Law Reform Commission, that there is now a heightened awareness of the responsibility police have to play a part in law reform. They are the front line troops. They see, daily, the deficiencies in the law, in its administration and its institutions. The freshest constable will have ideas and suggestions for improvement of the legal system. Sometimes those ideas may be insufficiently sensitive to the very special balance which we strike in English speaking countries between the power of the state and the privileges of the individual. An understanding of that balance, and the loyal support for it, is the hallmark of the best police. But the need to tackle some of the basic problems of law reform is, in my view, beyond question. Until this is done, police will be called upon, in many cases, to enforce laws that are unpopular or breached by so many otherwise good citizens that the question is raised whether they should be the law at all. Police now make a substantial contribution to the work of law reforming bodies throughout Australia. It is in the interests of good policing that they should do so for they have the practical experience. The dialogue with judges, lawyers and administrators involved in the business of law reform can only heighten mutual respect.

CONCLUSIONS

And that brings me to my conclusions. In the last ten years I have had the privilege of working closely with police in all parts of Australia. It has sensitised me to the viewpoint of

police, the challenge of policing today and the special and additional difficulties which now police face.

I am particularly glad to see at this function three persons who have my high regard and respect. Assistant Commissioner John Kelly of the Australian Federal Police took me on many occasions into the lion's den at the Australian Police College. There I faced, under his protection, many difficult questions of police concerned about law reform. His presence symbolises the new relationship between Federal and State Police. Sir Maurice Byers, who often led me at the Bar is a heroic advocate. His leadership of the Police Board will assure the success of that Board in the eyes of police and in the eyes of the People. Commissioner John Avery and I co-operated in various activities of police education. In his short period as Commissioner he has already earned the high respect of the community. His shining integrity and decency win many supporters for the police cause.

A corner has been turned. The challenges that lie ahead for policing in New South Wales, and in Australia are, great, even daunting. The example of Robert Peel should always be before you. The strength of the police, ultimately, is the support of the People.

FOOTNOTES

* Personal views only.

1. Sydney Morning Herald, 19 October, 1985, 21.
2. R.W. Harding, Opening Remarks, Community Policing, Australian Institute of Criminology, 1984, 3.
3. Committee of Inquiry into the Victoria Police (Justice T. Neesham) reported Sydney Morning Herald, 21 August, 1985, 7.
4. *ibid*, reported Sydney Morning Herald, 27 August, 1985, 5.
5. P.T. Anderson, Opening Address, Community Policing, above n 2, 8ff.
6. J.H. Skolnick and C. McCoy, "Police Accountability and the Media", American Bar Foundation Research Journal 521 (1984).
7. New South Wales Police Department, Report, 1984, Commissioner's statement, Commissioner C. Abbott (ii).
8. Report by Mr. Justice Lusher of the Commission to Inquire into New South Wales Police Administration, 1981.
9. The Law Reform Commission (Cth) Complaints Against Police (ALRC 1), 1975; *ibid*, Supplementary Report (ALRC 9) 1977.
10. H. Mayer, cited in J. Loren, "Police and Press - Joint Threat to Civil Liberties", Law Institute Journal (Vic), August, 1985, 813.
11. J.H. Skolnick and C. McCoy, "Police Accountability and the Media", American Bar Foundation Research Journal, 521 (1984).
12. R.J. Homani and D.B. Kennedy, "Police Perceptions of Spouse Abuse: A Comparison of Male and Female Officers" 13 Journal of Criminal Justice, 29 (1985).

13. Reported in the National Law Journal, 15 July, 1985, 6, 16.
14. The Law Reform Commission (Cth) Privacy, (ALRC 20), 1983.
15. Australian Institute of Criminology, Community Policing (ed. J. Morgan) Seminar Proceedings No. 4, 1984.