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ON 25.7.88
CHECK AGAINST DELIVERY

Police Foundation Lecture: 25th July 1988

given by The Lord Chancellor, Lord Mackay of Clashfern

The Police and Change: techniques and responsibilities

When I was invited shortly after I took office as Lord Chancellor to deliver this sixth annual lecture of the Police Foundation I was greatly gratified. As the date for delivery of the Lecture has drawn closer I have been inclined to doubt the wisdom of my early readiness. The reasons that prompted me readily to accept continue to be good reasons. I felt that this Lecture was a most important one about a subject most important to our freedom under the law in this Country. Secondly, I have always personally had a great interest in the Police and in their work. When I was Lord Advocate I had opportunity to visit many police stations in Scotland when I went round visiting the offices of the Procurators Fiscal who as I am sure you will know are the local officials with responsibility for prosecution. Since becoming Lord Chancellor I have visited a number of Courts in England and Wales and I try if possible to see the local Police in order to appreciate how the Court functions from their point of view where this is possible. Thirdly although the ministerial responsibility relating to the Police Force and to the policy of our criminal law rests upon the Home Secretary, and he delivered the fifth Foundation Lecture, the holder of my office with his ministerial responsibilities for the administration of the courts is so

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closely connected with the criminal justice system that it is right that he also should take an interest in the Police.

I would like to open by paying tribute to the work of the Police Foundation, to the range and quality of the research it is carrying on. The list of projects presently being undertaken makes most impressive reading with work going on in places as far apart as the Department of Mental Health in the University of Aberdeen, and University College Cardiff and in the Institute of Criminology in the University of Cambridge to name but a few of the academic institutions involved. Why all this research? The answer to my mind is that the Police like the rest of us live and work in a rapidly changing society to which it is necessary for them to respond and whose effect upon the Police it is necessary to study.

One of the great and rapidly changing areas is that of Technology and this has a profound effect on the way in which the Police conduct their work. The range of activities in which new technology plays a part is wide and tonight I ^{would like to} must concentrate on the way in which Police use computers for management purposes and for the storage and retrieval of information. In doing so I hope to illustrate some of the many issues raised by the use of technology in the Police Service. In doing so I leave aside many ways in which the Police use computers for example in radios, radar, aircraft and intoximeters as well as in a host of other ways.

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Computers came into use in the Police Service to help with pay and accounting and were subsequently developed for use in information storage and retrieval. A major step in this development was the Police National Computer, which first entered service in 1974. As you will know this now holds information about vehicle owners, stolen vehicles, criminal names, convictions, fingerprints and wanted and missing people. It now deals with the remarkable total of about 35 million enquiries each year. I understand that some policemen were initially sceptical of the value of the national computer but their doubts were very soon dispelled. Indeed it is difficult to imagine how the Police Service could operate effectively without it.

The next major challenge was to see whether computers could be used to cope with the mass of detailed information gathered in major crime investigations. Manual methods of collating a large amount of information make it very difficult to identify a link between vital pieces of information which may prove the secret of detection. This was one of the difficulties encountered during the Yorkshire Ripper investigation. It was to help the Police Service in this important task of managing and cross referencing a mass of data that the Home Office Scientific Research and Development Branch developed the Holmes System - the Home Office Large Major Enquiry System. This has now been successfully introduced into almost every Police Force in the Country over the past 3 years. But its very success has brought fresh problems in its wake.

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A great deal of information is now gathered in a systematic way but it has still to be searched and evaluated. This vital task is both tedious and time consuming, but unless it is properly done the vast amount of information collected may by its very vastness obscure the central matters which require to be highlighted for the Police to act upon. To assist with this IKBS - Intelligent Knowledge Based Systems - are now being developed which will sift through a computerised data base and select for the Police Officer those pieces of information which appear to be connected with the crime in question. An important aspect of this development will be a capacity for the system to be used in conjunction with the Holmes System. The Home Office is currently examining this on the basis that one computer system would interrogate the data base of another to establish links between evidence and possible relevance to the crime. Relevant information would be drawn to the attention of a Police Officer. Not quite a whodunnit button - but a step in that direction.

To some the prospect of a machine being able to undertake ^{or} ~~collative~~ tasks of this nature is not an attractive one. However the policeman needs help of this nature if he is to operate with increasing ^{efficiency} ~~efficiency~~. If the process of collating and sifting information can be done quickly by mechanical means, greater attention can be devoted to those tasks which ^{require} ~~acquire~~ an element of judgment on the part of the policeman. Knowledge of itself has only a limited value - it still has to be properly applied

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particularly in relation to the detection and prevention of particular crimes.

A particular area of difficulty has always been that of identification and here also computers are being used to help. PROD - Photographic Retrieval Optical Disk - is a pilot system which has been tried out in Hertfordshire. Video images of suspects are held in the system which can be searched under various headings such as age, colour and hairstyle. Details of previous convictions are also held alongside the suspects images. In Hertfordshire, details ^{on} are some 22,000 individuals are held. With the aid of a witness's description, the system can be searched and in seconds the picture and relevant details of possible suspects are displayed. This system which replaces albums of suspects' photographs has been very successful in the pilot phase and might well be worthy of replication more widely. Another new identification system at present being tested is appropriately named FACES - Facial Analysis Comparison and Elimination System. This system uses a witness's description to generate a series of photographs of possible suspects. Features such as ^a size of nose, thickness of lips and shape of chin can be entered into the system and those photographs in the system most closely matching the description are displayed. The pilot system has increased the success rate for identification to over 30%, compared with less than 10% when conventional suspects albums are used. Again, there is wide interest in this system and its use might well spread to Police throughout the Country.

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But these developments do present questions. We are rightly proud of our locally based policing system in this Country. Yet computers increase the pressure on individual Chief Constables to conform to centrally determined standards. Before the advent of computers it was perhaps sufficient that adjacent police forces understood each others' methods and had a broad commonality of approach. Now that computers are becoming increasingly involved in the process of crime detection, common standards are needed so that investigation of linked incidents can be co-ordinated, and even merged, where required. Criminals do not respect artificial boundaries. The demand for co-operation, with the implications it has ^{for} whether standardisation of both hardware and software, can seem like the infringement of the independence of the local police force which might wish to define its own technical standards and to establish its own pace of acquisition of computers. But in the nature of things it looks as though the pressure for a more central direction and provision of computer services will grow. The proposed replacement Police National Computer will provide a central computerised system of criminal records and it may also contain a record of images. It is likely, too, that any future automatic fingerprint recognition system would be centrally based. There is no easy answer to this but the ^{s pced} stage of development and the growing use of computers does suggest the need for a clear strategy to develop between central government and the police forces which in some way strikes an appropriate balance between the sensible provision of

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central services and the need to retain the flexibility and responsiveness of local policing.

Another important issue raised by these developments is that of reconciling the right of the individual to know what information is stored about him, to the huge capacity of computers to store such information. Many people are concerned about the amount of information the police already hold, and will hold in the future, on their computers.

The Police are I believe well aware of these fears. Parliament has already taken measures to ensure the integrity of personal information contained in computer systems in the Data Protection Act of 1984. With the support of the Data Protection Registrar the Police Service has drawn up a code of practice for the protection of personal data on police computers. A central advisor on it has been appointed who will ensure that forces have in place systems to prevent the unauthorised disclosure of information and also to ensure that the information they hold is both up to date and accurate. In this connection it is of basic importance to ^{remember} ~~the member~~ that the police cannot operate satisfactory without the confidence of the public. They therefore need to be in a position ^{to} ~~holding~~ sufficient information efficiently to detect crime, while at the same time avoiding the spectre of "big brother" and unnecessary prying into our individual privacy.

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But in concentrating on the Police use of computers we must be careful to keep use of computers in perspective. The Police Service currently spends about £25 million on computers each year. It spends £3 billion on its manpower. The Police Officer is still the central and most important element in the Police Service. Computers and all the other products of modern development which he uses are but tools - tools of a great variety which the Police Officer has to learn to use.

The modern Police Officers needs a huge range of skills to be successful. Does he also require the skill to present the results of his investigations in Court in order that the ultimate stage of his investigation a criminal trial should be properly conducted?

As a Scot and as a Scottish lawyer^s, accustomed to the role of the Lord Advocate and the Procurator Fiscal who existed in the Scottish system long before the introduction of the modern Police Force, I would say unhesitatingly No - but in England and Wales until very recently the Police Force shouldered this responsibility also. One of my first responsibilities after becoming Lord Advocate in 1979 was to receive the Royal Commission ^{on} of Criminal Procedure for England and Wales which was visiting Scotland to look at the Scottish System. Out of their work has come the Prosecution of Offences Act 1985 and the creation of the Crown Prosecution Service to take over from the

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Police the conduct of proceedings after a prosecution has been instituted in a great variety of cases.

This has meant a tremendous institutional change in England and Wales with considerable problems of management and staffing to be solved. My colleague the Attorney General has ministerial responsibility for the Crown Prosecution Service which is under the control of the Director of Public Prosecutions. So major a change as this has a profound effect on the way that the work is done and there have been quite a number of problems. On occasion this has led to public discussion of their respective roles in the conduct of prosecutions by the Police and the Crown Prosecution Service. I am glad to say that this public phase appears to have passed and that practical solutions are being found in more private discussion to eliminate the problems that have arisen. When I visit courts I normally also see the responsible officer in the Crown Prosecution Service and my impression is that the service is overcoming the formidable difficulties it has faced. After all, as one has said, success comes before work only in the dictionary. However that may be I am entirely satisfied that it is right in principle that the responsibility for the investigation of crime and the responsibility for the conduct of prosecutions in court should be distinct. After all the person who has conducted the investigations will have a view of the result of these investigations which a completely objective examination of them may not always confirm.

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But although responsibility for conduct of prosecutions has been transferred from the police to the Crown Prosecution Service the policeman who has conducted the investigation will still usually be required as a witness and therefore it an important part of the presentation of the case for the prosecution.

This is a matter which has received some attention recently from such different sources as the distinguished Commissioner for the Metropolitan Police and that well known Scottish journalist and broadcaster Ludovic Kennedy. Both of them are well able to speak for themselves as they have done but both I think point to the fact that human nature being what it is police officers who have been very deeply involved in an investigation may well have reached a conclusion upon the guilt of a particular person. They also may appreciate that the nature of the legal process is such that on the basis of their findings that person may escape conviction and therefore there may be in our present arrangements a strong temptation for the Police Officer to improve the evidence in some way not entirely legitimate. This has led to calls for changes in the trial system. For example Ludovic Kennedy has called for us to move over completely to the French system of a largely inquisitorial character. And ^{he} has said that the principle obstacle to what he regards as an entirely desirable improvement is the conservatism of English and Scottish ^ω layers.

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In this field, ^{and} I use the word advisedly, we face the problem of sacred cows. Whenever a change from the existing rule is proposed the opponents of change describe the existing rule as a sacred cow. Those who resist the change on the contrary describe it as a sacred principle. The ^{un}initiated would be apt to think that it was comparatively easy to distinguish between a principle and a cow. But that is only to betray their lack of experience. May I illustrate from an experience of mine in the House of Lords only last Friday. The Government had proposed and the House of Commons had accepted a departure from the rule against hearsay in criminal trials. One of my distinguished predecessors Lord Hailsham of St Marylebone described the rule as a sacred cow whereas Lord Hutchison of Lullington opposing the change described it as a sacred principle. Such a finely balanced question was obviously one for decision by the House itself which it did by a narrow majority of 45 to 42 in favour of making the change.

More seriously I think that it might be right to distinguish the cow from the principle by saying the rule which is necessary to protect against some particular obstacle to a fair result should be described as a sacred principle and worthy of preservation whereas a rule that cannot be shown to be necessary for any such purpose should be discarded.

While I cannot speak for all lawyers I believe I speak for a very substantial majority of them when I say that we would be glad to

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see any obstacles to the attaining of a just result in a criminal trial speedily removed.

May I add one more observation on this topic. Where a policeman has responsibility for investigation his task is to do his best with integrity and skill to carry that investigation to a conclusion. It is not his job nor has he the responsibility ultimately to decide whether the person focussed by his investigation is to be judged guilty. That is in our system, and long may it remain so, the task of an impartial tribunal of magistrate, judge, or judge and jury. I know it is tempting for us to think that we can do other people's jobs better than they can but I believe it is a statutory rule that I should seek to do my own job to the very best of my ability and if it is someone else's responsibility to judge on the results of my work to leave that to him. So far as a wholesale transfer from the present system to the French system is concerned I think one must bear in mind that all systems are operated by fallible human beings and that the Police and all the other human beings who participate in this system are apt to go wrong or apt to yield to temptation and in consequence from time to time miscarriage of justice can occur. We must do everything we can to eradicate injustice from our system and to deal with those who may be responsible for it. So far as the police are concerned they have a very strong disciplinary code and we now have the independent Police Complaints Authority. All of these are intended to pursue

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justified complaints with appropriate action and to dismiss those which are unjustified.

As I said, like all of us, policeman are fallible and can make mistakes but I believe that the integrity of the Police Force as a whole is worthy of our confidence.

I often have occasion to walk through St James's Square. I never do so without noticing the quiet dignified memorial there to WPC Yvonne Fletcher. That serves as a perpetual reminder to us of the constant devotion to duty of our police force in the face of constant potential danger which places us continually in their debt.