



The Police Foundation
Improving policing for the benefit of the public



Oxford Policing Policy Forum

Police Governance and Accountability

Report

All Souls College, Oxford
9 November 2006

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Present

Name	Organisation	Name	Organisation
Roger Graef OBE (Chair)	Chief Executive, Films of Record	Bob Jones	Chair, Association of Police Authorities
Cllr Lord (Bill) Bradshaw	House of Lords / Thames Valley Police Authority	Oscar Keeble	Researcher, Conservative Party
Gareth Crossman	Director of Policy, Liberty	Kate Lloyd	Policy Analyst, The Police Foundation
John Croft CBE	Ex-Director, Research and Planning Unit, Home Office	Professor Ian Loader	Director, Centre for Criminology, University of Oxford
Maria Docking	Social Researcher, Independent Police Complaints Commission (IPCC)	Gavin Lockhart	Research Director, Policy Exchange
Charlie Edwards	Researcher, Demos	Barry Loveday	University of Portsmouth
David Faulkner CB	Centre for Criminology, University of Oxford	Ken Macdonald QC	Director of Public Prosecutions
Dr Janet Foster	Senior Policy and Research Officer, The Police Foundation	Paul Maltby	Team Leader, Home Affairs, Cabinet Office
Alex Gask	Legal Officer, Liberty	Rebecca Marsh	Commissioner, IPCC
Stan Gilmour	Inspector, Thames Valley Police	Hamish McCardle	Superintendent, New Zealand Police
Charles Goldie	Head of Police Reform Unit, Home Office	Denis O'Connor CBE QPM	HM Chief Inspector of Constabulary
John Graham	Director, The Police Foundation	Professor Maurice Punch	London School of Economics
Dr Roger Grimshaw	Research Director, The Centre for Crime and Justice Studies	Professor Philip Stenning	University of Keele
Nick Herbert	MP for Arundel & South Downs	John Thornhill	Deputy Chairman, Magistrates Association
Dr Mercedes Hinton	London School of Economics	Mark Underwood	Managing Director, Reliance Secure Task Management
Professor Mike Hough	Director, Institute for Criminal Policy Research, King's College London		

Context

This forum was the second hosted by The Police Foundation and the University of Oxford's Centre for Criminology. It was set up at the beginning of 2006 to provide a space for a broad spectrum of people from both inside and outside policing to get together to discuss fundamental issues relating to contemporary policing under Chatham House rules. The aim of this event was to discuss police accountability and governance, focussing in particular on underlying principles, policy and practice. Short presentations were provided to stimulate discussion – from Professor Christopher Hood and Professor Ian Loader in the morning and from Bob Jones, Chair of the Association of Police Authorities, in the afternoon.

Public sector accountability: Public Service Bargains

Professor Christopher Hood's presentation focussed on the concept of 'Public Service Bargains' (PSBs) and its relevance for debates on accountability.¹ A Public Service Bargain is an informal understanding between public servants and other actors about what their responsibilities are. The concept was developed from empirical research involving civil servants in Germany and England. PSBs have three dimensions: rewards, competency, and loyalty and responsibility. The latter is of particular relevance in terms of accountability.

Loyalty 'bargains' are divided into four types:

Judge bargains Loyalty to the state and the law, or to the 'public'	Partnership bargains Working in partnership with government, with a right to be heard
Executive bargains Loyalty to orders or a particular policy, within a managerial framework	Jester bargains Acting as a 'reality check' for government

¹ For a full description of Public Service Bargains see Hood, C. & Lodge, C. (2006) *The Politics of Public Service Bargains: Reward, Competency, Loyalty and Blame* (Oxford: Oxford University Press)

Each involves politicians and public servants in foregoing some powers or rights in exchange for others.

Professor Hood argued that effective government requires a mixture of these different types of bargains, although certain countries tend more towards particular types, and within countries the situation may vary over time and in different settings. Various PSBs operate simultaneously in policing and there is sometimes tension regarding where the appropriate balance should lie. For example, should police officers take an 'executive' approach by working to the orders of the mayor or of central government, a 'partnership' approach by working in partnership with them, or a 'judge' approach, where police are seen as accountable to the law or directly to the public, as the police have often done in the past?

Police accountability: how is policing different?

Some contributors suggested that whilst it is important to learn from other mechanisms of accountability in the public sector, the position and role of the police in society *is* different from other public sector organisations. The police are central to the stability of the state and to the maintenance of political regimes, and do not exist just to serve citizens as consumers.

This notion, according to Professor Loader, is the central paradox of policing and police governance. On the one hand, the state is, as the monopolist of legitimate coercion in society, simultaneously a guarantor of, and threat to, the security of its citizens. On the other hand, the national and local state is the source of regulatory control over the police and, as a main beneficiary of the police's ordering capacity, contributes to the problem that regulation seeks to address.

Whilst some contributors questioned this, there seemed to be a general consensus that, despite recent changes, the police *are* different as they have a 'natural monopoly', with certain powers that are unique including those of detention and the use of force. The principle of choice, that might to some extent protect the consumer in other public services, does not apply.

However, it was suggested that there is some value in considering the similarities between policing and other professions such as doctors and social workers, because it is a 'high risk' profession and police officers have the potential to do individuals a great deal of harm if they do not do their job properly.

What is police accountability?

Professor Loader argued that there were two key dimensions to police accountability and governance:

- The quality of service provided to citizens by police and the fair allocation of policing resources.
- How individual officers treat and respond to individual citizens.

Professor Loader suggested three values that are fundamental to understanding police accountability:

- Equal and impartial treatment of citizens
- Effectiveness and efficiency
- Democratic legitimacy

The concept and principles of police accountability go back to the mid nineteenth century, but the issue has become more prominent in recent years because of growing levels of complexity within policing agencies and changes in police activity. One example was the potential impact on the police of the new Corporate Manslaughter Bill in terms of the shift towards the concept of vicarious liability. It is uncertain whether the police will have the same levels of immunity as they have enjoyed in the past.

Modern organisations need to consider new and increasingly fragmented modes and forms of accountability in order to address different types of organisational operations and decisions. Public services now need to embrace multiple channels and dimensions of accountability, so the term 'police accountability' no longer encompasses the many 'accountabilities' required of the police in a modern democracy. The notion of a 'matrix' or 'mosaic' of accountabilities was suggested as a more appropriate way of reflecting the

constantly changing nature and balance of responsibilities, duties and decisions associated with contemporary policing. It was generally agreed that a new language was emerging to reflect these complex changes, but questions still needed to be raised as to whether the police service and government have a coherent idea, let alone an agreed definition of what accountability means in contemporary Britain.

Issues were also raised regarding transparency and accountability. The Crown Prosecution Service (CPS), for example, has become more transparent as it has accrued greater powers and responsibilities. Prosecutors must now explain the basis and rationale behind their decisions, and be accountable for them. Because their decisions are open to public scrutiny, prosecutors have to work hard to ensure that their decisions are fair and robust. Greater transparency promotes an ethos where people are more likely to learn from their mistakes. Used in this way, accountability is not only good in principle, but also leads to increased efficiency.

It was pointed out that within policing, the relationship between greater accountability and increased efficiency is not always straightforward. For example, whilst the introduction of PACE led to considerable improvements in police accountability, the clear up rate halved, so it could be argued that the police became less effective as a result.

The possibilities for increasing transparency in some areas of policing are also unclear. For example, the new Serious and Organised Crime Agency (SOCA) has kept a purposely low profile, which will make it difficult to demonstrate success to both the public and to government. Whether or not success can be measured and public confidence can be ensured if this low profile is maintained remains to be seen. It was pointed out, however, that although it has Freedom of Information Act exemptions, SOCA is inspected by HM Inspectorate of Constabulary and also comes under the remit of the Independent Police Complaints Commission; so there are clear accountability mechanisms in place, despite a lack of transparency. SOCA may be in a honeymoon period at the moment, but pressure for greater transparency is likely to grow and it will be interesting to see how the agency, and other similarly opaque organisations such as Her Majesty's Revenue and Customs, will respond.

Different types of accountability

Using the notion of a matrix/mosaic of accountabilities outlined above, the table below shows the different layers and types of organisations and actors to whom police officers and forces are currently accountable.

	Individual accountabilities (officer level)	Collective accountabilities (force level)
Individuals stopped and searched	✓	
Individual complainants	✓	
Victims and witnesses	✓	
Arrestees	✓	
Supervisor	✓	
PACE Codes of Practice	✓	
ACPO Policies	✓	✓
Criminal Justice Process (e.g. legislation and courts)	✓	✓
Independent Police Complaints Commission (IPCC)	✓	✓
Home Office (e.g. policy / performance indicators)	✓	✓
Independent Advisory Groups (IAGs)		✓
Crime and Disorder Reduction Partnerships (CDRP)		✓
The Prime Minister/ The Cabinet Office (e.g. Street Crimes Initiative)		✓
The Police Authority		✓
National Police Improvement Agency (NPIA)		✓
Her Majesty's Inspectorate of Constabulary (HMIC)		✓

In order to begin to untangle this complex matrix of accountabilities and take into account the variety of agencies involved in policing (not simply the public police responsible for local policing), it might be helpful to use Ian Professor Loader's framework for defining contemporary policing structures:

Form of policing²	Example	Formal accountability structures
<i>By the state</i>	Public police forces, Serious and Organised Crime Agency (SOCA), Her Majesty's Revenue and Customs (HMRC), Immigration and Nationality Directorate (IND)	Police Authorities / Her Majesty's Inspectorate of Constabulary (HMIC) / Independent Police Complaints Commission (IPCC) / Home Office
<i>Through the state</i>	Private providers working for government	Contracts with government agencies
<i>Below the state</i>	Crime and Disorder Reduction Partnerships (CDRPs) / Neighbourhood Wardens / Neighbourhood Watch	?
<i>Beyond the state</i>	Private security companies	Security Industry Authority?
<i>Above the state</i>	International policing bodies such as Europol and Interpol	?

Where there are gaps, they tend to be filled, if at all, by ad hoc agreements or informal understandings.

The current system of police accountability: some dilemmas

Police accountability was described as 'one of the thorniest issues of statecraft'. It has been a contentious issue for many decades, going back to the Royal Commission on the Police in the early 1960s. In recent years concerns have been expressed about:

- The fall of constabulary independence
- The shift of control to the centre
- Institutional complexity
- The altered political and cultural context

² Adapted from: Loader, I. (2000) 'Plural Policing and Democratic Governance' *Social and Legal Studies* (9)3: 323 – 345

Traditionally, police accountability has been based on the concept of 'constabulary independence' and the tripartite structure consisting of the Chief Officer, the Home Office and the Police Authority. Some, including the government and the police themselves, believe that structure is now out-dated and can no longer be sustained, being no longer effective in holding the police to account, nor sufficiently transparent. In practice, police officers and police forces do not look to police authorities as a source of direction and accountability: they look instead to the Home Office where targets are set and monitored and where real power resides.

Bob Jones argued that the tripartite structure still has considerable strengths and no other model, such as in the United States, with its federal structure and written constitution, can so far be shown to be a significant improvement. He argued that the present structure should not be replaced but rather be developed and adapted to provide a stronger, possibly elected but certainly more committed local element. In particular, there should be stronger local control of police finance and funding sources, perhaps through Crime and Disorder Reduction Partnerships (CDRPs). The criticisms made often reflect local situations and should not be applied to the police service as a whole. These criticisms, he suggested, were to some extent due to the perverse effects of the Government's own public service reforms.

In a political climate characterised by a decline in trust in the political process, loss of respect for public servants and an increase in public expectations, the existence of an overarching national, external and independent body for investigating allegations of police misconduct must be viewed as vital for holding the police to account and for dealing with police misconduct. The introduction of just such a body – the Independent Police Complaints Commission (IPCC) – heralded a new era in police accountability. But the effectiveness of the IPCC is, it was suggested, undermined by its lack of powers, particularly in comparison to the Police Ombudsman for Northern Ireland, which deals with *all* complaints against the police, not only the most serious cases, and has greater powers of disposal.

Referring to the concept of 'public service bargains', it was suggested that the 'executive' bargain between the police and other agencies, including the private sector, is becoming increasingly common. Whilst some thought that this was a positive move, others argued

that the police should move closer to a 'judge' model, with loyalty to the state and the 'public interest'.

Where do we go from here? The need for local accountability

In light of the problems with existing accountability structures, there seemed to be a consensus that moving towards more localised forms of accountability is the way forward, and that the process of increasing centralisation should be halted and if possible reversed.

It was recognised that a shift in accountability frameworks is already taking place. For example, current local authority involvement in combating anti-social behaviour and the involvement of local communities through Crime and Disorder Reduction Partnerships (CDRPs) are already helping communities to take greater ownership of such issues. Furthermore, the new Police and Justice Bill sets out new mechanisms for improving local accountability, such as the 'community call for action' and the establishment of 'overview and scrutiny communities'. Whilst this shift was generally supported, it was felt that governments should not feel they always have to respond to local concerns, but that in doing so, they should recognise that those with the loudest voices are not necessarily those with the greatest need and that the same type or level of service does not necessarily have to be provided in every area.

Where should the boundaries be set?

In the move to multiple, local accountabilities, clear lines will need to be drawn between the police, local authorities, and central government. The right balance is difficult to find, especially when police have to deal effectively with crime and disorder at all three levels; local, cross border and international. A great deal can be done locally, but some things cannot be decided entirely on the basis of local people's wishes. Rigorous local enforcement of the law for some offences, and more relaxed enforcement of others might be popular locally, but it might also have wider or longer-term consequences for society as a whole; the national interest, for example in relation to public order or organised crime, still needs to be taken into account.

Who should be accountable?

Working out who is, or who should be accountable for decisions can be very complex. The topic of problematic alcohol consumption and the implications of the new licensing act is just one example of where an intricate web of responsibility prevails. The public may perceive alcohol misuse in terms of public safety and associate it with disorder, but whilst the police play a major role in responding to the problems caused by alcohol abuse, deciding who should be held to account for the problem is difficult, given the range of decision makers and practitioners involved from both within and outside the criminal justice system (e.g. police / health / local councils / transport).

How can the most vulnerable and the least vocal be given a voice?

Local accountability structures are all too easily dominated by those that shout the loudest. Levels of victimisation and offending are highest in the most marginalised groups who are 'outside' the system and tend to have no voice, yet may need the service most. If only certain interest groups are heard and subsequently responded to, then the police cannot be said to be accountable to all. So for example, hate crime is only experienced by a minority, but it is vital that this receives as much attention as other problems. As J. S. Mill has argued, governments must not succumb to the 'tyranny of the majority' which implies that the police must, at least in part, be accountable to the law.

Are the public's priorities the right priorities?

Whilst giving local communities a voice is important, it is questionable whether public expectations of the police are realistic or well informed. For example, local priorities might demand more police attention to dealing with anti-social behaviour and low level criminal damage, rather than more serious and violent crime. The role of the media is important here, as this is the mechanism through which people receive most of their knowledge about crime and the criminal justice system. The media can be an accountability mechanism in itself, and media coverage of the Stephen Lawrence case played an important role in introducing the concept of police accountability to the general public. But media messages can also distort reality (for example, by focusing on single cases and particular types of crime), and so may have a negative influence on public priorities. Officers need to be confident that important issues can be addressed, even if they do not correspond to local concerns. Public demand does not always reflect public

need and the police must therefore be accountable for doing not only what the public is interested in, but also what is in the public interest.

How can structures be created to improve public input?

If local accountability is to be taken seriously, local communities must be given the tools and information to engage in an informed manner. Communities need information about police activities and resources, and the information needs to be provided as part of a culture of openness, transparency and democratic consultation. Theoretical and practical principles need to be translated into language that people understand in order that they can make relevant, well-informed contributions to the debate. This may be helped by undertaking an 'accountability audit', whereby the complexity of multiple local accountabilities can be usefully exposed before ways to improve it are agreed.

How can informal accountability mechanisms be improved?

Responding to local concerns is a vital component of accountability. Individual police officers need to be directly accountable for their behaviour in their interactions with the public. Routine evaluation and monitoring of officers at beat level and greater use of 'mystery shoppers' to ensure quality of service are important in securing this. With better individual accountability, it is possible that there will be less concern about the exact form that accountability structures take. However, it is also essential to ensure accountability at a corporate level and to respond to the growth of agencies and policing activities that do not have a local focus.

How can public expectations be managed?

Public expectations need to be managed. Policing is not simply about delivering a product to a consumer. The public need to understand that some of their priorities may be untenable or unrealistic, and that limited resources necessitate focussed policing strategies in which all their needs may not be addressed and some may be considered less of a priority than others. If there is an open and transparent conversation, and the public are provided with clear explanations about why their needs cannot be met, they are more likely to accept such limitations.

Is there a need to create new structures of local accountability?

The forum then turned to a discussion about the role that elections (or elected representatives) might play in terms of providing a new channel of local police accountability. The American model, where chief officers or crown prosecutors submit themselves to election, did not attract great support, but it was suggested that there might be a place for some members of police authorities to be directly elected.

Accountability to an elected mayor might have some attractions, enabling the independence of the chief officer to be more easily retained. In London, the Metropolitan Police Authority has formal responsibility for ensuring the efficiency and effectiveness of the Metropolitan Police, but the Mayor sets their budget. Politicians, however, tend to have agendas which are influenced by the electoral cycle and this may shape their response to policing priorities, tending towards short term rather than longer term goals.

Changes in policing have historically come from outside the police service and have often been driven by crises (e.g. the Lawrence and Scarman Inquiries). A mayor might constitute such an accountability mechanism in the form of a vocal external agency putting pressure on the police to change. In London, the Mayor and the Metropolitan Police Authority have been instrumental in debates about the coverage of neighbourhood policing across local authority wards.

How is it possible to promote 'joined up' accountability?

The notion of 'joined up accountabilities' was put forward to cover the many different local agencies with which the police interact on a daily basis (e.g. health, social services). It was accepted that multi agency working is not always easy, particularly in light of the multiplicity of agencies involved, their different philosophies and their conflicting priorities. It was argued that CDRPs are to some extent providing an accountability function at a local level, and that they could continue to lead in terms of filling existing gaps in local accountability structures. Perhaps local criminal justice managers could be appointed with responsibility for holding all the criminal justice services in their area to account.

Outstanding areas

The following areas were noted as particularly important for further study:

- The need to look abroad for alternative models and research. It was noted that there is a lot of interesting work going on in Europe and more widely, but that important lessons could also be learned from looking at the different police accountability structures in Northern Ireland and Scotland.
- Ideally research should itself be seen as a mechanism of accountability, and it should be commissioned, conducted and applied with that in mind.
- The need to address the lack of accountability for policing at an international level, particularly in light of the rapid growth in transnational policing.
- Ensuring accountability for private policing organisations and activities at a local, regional, national and international level.
- The importance of professional values and standards, and of training, leadership and institutions to ensure that those values and standards are sustained.

Final points

- The complexity of policing is a fact of modern life. It is not a 'problem' to be 'solved', but a situation that requires accountability to take multiple forms.
- Accountability is as much an attitude of mind and a matter of professional standards, culture and leadership as it is of structures and mechanisms.
- In a healthy democratic society, policing and law enforcement operate by consent. Accountability, and with it legitimacy and trust, are necessary conditions for that consent to be achieved and ultimately for the law to be observed.
- Forms of accountability for policing both reflect and influence the fundamental relationship between the state and the citizen, and hence the kind of country people want Britain to be.

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