

1 Exploring Democracy

Introduction

This book explores democracy by analysing how and why policing policy has changed in recent years. Most research and writing on democracy focuses on explicitly 'political' institutions: on parliaments, political parties, cabinets, electoral systems, and suchlike. However, in the modern service delivery state, it can be argued that the way in which public services impinge on the lives of citizens may be more important, as the embodiment or negation of the democratic ideal, than parliament or central government. The protection of liberty, social and economic opportunities, and the ability of individuals to shape and develop their lives are crucially affected by a range of public services.

The police are arguably the central public service in a modern state. They are there to protect our essential freedoms, and to do so have a monopoly over the legitimate use of force. In the words of David Bayley (1991), 'Because the police are the most visibly coercive instrument of government, their actions powerfully influence whether government is perceived to be legitimate'. Yet differences in policing structures and styles exist across societies that are all described as democratic. The explicitly political set of national institutional arrangements has only an indirect influence on what the public services actually do.

This study therefore approaches democracy by an unorthodox route. Instead of starting from explicitly political institutions, it focuses on a public service that has a unique relationship with the institutions of democracy and their legitimacy. The central objective is to establish what shapes policing policy, principally by considering how and why it changes. An equally important task is to test the actual process of policy formation against touchstones of democracy, so as to establish how far and in what ways the developments in policing policy in England conform to a democratic ideal.

As Reiner (1992) has pointed out, policing has emerged from the shadows to the forefront of public debate in the 1980s and 1990s. This new-found interest reached a climax in 1993 with the publication of three major reports and sets of proposals: the report of the Royal Commission on Criminal Justice, which had been set up in response to a series of

miscarriages of justice, many of them involving police misconduct; the report of the Sheehy Committee (Sheehy, 1993), established by the Home Secretary to develop proposals on rank structure, pay, and measures of police performance; and the government White Paper on police reform (Home Office, 1993b), which led in 1994 to the Police and Magistrates' Courts Bill (Home Office, 1993a). The reasons for this rash of reports and proposals are complex, but they include the increasing salience, from 1979 onwards, of the Conservative Party's promise of better 'law and order'; their continuing failure to deliver, as crime rates have continued to rise; the realisation that increasing expenditure on the police was producing no tangible results, at least in terms that the electorate would recognise; and a perceived collapse of public confidence in the police, associated with the riots of 1981 and 1985, and the police misconduct highlighted by well-publicised miscarriages of justice. In fact, there has been no general collapse in confidence, although opinion polls did show some decline, from a very high level, in public approval during the 1980s.¹ However, the perception of such a collapse, combined with the other factors, has projected the police to the top of the list of priorities for reform by a government still looking for ways to be radical.

Among the proposals of the White Paper were ones that would affect the governance of the police by changing the structure, funding, and powers of police authorities, and by generating more information about what the police do and achieve. These proposals have met with a chorus of criticism from many organisations involved with policing. The spokespersons of the opposition parties, of the local authority associations, of police authorities, and of the police staff associations have been united in their condemnation. Where those bodies have led, the House of Lords has duly followed. Whereas a number of specific criticisms have surfaced, it is the perceived threat to the accountability of the police service that appears to have caused the most upset. At a conference organised by the local authority associations (under the ominous banner *Democracy at Risk*), the Labour spokesperson on Home Affairs described the proposals as 'an attack on local democracy'. His Liberal Democrat counterpart argued that the proposals would undermine a system of accountability and control that was the envy of other countries. The President of the Association of Chief Police Officers (ACPO) said the proposals were a threat to 'policing by consent'. Numerous representatives of local authorities argued that the proposed reforms would jeopardise our 'democratic' system of policing (ACC & AMA, 1993).

Two things in particular are striking about the terms of the debate over the White Paper and the subsequent Bill. First, the unlikely partners forming the coalition of opposition to the proposals. Is it really only ten years ago

that chief constables clashed with radical Labour metropolitan police authorities, and raised concerns about the local political control of operational policing? Second, it is striking that terms like ‘democracy’, ‘democratic policing’ and ‘local accountability’ are waved like flags, as if their meaning were beyond doubt, and their virtues beyond question. Even the most cursory glance at writings on the theory of democracy reveals fundamental disagreements about what democracy is, and about whether it should be accepted uncritically as a ‘Good Thing’. Corcoran (1983:15) describes democracy as ‘the world’s new universal religion’, and reminds us that the term has not always been used by political thinkers to imply praise. In order to make progress, it is necessary to clarify what is meant by democracy, and how these ideas can be related to policing. More specifically, it is important to isolate a number of criteria against which the actual structures that determine the pattern of policing can be tested. Since in modern times democracy is a positive ideal, and therefore demands approval, it is also important to consider why democratic policing, on some proposed definition, is preferable to other arrangements.

The core of this book (Chapters 2-5) consists of an analysis of the making of policing policy within four English police forces during the 1980s and early 1990s. This chapter establishes the framework of analysis within which the findings on the making of policing policy will be located. The following section shows how this work grows out of a recent tradition of research and writing on the police, discusses the idea of policing policy, which is central to this inquiry, and describes the scope and methods of the study. Subsequent sections describe the structure and powers of the institutions concerned with the governance of the police, and distil from a discussion of the concept of democracy a set of criteria for judging in what ways a system might be considered to be ‘democratic’. This prepares the way for the later chapters, which set out the evidence on how and why certain major changes of policy have come about.

Two traditions of research on policing

Broadly speaking, two traditions of research and writing on the police can be identified. One is concerned with the governance of the police, and therefore concentrates on legal and political institutions and their relationships with the police service. In this tradition there are writers who approach the subject from the standpoint of constitutional theory, such as Geoffrey Marshall (1965, 1978), from that of social history and law, such as Lawrence Lustgarten (1986), and from a broader sociological perspective, such as Robert Reiner (1992). The second tradition, which started in the 1970s and gained force throughout the 1980s, is concerned

with what police officers actually do, how they do it, and what shapes policing behaviour and the pattern of policing from day to day. Until relatively recently, there has been little linkage between these two streams of work. At the extremes, practitioners in each of the traditions simply assumed that their own set of problems were the only important ones. For example, Marshall (1965, 1978) never considered whether the constitutional arrangements that he wrote about actually influenced the style or pattern of policing in a significant way. At the other extreme, the team of PSI researchers, when they embarked on the unprecedented programme of research on the Metropolitan Police in 1980, explicitly decided not to study constitutional arrangements on the assumption that they would be largely irrelevant to policing on the ground. In a long review article commenting on *Police and People in London*, Lustgarten (1984) complained that it was the wrong study, because it was not about policy-making by chief constables and how that was influenced by the wider political and constitutional framework.

This present programme of research² can be seen as a bridge between the two traditions. In fact, although *Police and People in London* (Small, 1983; Smith, 1983a,b; Smith & Gray, 1983) was primarily concerned with policing on the ground, the analysis of the findings pushed towards making links with legal and political institutions. That earlier programme of research consisted of four main elements, which together provided a number of different perspectives on interactions between the police and the public and on the processes, external constraints, and organisational structures that shape policing behaviour. These elements were, first, a survey of Londoners, which provided a detailed account of people's contacts with the police from their perspective, their attitudes towards the police, their policing policy preferences, and their experience as victims of crime. Although half of the sample of Londoners in the survey were members of ethnic minority groups, there was a danger that the experience and attitudes of young black men would not be adequately tapped by a formal survey method. The second element filled that gap through participant observation by a young black researcher of a group of young unemployed men in a self-help hostel. The third element was a large-scale survey of police officers up to the rank of Inspector, which collected systematic information about their deployment, pattern of work, use of time, interactions with the public from the police perspective, career patterns, and attitudes towards police work. The final element, published as *The Police in Action* (Smith & Gray, 1983), was based on extensive observation by two researchers of police work in 12 London divisions and within a number of specialist groups; the results of these observations were

interpreted in the light of the organisational structure and dynamics of the police force and of the constraints and rewards originating from outside the police organisation.

It was clear that the law and its wider constitutional framework influenced the pattern of policing and the behaviour of individual police officers at best in only an indirect way. The clearest message from the 1983 reports was that in seeking to control or influence policing behaviour a due process model was hopelessly inadequate. Those who aimed to reform policing through further legal regulation ignored the fact, well established by this programme of research, that existing regulations were frequently ignored, and could even be counter-productive. There might be conditions in which regulation could work, but those who were interested in changing the pattern of policing would have to take an interest in the police organisation, the way it was managed, the satisfactions and frustrations of police officers, and the dynamics of their interactions with the public.

Although the PSI authors considered that the relationship between police behaviour and externally imposed constraints was indirect, they also considered that the task of understanding the nature of that relationship was the most important one for researchers in the field. Within the scope of the research carried out at the time, it was possible only to start to address the problem. Smith & Gray (1983:169-72) approached this subject by observing that 'People inside and outside the Force generally think of policing behaviour as being shaped chiefly by the application of rules and set procedure'. While it was true that a complex network of rules and set procedures was a central feature of the way the force was organised, there would be dangers in taking too superficial a view of the way the rules function. 'It is important to recognise that these rules are almost purely negative in their effect: that is, police officers may be disciplined, prosecuted, or otherwise get into difficulties if they are seen to break the rules, but they will not necessarily be praised, enjoy their work or achieve their career objectives if they keep to them.' It was argued that because positive objectives were at least as influential as rules, the view that policing behaviour was chiefly shaped by rules might well be wrong.

Observing that 'Because a rule exists, it does not follow that it automatically and rigidly governs day-to-day policing behaviour', Smith & Gray (1983:171) went on to make a distinction between three types of rules. This analysis was offered more as an aid to discovery in future research than as a summary of existing findings.

Working rules are those that are internalised by police officers to become guiding principles of their conduct. *Inhibitory rules* are those which are not internalised, but which police officers take into account when

deciding how to act and which tend to discourage them from behaving in certain ways in case they should be caught and the rule invoked against them. *Presentational rules* are ones that exist to give an acceptable appearance to the way that police work is carried out. It is important to realise that it is not only or even mainly the police who seek to put this gloss in the reality of policing behaviour and interactions between the police and the public. Most of the presentational rules derive from the law and are part of a (successful) attempt by the wider society to deceive itself about the realities of policing.

The argument that many rules are presentational resonates with McBarnet's (1981) contention that many of the principles that are said to underlie criminal justice (for example, that every citizen is equal under the law) are largely rhetorical, and have little influence on actual outcomes.

Although this analysis needs to be taken further, it suggests that one part of the framework that is supposed to influence policing and is external to it – the framework of law – has an important effect in some instances, and not in others. The same will probably apply to other external influences, such as police authorities, or Home Office circulars. The purpose of the present programme of research is to trace these relationships between external influences and the pattern of policing in more detail. It therefore occupies an intermediate position between the analysis of constitutional structures and the description of the culture and behaviour of working groups of police officers, and aims to form a bridge between these two traditions. Policing policy is the appropriate level of analysis for a study of this kind.

Policing policy

Allen (1976:97) argued that 'We do not say to the police: "Here is the problem. Deal with it." We say: "Here is a detailed code. Enforce it."' That view would tend to exclude the possibility of policing policy, but it has become increasingly discredited in recent years. As argued, for example, by Lustgarten (1986), Smith (1986), and Reiner (1992), although the police have a duty to enforce the law, this does not impose any particular pattern of policing, because policing resources are limited, whereas the opportunities for law enforcement are limitless. Decisions must be taken about priorities. Some of these are made at a high level, and expressed by organisational structure and staffing allocation (for example, the creation of a specialist squad). Others are taken by individual officers from day to day, although their individual use of discretion is influenced by assumptions and perceptions stemming from the police organisation and beyond. Apart from deciding which laws to enforce, it is also necessary to decide how to enforce them, and different decisions on methods of enforcement may lead

to entirely opposite patterns of policing (for example, uniform patrol, plainclothes surveillance, or targeting of offenders through collated intelligence may all be used to tackle street crime).

A further objection to Allen's model is that much policing is not directly concerned with law enforcement, but with containing incidents that might lead to lawbreaking ('keeping the peace'); and some is concerned with crime prevention. In addition, a number of offences (such as 'obstructing a police officer in the execution of his duty') are deliberately framed vaguely, so as to provide the police with a flexible resource in seeking to achieve some other objective (such as 'keeping the peace'). Hence it would not make sense to say that enforcing the law against 'obstructing a police officer in the execution of his duty' was a statement about what the police are actually supposed to do.

It follows that even if the police always acted in accordance with the law, this would only set broad limits to possible patterns of policing, and would not determine any actual pattern in a positive way. Whatever does determine the pattern of policing within those broad limits can be called policing policy. This is a conclusion that used to be resisted by senior police officers up to about 15 years ago. It was commonly said that the task of the police was to 'enforce the law without fear or favour' with the implication that any attempt to identify a policy and discuss whether it should be changed would be an infringement of constabulary independence. Yet over the past 15 years, senior police officers have moved from the posture of defending their autonomy to the last ditch to one of seeking to consult with elements of the wider society before taking decisions. (Perhaps more accurately, chief constables who defended their autonomy to the last ditch have retired and have been replaced by younger men with a different approach.) Hence the idea that there is and must be such a thing as policing policy, and that it is a legitimate subject of public debate, has increasingly gained acceptance.

This definition of policing policy is deliberately a broad one. It includes many features or consequences of the police organisation and of policing behaviour that have not been explicitly discussed or decided upon. Hence the practice, before the 1980s, of routinely disbelieving women's allegations that they had been raped (Chambers & Millar, 1983) can rightly be described as a policy, even though no-one inside or outside the police force had ever explicitly or formally resolved that rape allegations should be dealt with in that way. A policy can be deduced from a pattern of behaviour. Also, where a stated policy is contradicted by the actual pattern of policing, the real policy is likely to be that inherent in behaviour: to the extent that a policy is not carried through, it is merely rhetorical.

The present programme of research, therefore, is concerned with the middle range indexed by the term policing policy, and how that policy is shaped by the institutional framework that surrounds the police and links them to the other institutions of a democracy. It is not concerned with the fine grain of policing on the ground, but it is not limited to statements of policy either, since policy is interpreted as that which is inherent in the actual pattern of policing.

Scope and methods of the study

The overall aim of this study is to analyse what democracy means in practice by examining policy change in a key public service. Thus the objective is to describe and analyse how the various actors involved in the policy-making process interact to produce changes in the style, organisation or operation of policing on the ground. In England, these key actors include the Home Office, Her Majesty's Inspectorate of Constabulary, the Home Secretary, the police authorities, pressure and community groups, political parties, the media, and the police service itself. In particular, the study seeks to assess how the present police policy-making process fits in with the 1964 Police Act, and the nature and extent of democratic involvement in that process.

The plan was to identify a few specific policy areas in which there had been substantial and concrete changes in recent years, and to use an intensive study of policy change in these areas as the basis for wider generalisation about the democratic input into policy-making. A limitation of this approach is that it looks at why certain policies *have* changed, but not at why other features of policing have remained constant. This approach to analysing the policy-making process has been criticised on the ground that its notion of political power is one-dimensional. Bachrach and Baratz (1962) have drawn attention to a second dimension of political power. On this view, there are important issues that do not reach the decision-making process, because they are manipulated off the agenda. The 'mobilisation of bias' (where 'bias' is a set of predominant values, beliefs, rituals and institutional procedures) can be used to confine the decision-making process to relatively 'safe' issues. These 'non-decisions' are of central importance as an exercise of political power, but are not apparent from the observation of key political decisions. What is required is a deeper examination of the policy-making process to seek out suppressed grievances and unarticulated policy preferences that would challenge the established order. The crucial exercise of power, on this view, is that which prevents such challenges from surfacing. Lukes (1974) took this argument one step further, when he maintained that the 'two-dimensional' notion of

power is itself too limited. He argued that there is a third dimension of power that also involves the mobilisation of bias to keep certain issues from the agenda of politics. However, the third dimension, unlike the second, does not necessarily involve a conscious exercise of power, but arises through people's wants being manipulated by socialisation processes. As a consequence, people's articulated policy preferences may conflict with their 'real' interests.

It is not clear how the existence or nature of Lukes's third dimension of power could be revealed by any kind of research or analysis (although Lukes claimed that it could be). The practice of ascribing 'real interests' to people on the basis of a political ideology, where these conflict with their expressed preferences, seems anti-democratic on any reasonable interpretation of democracy. Nevertheless, these criticisms do underline the problem that the chosen research method focuses on change rather than continuity. For two reasons, however, that limitation is less important than it may at first appear.

First, the last twenty years have been a period of remarkable change in the police service. If the period under consideration had been the 1930s or the 1950s, it would indeed have been perverse to focus on change, because these were periods of stability or even stasis in the police service. Since the period under consideration is one of considerable turbulence, it is appropriate and illuminating to focus on the reasons for change. Of course, even in a period of substantial change, there are still enormously important continuities, so an investigation of change cannot tell us everything about the influences on policing policy, but provided that we remain aware of the continuities, that is not a crippling limitation.

Second, the examination of actual policy change proves to be far more revealing than Lukes (1974) would have expected. It shows that issues that formerly did not reach the decision-making process have moved onto the agenda for various reasons. In practice, therefore, the apparently hidden dimensions of power can be studied by observing the change in policies over time.

Choice of policy areas

The areas of policy were chosen so as to provide contrasting illustrations of decision-making about policing matters. The eventual choice was made after analysis of recent Home Office circulars and discussions with key people in organisations involved with policing. The chosen areas were as follows.

- The development of crime prevention policy. There was a sharp increase in the rate of crime, whether measured by victimisation surveys

or by recorded crime, across nearly all western countries over the 1980s (see Smith, in press). This has led to an upsurge of interest in crime prevention in many countries, and Britain was no exception. For many years, crime prevention was seen as primarily the task of the police, whose main strategy involved visible patrol. More recently, there has been a growing doubt about the effectiveness of the police role in crime prevention. Many sources question whether the police are a suitable agency to take the leading role in developing some of the newer environmental and community-based forms of crime prevention.

- New policing responses to rape, domestic violence, and child abuse. Recent years have seen a rapid increase in the awareness of family violence, and of the sexual abuse of women and children. This has led to demands for major changes in the way that the police deal with the investigation of sexual assault and domestic violence, and the support that they offer to victims.
- Civilianisation. During the 1980s there has been a substantial increase in the number and proportion of civilians employed in the police service. While the majority of civilians have traditionally been employed in lower clerical positions, there has been a recent trend towards increasing the civilian representation in more senior positions in the police organisation.

One of the three policy areas – civilianisation – is of great importance for efficiency and effectiveness, but is not salient in public debate. It was deliberately chosen so as to test the democratic input into important policy changes that are internal to the police service, and which the public tend to know little about.

An obvious area left out of the study is the policing of major ‘public order events’ such as the miners’ strike of 1984-5 or the riots of 1985. Major changes in policing policy, having far-reaching implications, occurred in this field over the 1980s.³ However, partly because of the fall-out from *Police and People in London*, PSI had substantial difficulty in gaining acceptance for this research project within the police service, and in fact the approval of ACPO was never granted. In those circumstances, we judged that it would not be practicable to include the sensitive topic of public order policing among those under detailed consideration.

The research carried out

Research was carried out within four police force areas in England, and at the national level. The choice of possible forces was made after discussions with Home Office officials and other experts. When ACPO approval was

withheld, the procedure was to write to individual chief constables in the first instance. In the event, four chief constables agreed, after a total of ten had been approached. The choice of possible police force areas was informed by a number of considerations. A key requirement was to include forces that differed in terms of the institutional arrangements for the democratic involvement in policy-making. The four police forces that agreed to participate did cover an appropriate mix of police authority types. Two were single county forces, where the police authority was a committee of the county council. One of the forces covered two administrative counties, and thus had a joint police authority made up of equal proportions of county councillors and magistrates from each geographical area. The fourth was a metropolitan police force with a joint board police authority. Two of the areas were in the North of England, one in the Midlands, and one in the South.

Within the police forces themselves, the research involved informal interviews with senior officers, and with other officers and civilian staff at force headquarters dealing with the policy issues under consideration. A substantial body of internal documents and statistics was collected from each participating force. In addition to the research carried out at headquarters, the researchers visited two sub-divisions within each force to find out about the implementation of policy at the level of the basic management units. In each sub-division informal interviews were carried out with the sub-divisional commander and with a range of other officers and civilian staff.

A second focus of research was the four police authorities within the chosen force areas. Informal interviews were conducted with leading members and the secretariat, and records of police authority meetings over the six to ten years before the visit were analysed. Relevant information was extracted from the minutes, and in three forces, a police authority meeting was attended by a researcher.

In each force area research was carried out within a number of organisations concerned with the chosen policy issues, or which come into contact with the police in some other way. These included local police consultative committees (some of whose meetings we attended), crime prevention panels and other organisations concerned with crime prevention, victim support schemes, voluntary groups concerned with women's issues and child abuse, and representatives of social services departments.

Research was also carried out within central government, Parliament, and other national organisations. A large number of informal interviews were carried out with Home Office officials responsible for the chosen policy areas. In addition, interviews were conducted with representatives

of the Association of Metropolitan Authorities and the Association of County Councils; each of these bodies also made available documentary evidence concerning policy change. A senior representative of the Police Federation was interviewed, and gave access to documentary evidence from the Federation's files. Interviews were conducted with some Members of Parliament, with journalists, and with national organisations having an interest in the chosen policy issues. For example, interviews were carried out with national representatives of a number of organisations concerned with women's issues, with the main trade union representing civilian staff in the police service, and with the Audit Commission. The published reports of Her Majesty's Inspectorate of Constabulary were reviewed, and press coverage of policing issues was monitored over a period of two years. Finally, we carried out an analysis of policy-related circulars and guidelines issued by the Home Office over a number of years.

THE PRESENT ARRANGEMENTS FOR THE GOVERNANCE OF THE POLICE

There are currently 43 police forces in England and Wales (including the Metropolitan Police and City of London Police). For the 41 provincial forces, the 1964 Police Act reconfirmed what is usually described as a 'tripartite structure'. This divides formal responsibility for the police between chief constables, the Home Secretary and local police authorities. This section considers the powers and responsibilities of each of these under the Act, and examines how their roles have developed in practice.

Chief constables and constabulary independence

The view that has been orthodox until recently is that chief constables must be independent of political pressures because the job of the police is to enforce the law impartially. However, this view dates only from around 1930. Marshall (1965; 1978) pointed out that during the nineteenth century there was never any challenge to the right of the Home Secretary to issue instructions in matters of law enforcement. Lustgarten (1986) showed that the Metropolitan Police were directed in detail by the Home Secretary for roughly the first hundred years of their existence and that borough forces were directed by their watch committees. The level of control was least in the counties where the justices (the responsible authority) were disinclined to meet often and felt that they could rely on the chief constable as being 'one of them', but even there the model of the independent chief constable had not developed by 1914. It was the enfranchisement of the working class and the fear of socialism and trade union militancy that made it dangerous to leave the police under local control. It is no accident that the doctrine of

the independence of the police became established at the time of the depression.

The case that is most often quoted as establishing the model of constabulary independence is that of *Fisher v. Oldham Corporation* ([1930] 2 KB 364). Fisher sued the corporation and the watch committee for wrongful imprisonment. He lost on the ground that there could be no master/servant relationship between the corporation or watch committee and a police officer. This case has been repeatedly cited as having far-reaching implications for the status of a police constable. In the judgement, reference was made to *Stanbury v. Exeter Corporation* ([1905] 2KB 838), where the judge had made a comparison with the police. The argument was that if an official was mandated to perform public and national functions, local government should not be made liable for his actions. *Stanbury* concerned an inspector of sheep disease, yet as Lustgarten (1986) has persuasively pointed out, nobody imagined the decision meant that such inspectors have a unique constitutional status. A second strand of the argument in *Fisher v. Oldham Corporation* was that constables have authority conferred directly on them and are not subject to the control of those who pay for them. Yet power is conferred directly on many other public officials (such as tax inspectors) but the same conclusion is not drawn for them. More generally, the argument incorporates an over-simplified view of police discretion, which is limited by the structure of the police organisation, and by advice and instructions received through it.

The conclusions wrongly reached in *Fisher v. Oldham Corporation* have been expanded and confirmed in further judgements. The independence doctrine received the final seal of judicial approval in *R v Metropolitan Police Commissioner, ex p Blackburn* ([1968] 2QB 118). Lord Denning concluded his judgement (shown by Lustgarten to be full of simple errors) by saying:

I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land... No Minister of the Crown can tell him that he must, or must not, keep observation on this place or on that; or that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. The responsibility for law enforcement lies on him. He is answerable to law and to the law alone.

Yet, as argued earlier in this chapter, the law does not even pretend to control the pattern of policing. The effect of Lord Denning's ringing judgement, therefore, was to distance the police from control by anyone.

The Police Act 1964 is the basis for the present structure of policing in England and Wales, although it may soon be superseded by the current Police and Magistrates' Courts Bill. In some ways the 1964 Act codified

the doctrine of constabulary independence, whereas in others it balanced this against the powers of the Home Office and the police authorities. In any case, the Act contained much studied ambiguity. Indeed, Morgan (1986:86) has described it as 'a gentlemen's agreement to gloss over the ambiguities and contradictions concerning the responsibilities for framing, monitoring and financing policing policy'. Section 5.1 stated that the police force in any area is subject to the direction and control of the chief constable. In the light of the judicial judgements analysed above, this was widely interpreted as meaning that the chief constable had independent responsibility for all 'operational matters', and 'operational matters' were widely interpreted to include patterns and policies of policing as well as decisions in specific cases. Whether that is what the legislators meant is unclear, but it is in principle possible for other bodies to have an influence on policy without seeking to interfere with decisions in individual cases. Indeed, it was increasingly accepted during the 1970s and 1980s that the Home Office should have an influence on the pattern of policing and the policies followed by chief constables, at a time when any such influence by police authorities was widely interpreted as 'political interference' and 'a threat to constabulary independence and impartiality'.

Shortly after the passage of the Police Act 1964, Marshall (1965) argued that it should have included provision for the police to receive direction in policy matters from local politicians, but by 1978 he had changed his view:

The long-run interests and rights of citizens may well be furthered by the construction of buttresses against some kinds of overt political pressures, even when exerted honestly and in the name of democratic majorities. The occasional frustration of such majority pressures may be required by the need to protect civil liberties and secure the impartial treatment of individuals... If therefore in the field of law enforcement we have to give a calculated and impartial answer in 1977 to the question whether civil liberties and impartial justice are more to be expected from chief constables than from elected politicians... many liberal democrats would feel justified in placing more trust in the former than in the latter. [1978: 61]

This was put forward as a practical justification for the doctrine of constabulary independence. Marshall himself admitted that the legal justification was much less clear. The individual constable could not be directed to act in a certain way in a particular case; he must use his discretion as an independent officer under the Crown. However, as Marshall admitted, there was no legal principle that ruled out the issue of instructions on prosecution matters framed in general terms; and there was certainly no legal principle forbidding the intervention of police authorities in matters of general law enforcement policy outside the area of prosecution.

It was Denning's judgement in *R v Metropolitan Police Commissioner, ex p Blackburn* that began to extend the doctrine of independence beyond the constable's discretion in individual cases. A series of further judgements in the 1980s confirmed the weak position of police authorities under the Act. From 1981, a number of Labour-controlled police authorities attempted to gain influence over general policy matters in the metropolitan areas. The chief constables, backed by the courts, successfully resisted all these attempts. The distinction between 'operational' and 'policy' matters became totally blurred, so that in practice the chief constables were able to exert strong control over general policy matters as well as individual cases of law enforcement.

Of course, advocates of the independence of chief constables did not argue that they should not be subject to any controls at all. Marshall (1978) suggested a style of accountability that he called the 'explanatory and cooperative' mode, in contrast to the 'subordinate and obedient' mode. This meant that police authorities should not be able to issue orders, but should be able to request information and explanations that could subsequently be analysed and debated in public.

It was generally accepted that individual police officers would from time to time exceed their powers or commit malpractice. The 1964 Act laid down provisions for a complaints mechanism to deal with such cases. Section 49 of the Act gave the police the duty to record and investigate all complaints against themselves. In the case of more serious complaints, the investigation was to be handled by officers from another division, or even from another force. This system was criticised on the grounds that it lacked any independent element and left the police open to accusations that they were biased judges in their own cause. The system has subsequently been reformed, but without requiring complaints investigations to be *conducted* by an independent body, as now advocated by the Police Federation.

There is only one view on which the doctrine of constabulary independence (and the role of the chief constables in the tripartite structure) could be seen as democratic. It is one that emphasises that the police are established, governed and regulated by statute. The body of law, approved by an elected parliament, in some way represents the collective will of the people. It is the responsibility of the police to uphold and enforce these laws, and in this they play a central role in the democratic order. The will of the people is embodied in a detailed legal code, and the straightforward task of the police is to enforce this code. The danger to the smooth operation of this process comes from partisan interference with police decision-making. This could come from corrupt officials or politicians, manipulating the system for their own ends, or even from politicians

directed by poorly-informed or irrational public opinion. In either case, the protection of the system lies with the professionalism and judgement of the police force, the head of which must be given the legal powers to resist any such interventions.

As was shown above, the fatal flaw in that view is the false assumption that the rules and regulations laid down by statute largely determine the pattern of policing. Once it is recognised that they do not and cannot, it becomes difficult to resist the argument that elected representatives and others should have an influence on the making of policing policy.

Police authorities

Discussions about the role of local elected representatives in policing lie at the heart of the debate about the 1993 White Paper and subsequent Police and Magistrates' Courts Bill. It is the Government's proposal to change the status and composition of local police authorities that has incensed local government in particular, and has also been attacked by those more recent converts to local democratic control, ACPO and the Police Federation.

Under the present arrangements each of the 41 provincial police forces in England and Wales is administered by a police authority consisting of two-thirds elected councillors, and one-third magistrates from the force area. There are three kinds of police authority, all of which were covered by this study. In single-county police forces ('shire forces') the police authorities function as a committee of the county council. In the former metropolitan areas, the police authorities are 'joint boards' made up of district councillors and magistrates from the metropolitan districts. In police forces covering more than one administrative county, there are 'combined police authorities' consisting of councillors and magistrates in equal proportions from each of the constituent areas.

Under the Act, police authorities have a general duty to 'secure an adequate and efficient police force for the area'. The Act lays down that the authority should concern itself with local standards of policing and offer advice and guidance to the chief constable. Although the police authority appoints the chief constable (along with the deputy and assistant chief constables) these appointments are, crucially, subject to the approval of the Home Secretary, who in 1991 exercised his veto in the case of Derbyshire. The police authority can call upon the chief constable to report on any aspect of policing of the local area (although the chief constable can refuse to do so if the Home Secretary agrees that such a report would be against the public interest). The police authority must approve all expenditure on policing, although this power was circumscribed by the Court of Appeal judgement in *R v Secretary of State for the Home Department, ex p*

Northumbria Police Authority ([1988] 2 WLR 590). The Northumbria Police Authority had sought a judicial review of a Home Office circular which offered to supply CS gas or plastic bullets from a central store to chief constables not permitted by their police authorities to purchase them. The Court of Appeal rejected the argument that the Home Secretary was acting beyond his powers on the ground that he had the power to do what was necessary to preserve the Queen's Peace, and on the basis of an interpretation of his statutory power to supply common services and promote general police efficiency. Reiner (1992: 240) has argued that this case 'seems to underline the impotence of local police authorities... making them a fig leaf of local influence'. However, the case was implicitly concerned with possible public disorder that would transcend local police boundaries; it is less clear that the budgetary power of police authorities is limited by the judgement with regard to purely local matters.

A central part of the debate about the accountability and control of the police in recent years has concerned the way that police authorities have exercised their functions under the Police Act 1964. Before 1980, there was a remarkable political consensus over policing, and examples of conflict between chief constables and their police authorities were rare. As noted earlier, during the early and mid 1980s a number of Labour-controlled police authorities (particularly in the metropolitan areas) came into conflict with their chief constables. The mining dispute of 1984-85 brought these conflicts to a head. Under the 'mutual aid' arrangements, the National Reporting Centre at New Scotland Yard coordinated a national anti-picket operation that moved large numbers of police officers away from their home areas to control picket lines in other parts of the country. The problem with such a system was that the funding for a national operation came from the budgets of local police authorities, many of whom had no striking miners in their own areas. Some police authorities challenged these arrangements, and argued that they prevented them from fulfilling their statutory duty of providing an adequate and efficient police force. In all such cases, the Home Secretary or the courts ruled in favour of the chief constables (Lloyd, 1985). In 1988, this culminated in the case involving the Northumbria Police Authority referred to above.

It has frequently been argued in recent years, especially by Reiner (1991; 1992) that police authorities are impotent, but this is from an analysis of leading cases, and not from detailed research on relations between police authorities and chief constables from day to day. Commentators have disagreed about whether the impotence that they ascribe to police

authorities is due to a lack of sufficient statutory powers or to the way that the authorities have defined their own roles.

Morgan and Swift (1987) and Day and Klein (1987) reported on research conducted among police authorities in the 1980s. Both studies found that police authorities were rather inactive, but that this was partly because members were unaware of their legal powers and responsibilities, or did not wish to exercise them. The Audit Commission (1990) has argued that police authorities could do more within the present statutory arrangements to contribute towards policing policy, and has called them 'passive receivers of information'.

Reiner (1991) found that most chief constables went to some lengths to develop good working relationships with their police authorities; such relationships would suggest that policing policy was largely in tune with elected members' wishes. However, Reiner also argued from a few cases considered to be crucial, such as the dispute about plastic bullets and CS gas in Northumbria, that the chief constable can always get his way on a matter of consequence. On that view the apparent influence of police authorities is a fiction, because it is only an influence that the chief constable and the Home Office allows them to exert as long as this is not inconvenient.

Those who advocate the strengthening of the role of local police authorities appear to see their 'democratic' properties in several ways. The first democratic property flows from the fact of election: police authorities are supposed to represent local opinion. Second, they are intended to provide some check on the powers of the other two parties in the tripartite system. This assumes that to concentrate the power over policing is undemocratic, and stresses the importance of pluralism in the democratic system. Third, there are those who argue that an active contribution of local police authorities is essential for *effective* policing:

The immediate future for local elected police authorities and local responsibility which has traditionally characterised policing in England and Wales would... appear to look bleak. This must be a matter of concern as direct involvement in locally run services encourages responsive management and greater police commitment. [Loveday, 1993: 68-69]

A central purpose of the present study is to collect more detailed information about the activities and influence of police authorities, and to analyse it in more depth. The conclusions drawn by earlier writers were not always based on very extensive information. Further, the argument that the outcome of key cases demonstrates that police authorities are impotent needs to be analysed in greater depth. From the fact that chief constables and the Home Office have won some battles with police authorities it does

not necessarily follow that they could choose to fight any battle and still win it.

The Home Office

There are few who would argue against the proposition that the Home Office is now the most powerful party in the tripartite structure. Under the 1964 Act, the Home Secretary has a number of specific powers. He forms the police authority for the country's largest and most influential police force, the Metropolitan Police. With respect to provincial forces the Home Secretary has a number of powers: he can require a chief constable to resign in the interests of efficiency; he can call for reports into any aspect of policing an area, set up a local enquiry into a policing matter, and has a number of powers of approval over police authority appointments. Most important though, is the influence of the Home Secretary on the funding of the police.

Funding of the police

In formal terms, the Home Office pays 51 per cent of the police budgets for each force, whereas the police authority pays 49 per cent. In practice, however, the central government share is much higher, because much of the expenditure of local government rather than coming from local taxation (now the Council Tax and Business Rate) comes from central government in the form of Revenue Support Grant paid to local authorities by the Department of the Environment. Consequently, whereas the Home Office contribution to local policing budgets amounts to 51 per cent, the total central government contribution amounts to 76 per cent.

Local expenditure on the police has not historically been subject to cash limits. Once the local police authority had set the police budget, the Home Office was therefore obliged to pay its share, and the contribution by the Department of the Environment was determined by a complex formula, which took account (among many other things) of the number of police officers, but not of the number of civilians, within the local police service.

In theory, the Home Office can refuse to pay its share of the police budget if the force has not been certified as efficient by Her Majesty's Inspectorate of Constabulary. Until recently, there was no case of a refusal to certify a force as efficient. In 1992, then again in 1993, the Inspectorate refused to certify Derbyshire police force as efficient, following a long-running dispute between the police authority and the Home Office. However, in practice the police grant has continued to be paid. The only effective kinds of financial control available to the Home Office have been through the use of its power to approve police officer establishment,

through control of police pay by means of nationally negotiated agreements, and through controls on capital expenditure. Police authorities could not increase the police officer establishment without Home Office approval, and therefore they could not increase the number of police officers employed once the establishment had been reached. There was no parallel control by the Home Office of the numbers of civilians employed within the police service. Consequently, as outlined in Chapter 5, the Home Office had to use bargaining over police establishment as a means of increasing the number of posts filled by civilians.

Other controls

In recent years the Home Office has explicitly sought to strengthen the role of Her Majesty's Inspectorate of Constabulary (HMIC). One sign of this is the appointment of some relatively young chief constables to the Inspectorate, whereas nearly all inspectors in the past were chief constables who had passed the normal age of retirement. Another indication is the increasingly systematic approach adopted by HMIC towards the development of indicators of police force performance and the collection and analysis of relevant information. A further indication was the decision in 1989 to publish the reports on individual forces that had hitherto remained private.

The increasing influence of HMIC is linked with the recent policy of developing national criteria of police performance. The Audit Commission has been given the task of defining measures of performance that could be routinely applied at the force level.

It has been argued (Reiner, 1991) that the Home Office exerts substantial influence over senior police officers, including chief constables, by controlling their career opportunities. The Home Affairs Committee of the House of Commons argued in its report on higher police training (Home Affairs Committee, 1989) that the career paths of senior officers should explicitly be controlled by the Home Office on a national basis.

An important development over recent years has been the increasing incidence of policy-related circulars from the Home Office. In theory, such circulars are only advisory, but a number of authors have pointed out that they tend to be treated as instructions. For example, a circular on consultation between the police and local communities (Home Office, 1982) led to the creation of police consultative committees in most force areas on a common pattern before consultative arrangements were required by statute in the Police and Criminal Evidence Act 1984.

Other developments that have increased the influence of the Home Office over policing are the growth of the common police services budget, and the creation of a National Criminal Intelligence Service (NCIS).

The measures in the Police and Magistrates' Courts Bill

At the time of writing, the Police and Magistrates' Courts Bill seems likely to be heavily amended in its passage through Parliament. In its original form, it would have given the Home Office substantial power over the composition of police authorities, through the right to appoint the chairs and some of the members of authorities limited to a total size of 16. The Bill also provides for the introduction of a national set of measures of police performance, and would give the Home Office the power to enforce them through budgetary controls. However, the Home Office power to appoint chairs and the limits upon total size of membership were subsequently dropped, as was the proposal that appointments of non-elected people should be made directly by the Home Secretary.

The analysis in this report will concentrate on the system operating before the passage of the new Bill. An important issue is whether the degree of Home Office power within the pre-1994 structure was consistent with the plurality of power inherent in the democratic ideal. That issue will be addressed in later chapters. The final chapter will also evaluate the proposals in the current Bill in the light of what has been established about the working of the existing arrangements.

Further developments

Although the three elements of the tripartite structure have remained in place in the 1980s, the structure has come under increasing strain. In response to these new stresses, there have been three key developments in the relationships between policing and democratic institutions: the introduction of police-community consultative committees; the enhanced legal regulation of police powers through the Police and Criminal Evidence Act (1984) (PACE) codes of practice; and the application of the government's Financial Management Initiative (FMI) to the police service. These were adjuncts to the existing arrangements rather than attempts to overhaul the tripartite structure.

Responsiveness to the community: consultative committees

Following the inner city disturbances of the early 1980s, it was increasingly accepted that, at least in certain localities, the police had become distanced from sections of the community. However, it was not deemed necessary to reform the Police Act, but rather to introduce forums in which the police

could consult with representatives of local people in areas much smaller than are covered by police authorities. A key recommendation of the Scarman Report into the Brixton disturbances (Scarman, 1982) was that the police should make arrangements to obtain the views of the community. A Home Office circular 54/82 advised that such arrangements should be put in place, and set out a model structure of local consultative committees. These were already in place in most force areas by the time that a statutory duty was imposed on police authorities to set up consultative arrangements under section 106 of PACE. In most force areas, one police-community liaison committee was established per sub-division, although there was one notable exception within a force area covered by the present study (see Chapter 5). There has since been much discussion surrounding the functions, powers and effects of such committees. Morgan (1989) argued that in introducing the police-community liaison committees, the government had four explicit objectives:

- improved articulation of the consumer's viewpoint;
- improved education of the consumers about the nature of policing;
- the tackling of conflicts between police and particular community groups;
- encouraging of community crime prevention initiatives.

This formed an exercise in participation; it involved keeping the basic structure of policing the same at the national and police authority levels, but trying to encourage more community participation at a level below the police authority. In his research on consultative committees in 1987-88, Morgan (1989) found that they had been moderately successful at gathering the consumers' viewpoint from groups that are not hostile to the police but would like more attention from them. They had similarly had some limited success in educating consumers who were already well-disposed towards the police about the limitations on what the police could achieve. They had played no role in resolving conflicts between the police and particular community groups, and their role in promoting crime prevention initiatives was unclear. Stratta's (1990) findings from case studies of the workings of two police-community liaison committees in one force area supported Morgan's conclusions. She found that in terms of social status and where they lived, the members of the committees were in no way representative of small neighbourhood localities. A central finding was that committees tended to be composed of members whose social characteristics, in terms of age, sex, socio-economic group, ethnic background, and income, were totally atypical of the victims and offenders with whom the police have

most contact. Members lacked a basic knowledge about the practicalities of policing, and could be of little help in advising the local police in setting substantive objectives. Stratta also found a generally uncritical approach to the police from the committees she examined, confirming the findings of other research (for example, Morgan and Maggs, 1985).

Thus previous research suggests that the aim of increasing participation in decision-making about policing policy has yet to be achieved by consultative groups. There seem to be a number of underlying difficulties. While consultative committees may help to attain one more modest aim of democratic process – the opportunity to participate should the need arise – it is questionable how meaningful this opportunity is. Critics would emphasise that these committees lack not only the necessary expertise to affect policy, but also sufficient powers. Also, even where the local police commander is open to influence from a sufficiently informed and powerful committee, the constraints imposed by central management of police forces, and upon the forces by central government, may limit flexibility of response at the local level.

Existing information does not allow a firm choice between a number of competing accounts of the effects of consultative committees. Some would argue that the real decision-making process is simply unaffected. Others would argue that there are limited effects in terms of providing information about policing, and articulating community wishes, and that there is the potential to make more progress. From a radical perspective, the police-community consultative committees are neither neutral nor potentially positive in their effects, but actually negative. They are used by the police to put a sheen of legitimacy on their actions, without ever posing a serious threat to their decision-making autonomy. They increase the support of the establishment for tough policing of minorities, who are excluded from the agenda. Some (for example, Nelken, 1985) would even argue that consultative committees are a means of increasing state control, by encouraging people to spy on the local population. Later chapters will provide further evidence against which to test these competing accounts.

Enhanced legal regulation of police powers

PACE instituted a framework of regulations designed to provide a tighter regulation of police powers. The Act introduced new provisions for the admissibility of documentary evidence, new controls on the treatment of suspects held at police stations, rationalised the law relating to evidence in criminal proceedings, and rationalised and consolidated police powers to stop and search persons and vehicles, to set up road checks, to search premises, and to arrest suspects. One important change was that the

prescribed codes of practice were henceforth approved by Parliament, whereas previously most of the matters covered by the codes had been regulated by the 'Judges' Rules' as interpreted by the judiciary and expressed by case law. Police officers became liable to disciplinary proceedings for failure to comply with any provision of a code of practice, unless proceedings were precluded by the Act.

One of the central aims of the Act was an attempt to balance police powers with protections for those people arrested. Representative police bodies criticised the Act for reducing the powers of the police to prove a case against a guilty person, whereas the civil liberties lobby criticised it for extending police powers. These contradictory stances were possible because PACE both extended police powers and attempted to regulate police behaviour more effectively through the four codes of practice. Furthermore, where police powers were extended this was in many cases a codification and legitimation of practices that had been widespread or universal: such changes could be regarded either as the abolition of ancient rights that had too long been dormant or as the introduction of new controls, depending on one's point of view.

The considerable research on the impact of PACE has recently been summarised by Reiner (1992). In broad terms, controls on treatment of suspects inside the police station have been much more effective than on police behaviour outside the police station. There is some evidence that outlawed behaviour may be shifted to zones that are not subject to close control (for example, the real interrogation may not take place in the police station). There is evidence that the judiciary have adopted stricter attitudes to violations of PACE codes than they did towards the old Judges' Rules (Feldman, 1990). Nevertheless, Sanders (1993) has argued that the codes of practice have changed the way that police officers account for their exercise of discretion, but without changing the way they actually exercise it.

Increased responsiveness to consumer pressure

A third important development during the 1980s was the increased emphasis, largely driven by central government, on improved management of policing and the efficient use of resources. For a time, the police service largely escaped the organisational restructuring and expenditure restrictions that Conservative governments introduced across the public sector during the 1980s. In fact, real expenditure on the police grew at a substantially higher rate than was experienced by any other public service. Pay, conditions and equipment were significantly improved during the early 1980s, and the number of police officers grew.

After 1982, the government developed its 'Financial Management Initiative' in the public sector. This was intended to promote cost savings and efficiency by introducing business management methods to government departments. In 1983, this initiative was extended to the police with the publication of the Home Office circular 114/83, *Manpower, Effectiveness and Efficiency in the Police Service*. From the late 1980s onwards, the Audit Commission published a series of papers that applied private sector management principles to police work. The Home Office began to develop work on performance indicators for the police service (Sinclair & Miller, 1984), work that was later developed by the Audit Commission and HMIC. This work has taken on a new importance recently with the Citizens' Charter requirements that local authorities publish key indicators concerning public service provision. Local authorities will be required to publish indicators of police force effectiveness from 1995 onwards. As mentioned above, under the proposals laid out in the Police and Magistrates' Courts Bill, the Home Office would take on the key role of setting national standards against which police performance will be measured.

The most important pressure contributing to these changes was the continued rise in crime rates and decline in detection rates throughout the 1980s, despite substantial increases in public expenditure on policing. In addition, the late 1980s and early 1990s saw a number of miscarriages of justice come to light. Police malpractice was a major factor in all of them, and this contributed to what some commentators called a crisis of confidence in the police service. The appointment of Kenneth Clarke as Home Secretary in April 1992 was seen as highly significant given the key role he had played in the Government's reforms of the health and education services in his previous cabinet posts. Not long after his appointment, the new Home Secretary announced an inquiry into working practices, pay and rank structure in the police service. In May 1993, the Sheehy Inquiry recommended substantial changes in the internal organisation and management of the police service, including a rationalisation of the rank structure, fixed-term contracts for police officers, and performance-related pay. The report met with a chorus of criticism from all levels of the police service; indeed, a number of senior chief constables, including the Metropolitan Police Commissioner, stated that they would consider resigning if the proposals were implemented in full. The Home Secretary was later to drop some of the most controversial recommendations of the Sheehy report.

However, the proposals outlined in the White Paper, and later in the Bill, also underline a commitment to 'consumer responsiveness'. The

'purchaser-provider' split is to be extended to the police service, chief constables are to be given greater control over their budgets with cash-limited grants replacing the old staffing-related grant, and forces will be required to devolve resources to the local level. As stated earlier, the Home Office will set performance targets, and chief constables will be held accountable for the performance of their forces. Police authorities will be required to carry out public satisfaction surveys to gauge local people's view on policing.

The stresses in the tripartite structure

The Royal Commission established in 1960, whose report in 1962 led to the Police Act of 1964, had been a response to a number of developments that have found an echo in more recent years. The famous case in Nottingham in 1959 of Captain Popkess⁴ had raised concerns about who was ultimately responsible for local policing policy. As in the 1980s and 1990s, there had been a number of well-publicised cases of police malpractice leading to concerns about control of the police and investigation of complaints against officers. As in later years, there was rising public concern about increasing crime rates and changes in the types of criminal activity. Thus three concerns lay behind the Royal Commission that led to the 1964 Act: accountability (who is responsible), redress (complaints against individual officers), and effectiveness (the police's ability to address rising crime rates and new kinds of crime). As outlined above, the Act tried to address each of these issues.

Parallel concerns have again brought the police service to the forefront of public debate in the 1990s. Developments of the tripartite system in the 1980s attempted to enhance local responsiveness through police consultative committees, to improve police accountability to the law through PACE, and most crucially for the present Government, to improve the efficiency and effectiveness of the police service. The Government has, however, concluded that these developments were not enough, and that a more radical change in the arrangements for the governance of the police is needed in order to deal with the increasing strains in the system.

PROPOSALS FOR REFORM

The public debate about policing in recent years has created a climate of opinion in which it is assumed that major reforms of the arrangements for the governance of the police are necessary. Many proposals have been put forward to address the perceived problems of the present system. Three broad types of proposal will be considered here, together with the notions of 'democratic policing' that underpin them.

Stronger police authorities

Proposals for strengthening police authorities have come mainly from the moderate Left. These proposals spring from a number of criticisms of the existing system. First, it is not at all clear who is ultimately responsible for policing. It is argued that the division of responsibility between police authorities, chief constables, and the Home Office is a deliberate fudge which has the effect of hiding decision-making from view, so that the real power structure is disguised. A second impetus for these proposals is the view that there has been a major shift in the balance of power towards the Home Office and chief constables (Reiner, 1991; 1992; 1993). Because of the combined effect of these two factors – the lack of transparency, and the shift of power to chief constables and central government – it is argued that there are few effective checks and balances in the system. Elected representatives lack the formal powers they would need in order to exert an influence on policing policy; and this lack of power is compounded by their lack of information about the organisation and outputs of policing. Consequently, the participation of local people in decision-making about policing is confined to taking part in elections of local councillors who have little say in policing matters. Not surprisingly, issues of policing policy seldom or never feature in local election campaigns. Police consultative committees are held to be unrepresentative and marginal. Hence, it is argued that there is little effective consultation about policing policy with interested groups and individuals.

Another criticism of the current arrangements concerns effectiveness. It is argued that, because the structures of local accountability are weak, it is difficult for policing to be in tune with the needs of local communities. This is said to undermine the efforts of the police to deliver an effective service.

In the early 1980s, the Labour MP Jack Straw proposed (in a Private Member's Bill) that the 1964 Act be reformed so as to give police authorities new powers to direct policy. On these proposals, police authorities would determine 'general policing policies' for their areas, and would appoint senior officers down to the level of superintendent. This proposal relies on making a distinction between matters of general policy and law enforcement decisions in particular cases; chief officers would remain in control of the latter. Mr Straw also proposed that the magistrate members be removed from police authorities, which would then consist entirely of elected local councillors. The proposals included a number of checks on the powers of police authorities; for example the Home Secretary was to adjudicate in the event of disputes between police authorities and chief constables.

Although Jack Straw's proposals did not make progress in Parliament, this kind of programme is still on the agenda of the moderate Left. Recent recommendations from the Institute of Public Policy Research (IPPR), which is independent yet linked with the Labour Party, include making police authorities entirely elected bodies, and giving them more statutory powers (Reiner and Spencer, 1993). As will be clear from earlier sections, this can be interpreted as a return to the relationships between watch committees and police forces that existed in the nineteenth century.

The impetus for these proposals is a belief in the value and importance of local democracy. On this view, the low turnout in local elections is largely a function of the relative powerlessness of local government in general, particularly apparent in the field of policing. Democracy on this view flows primarily from the fact of election. A concern with effective service delivery is present, but is not clearly defined. There are vague references to the need for responsiveness to the community, but exactly how this is achieved is not elucidated. The main concerns are therefore with the nature of the decision-making process and the lack of effective checks in the system.

Community democracy: new structures of participation

A more radical alternative to the present tripartite system has been suggested by Jefferson and Grimshaw (1984). In their view, the present system both incorporates and disguises an imbalance of power more fundamental than can be addressed by giving police authorities more formal influence. In particular, the present arrangements fail to guarantee representation of the weak, the unorganised, or minority groups. The unequal power structure hides the true nature of the process of decision-making. Furthermore, it does not ensure that representatives will be controlled by those they represent. So even if the police are brought under closer control by elected representatives, this will not guarantee 'democratic policing'. It may even result in the harnessing of the support of the respectable majority for the oppressive policing of marginal groups.

Jefferson and Grimshaw developed a model of what they called 'democratic, just policing'. The starting point is an acceptance that police officers have a general duty to uphold the law. This duty is not delegated, but is inherent in the office of constable. However, the model attempts to distinguish between the kinds of decision that are to be left to the discretion of the police officer, and those that may be subject to guidance by a democratic body. The former category is much narrower than in other models. It consists of decisions about cases where the law is a clear guide to action, and where there is an identified complainant. Even within this category, Jefferson and Grimshaw (1984) argue for more control over what

the police do, for example by new forms of prosecution authority, by new methods of safeguarding suspects' rights and testing evidence, and by a strengthened and fully independent complaints system.

Since the law offers little or no guidance on matters of general policy, it is argued that such guidance must be provided by a democratic authority. The authors advocated a new kind of democratic body called 'police commissions', that would be charged with the duty of upholding the law and concerned with interpreting the general legal duty of the police. Police commissioners would be directly elected as such, and would be able to issue instructions to local police chiefs on matters of policy. The territorial areas that these police commissions would cover was not made clear, but they would apparently be smaller than those covered by the current police authorities, and might perhaps cover a town, or a current police sub-division. The authors saw no potential problem arising from a lack of policing expertise on the part of the police commissioners:

With the best legal advice available, there seems no reason why elected laypeople could not undertake the tasks of determining the scope of the general task of upholding the law and of issuing policy instructions to the chief officers in respect of that task. [Jefferson & Grimshaw, 1984:176]

The material responsibility for providing the police with buildings, funds and equipment would stay with the police authority (minus the magistrate members), and the Home Secretary. The commissions would appoint chief officers subject to the Home Secretary's approval. They would be obliged to send regular reports to Parliament about the policing of their area.

The authors argued that the apparent apathy that exists under the present system is due to the lack of structures for enabling people to articulate their real interests. They proposed, therefore, that decision-making take place at 'natural points' of collective assembly, such as schools, offices, community centres, and factories.

Central to this model of democracy is the idea of equality: 'At the heart of the democratic state is the idea of the equality of citizens: a democratic state is obliged to respect all citizens equally' (Jefferson & Grimshaw, 1984:170). Most theories of democracy place some emphasis on equality on some definition or other. However, Jefferson and Grimshaw argued that the notion of equality should take the form of a statutory obligation on police commissions to treat all citizens equally in respect of their legal rights and duties. Commissioners would be legally required to make clear their definition of public justice, and to respond to the definitions of justice held by their constituents. Groups that feel they are treated unequally in policing

should have the opportunity to make their case heard to the commissioners, who, it was argued, will thus have to pursue equality in some 'definite sense'.

The conception of equality put forward is implicitly one deriving from the *group justice model* rather than from the *individual justice model* (McCrudden *et al.*, 1991: 5-6). The individual justice model concentrates on cleansing the process of decision making, and is not concerned with the result except as an indicator of a flawed process: it concentrates on securing fairness for the individual. By contrast, the group justice model is concerned with outcomes rather than with the decision-making process; it is redistributive, and is concerned with the relative position of groups rather than individuals. The group justice model has most commonly been applied in the field of the regulation of racial and sexual discrimination, although many have criticised the model even in that field. Jefferson and Grimshaw did not consider that the application of the group justice model in the field of criminal justice might have some unintended consequences. For example, if the objective is to achieve equal outcomes, then it must follow that the arrest rate of women and men must be equalised, even though men commit about ten times as many offences, on average, as women do.

However, Jefferson and Grimshaw did not quote that kind of example. Instead, they used their conception of equality to argue that the police should prioritise offences that 'bear hard on those least able to fend for themselves'. For example, they held that higher priority should be given to offences like rape, because of the social impact of the offence on women. The police should also attempt to reduce arrest rates in those offence categories for which a high proportion of convicted persons are disadvantaged. For such offences, the police interventions should be preventive rather than leading to detection and prosecution.

What underlies these proposals is a model of direct 'community democracy' that seeks to incorporate the views of minority groups, and interests that are marginalised by existing formal mechanisms. It is held that the occasional casting of a vote in national and local elections is not sufficient to articulate the suppressed interests of disadvantaged groups. What is required is continuous participation in new forms of participative democracy at workplaces, crèches, and so on. The model lays a particular stress on democratic outcomes, and in particular on equality interpreted uncompromisingly in terms of outcomes for groups rather than fairness for individuals.

However, the model is vague about exactly how the new participatory structures will be designed and how they will work. The vision of well-informed workers gathering at tea breaks to discuss the policing

policies for their area is clearly utopian; long experience of many sorts of community initiatives shows that continuous participation of that kind, even when there are immediate benefits for the people concerned, has so far proved impossible to achieve. The model ignores the fact, strongly highlighted by the 'New Realist' criminology, that many of the most common kinds of crime impact most heavily on marginal and dispossessed groups as victims. Reducing arrest rates among groups that are normal targets of police activity would be extremely unpopular among the similar, dispossessed groups that are the usual victims of crime. The model offers no prospect of resolving this conflict. In any case, there is no definition of what are to count as disadvantaged groups. There is no discussion of how to safeguard the control of policing from partisan interests: indeed, some aspects of the model may increase the potential for this to happen.

Most important, Jefferson and Grimshaw took one of the ideas associated with democracy – equality of outcome – and elevated it above the rest. If the logic of this position were consistently followed, it would lead, as argued above, to results that could not be acceptable to anyone. This valuably illustrates the point that the democratic ideal contains within it a number of values that have to be carefully balanced against one another. Absurd results are produced if any one of these values is given an unchecked ascendancy.

The citizen as consumer: market solutions

Central to Conservative policy since 1979 has been the idea of applying 'market disciplines' to public service provision so as to obtain better 'value for money'. The Government has started to apply these principles to the police service much later than to other public services, but the proposals outlined in the Sheehy report, the White Paper, and the Police and Magistrates' Courts Bill are a determined attempt to find market-oriented solutions. It is therefore important to consider the 'market critique' of the current arrangements and the alternative models it suggests, and to examine the notion of democracy behind such thinking.

Much of the 'New Right' thinking about the police service echoes criticisms of public service provision generally. The argument is that the police, like other public bureaucracies, have no pecuniary incentives towards economically efficient behaviour. Because they are monopoly suppliers, the bargaining power of their customers is negligible, and competition is non-existent. The bureaucracy has tended to retain a monopoly of information about the costs of providing policing services and the effects of policing activity. Because of the lack of external constraints, the police are largely able to determine and pursue their own goals. As with

other public bureaucracies, their overriding objective is to obtain more resources from government. Police authorities have shown little interest in improving efficiency of service, and have been content to follow the police line that declining levels of service are due to lack of sufficient resourcing from central government. The police themselves have clung to outdated management methods and restrictive work practices. Evans (1991) has summarised the New Right critique of the police service in a recent paper published by the Adam Smith Institute:

Removed from the constant need to maintain a competitive edge which spurs the private sector, the police service has found itself undermined by the same problems of other state monopolies; high and rising costs, top-heavy bureaucracy, a lack of flexibility, and a propensity to favour ever-greater increments in police manpower. New working practices and methods are slow to be implemented because of the inherent conservatism of the structure: the Service's monopoly status removes the incentive to respond to the new challenges and demands made by society. [Evans, 1991:12]

Of course, free market thinking cannot be applied to policing in a simple and direct way. In classical economic theory, the perfectly competitive market is one in which many buyers and sellers come together to bargain over a standardised good. The price mechanism conveys information to sellers about the wants of consumers, and to consumers about the quality and availability of the good. Competition between producers provides choice for the consumer, and encourages efficiency in production. If one producer tries to charge an artificially high price for a good, consumers will simply go elsewhere. In the knowledge of this, producers (as profit maximisers) have every incentive to innovate and maximise productive efficiency. The concept of 'perfect competition' is a theoretical model, built on a number of assumptions that are strictly inapplicable to most markets (perfect information, many buyers, many sellers). Nevertheless, many economists have held that with suitable qualifications the model is close enough to many real-life economic systems for it to say something useful about them.

Policing, in so far as it is a *public good*, is a classic example of one of the kinds of 'market failure' listed in economics textbooks. In economic theory, a pure public good is one that must be made equally available to all members of the community. Public goods are characterised by jointness of supply; it is difficult or impossible to exclude individuals or groups from their benefits. When the police maintain order or enforce the law, they are supposed to do so for the benefit of all, not in the interests of some private consumers. The free market would never provide 'public policing' in this sense, as there is no incentive for an individual consumer to pay for it, as

he or she cannot exclude other people from the benefits of the good. It is just as rational for the consumer to wait until another individual pays for such a good, when he or she can reap the benefits without paying anything (the 'free rider' situation).

Furthermore, policing is not a standardised good. As Horton and Smith (1988) have argued, a key feature of policing (along with a number of public services) is the difficulty of specifying output and measuring performance. The goals of policing are many and varied, and may conflict with each other. The relationship between policing 'inputs' and 'outputs' is tenuous and uncertain, whether the outputs are conceived of as the delivery of services (for example, to victims of crime) or as change in the wider society (for example, reduction of crime rates).

A further difficulty with applying market principles in a straightforward way is that policing is free at the point of delivery, so that the level of demand for policing services takes no account of the cost of meeting that demand. Moreover, the idea of a consumer or customer often has no meaning in the context of policing. Where interactions between the police and members of the public are conflictual rather than consensual, there is no specific customer, but the police action is carried out on behalf of the community at large.

For these reasons, and others, there cannot be a market for policing on the model of a corn exchange. However, what the New Right have in mind seems to be a more limited application of market principles. In parallel with the reforms of the National Health Service, the functions of purchasers and providers could be split. On one model, the fund-holders could be new-style police authorities, and a market would be created by alternative suppliers bidding for contracts let by the fund-holders. A development of this could involve devolution of budgetary control within the police organisation, which might create conditions reminiscent of markets. Local police commanders would hold budgets and would be required to demonstrate that agreed objectives were being met, as assessed by measures of performance. Their chances of holding onto or increasing their budgets would depend on their success on these criteria.

These suggestions for the application of market principles are vague and speculative. However, there are two valuable elements in this line of thinking: the emphasis on finding out what people want from policing, and on effectively delivering it. These are important elements of the democratic ideal. They are emphasised by the New Right in contrast with the emphasis among thinkers of the moderate Left on the mechanism of decision making.

Another strand of thinking among the New Right seeks to apply the programme of privatisation to the police service. There are few who would

argue that the core activities of policing should be hived off wholesale to the private sector. But there are organisations, such as private security firms, whose functions overlap with police activities. When policing is seen in its broad symbolic sense, it is much easier to portray it as a public good which must be provided by the state. But when it is broken down into its constituent functions, it is possible to identify tasks which could be, and sometimes already are, undertaken by organisations other than the police. Hiving off these functions to private organisations would arguably allow the police to concentrate on their core activities without undermining their position. In support of this argument, social order is in any case largely maintained by informal controls, or by formal controls administered by private organisations (banks, employers etc.). Shifting the boundaries between what the police do and what private organisations do will not necessarily undermine the police.

Heald and Morris (1984) have presented a typology of four kinds of privatisation applied by successive Conservative governments in Britain. The four types they identify are:

- *denationalisation*, which involves selling off nationalised industries to the private sector, or gradual withdrawal from comprehensive public provision in areas where this was previously the norm;
- *liberalisation*, or the introduction of competition into public monopolies;
- *substitution* of customer fees for tax finance (for example NHS charges); and
- *contracting out*, in which public authorities continue to be responsible for provision and quality of service, but the actual service is delivered by private firms.

So far, the first and fourth of these have been applied in a limited way to the police service. The police staff associations have argued that restrictions on staffing and resources constitute 'gradual withdrawal', and the government is actively encouraging the contracting out of some services previously the preserve of the police (prisoner escort, security at Ministry of Defence properties).

A number of internal reforms already introduced or planned are designed to imitate the conditions of a market in a very loose sense. For example, the performance measures that are now being emphasised are a substitute for information conveyed by the multitude of individual transactions in a perfect market. The Audit Commission and the HMIC have developed a considerable array of performance measures, and in doing so

have tried to show that, in spite of the many difficulties, many of the outputs of policing can be assessed, even if the outcomes of police activity in the wider world cannot routinely be measured. The White Paper and the Bill propose that the Home Secretary should set national standards against which forces' performance will be measured. The requirement on police authorities to publish a range of information about the performance of their forces after 1995, and the proposal that they should commission regular surveys of public satisfaction should, in theory, provide information to consumers about how their police force is doing.

Market-based approaches, then, have the virtue of emphasising the need to find out what people want and supply it effectively, but because of conflicts with other objectives, they only have limited application in the field of policing. The public good argument is not defeated by simply breaking down the police task into its constituent functions, because many of these specific functions still carry public good characteristics. This applies, for example, to uniform preventive patrol. Because of the free-rider effect, a universal system of uniform patrol could probably never be financed by private subscriptions. At best, private patrols can be organised in wealthy housing estates (where burglary and violent crime tends to be low in any case). This private solution to a public problem cannot work. The overall effect is probably to displace crime to high-crime areas that cannot afford to pay for protection. This is inefficient, even for those paying for protection, whose peace and safety will eventually be threatened by events in unpoliced areas nearby. It is also inequitable: and in fact a general argument for public service provision (Ascher, 1987) is that unlike the market it uses equitable criteria for allocating the service between end users.

Privatisation depends on the assumption that certain policing functions can be hived off without any detriment to remaining functions, but this may be unrealistic in many instances. The different activities of a single organisation may feed into each other. For example, it has often been suggested that there is no need for the police to control traffic or enforce road regulations, and that specialist traffic functions could be performed by some other organisation. Against that, a large proportion of crime is theft of or from motor vehicles, and people engaged in other sorts of crime generally move about in motor vehicles. Hence, there is a substantial interaction between traffic policing and the prevention and detection of crime. It follows that there would be substantial losses in efficiency and effectiveness if the traffic police were hived off to a separate organisation.

Hiving off the consensual policing functions also carries with it a further danger. If the police are just left with the adversarial functions, the public

will only come into contact with them in situations of confrontation, which will tend to erode their legitimacy and to reduce public cooperation.

A point that clearly emerges from this analysis is that different values that may well be counted democratic often conflict to some degree. For example, a key concern of those advocating these 'market-based' changes is with cost-effectiveness in service delivery. As already emphasised, delivering the service that people want more cheaply and effectively may well be counted democratic. Other interpretations of democracy emphasise, instead, the need to ensure that the decision-making process itself reproduces the wishes of the people. The priorities of effective service delivery and cleansing decision-making probably conflict. Lengthy decision-making processes, insistence on consulting as many people as possible, allowing minority interests to block and delay: all of these can be seen as democratic but may well undermine effectiveness.

Another potential conflict is between the democratic values of choice and equity. Of course, the Right often argues that markets are the fairest as well as the most efficient of systems, because they offer everyone the maximum opportunity to choose. For example, Enoch Powell (1969:33) has written that 'In this great and continuous general election of the free economy, nobody, not even the poorest, is disenfranchised: we are all voting all of the time'. Again, in a critique of local government, the Adam Smith Institute (1983:3) has used the same analogy: 'In this sense, the market sector is more genuinely democratic than the public sector, involving the decisions of far more individuals and at much more frequent intervals'. In fact, however, free choice conflicts with equity, so that this attempt to appropriate democratic rhetoric for economic liberalism is much too glib. In the 'general election' of the free market, the wealthy can vote more often than the poor, and each of their votes has a higher value.

Conclusion

Each of the various proposals for reform of police governance highlights different weaknesses in the existing system, and each places a different order of priority on the various values inherent in the idea of democracy. In order to resolve these contradictions, it is necessary to examine the democratic ideal more deeply. The aim in doing so will be to distil a set of criteria of democracy against which present and future systems of police governance can be judged.

THE CONCEPT OF DEMOCRACY

Democracy is, of course, a growth industry. While the early 1990s saw large parts of the developed world fall back into economic recession, the demand

for democracy showed no sign of diminishing. In fact, there was an expansion into new markets facilitated by the fall of communism in the former Warsaw pact countries, and so pervasive was this transformation felt to be that one analyst (Fukuyama, 1989) referred to the process as 'the end of history'. In the West, thoughts of the inevitable economic hardship and instability arising from restructuring and adaptation to a new political and economic order were initially set aside in the general euphoria surrounding the triumph of democracy over dictatorship. At the present time, the term 'democratic' is used not only to denote a particular set of political institutions or processes, but also as a gesture of approval. As Hirst (1988) has put it, democracy has become the 'dominant idiom' in much political discourse. Corcoran (1983:15) has gone further in describing democracy as 'the world's new universal religion'. He reminds us that for much of the history of political thought, democracy did not occupy such an elevated position in the minds of theorists:

It is a fact, now routinely ignored by the democratic faithful as a position beneath contempt, that the great preponderance of political thinkers for two-and-a-half millennia have insisted upon the perversity of democratic constitutions, the disorderliness of democratic politics, and the moral depravity of the democratic character. [Corcoran, 1983:15]

Although much of the debate about the meaning of democracy has tended in the past to focus on explicitly 'political' institutions at the national level such as parliaments, executives, electoral systems, and political parties, more recent developments have tended to emphasise the importance of both larger and smaller units than the state. Because of the long-term trend towards European integration, political decisions taken at the supra-national level will be of increasing importance in future years. At the same time, a strong body of opinion across a number of European Community countries speaks in favour of increased local autonomy and the devolution of power to regional (or lower) levels. Although these trends are particularly evident in the 1990s, interest in extending the political sphere beyond national government is far from new. A number of writers (for example, Wolin, 1960) have stressed the importance of other social groups and organisations in the political lives of citizens.

Democracy in political thought

Most textbook discussions of democracy start from the literal translation of the Greek word, which meant 'rule of (or by) the people'. The term was first used to describe a form of government found in some of the ancient Greek city states, characterised by the sharing of the right to participate in public affairs amongst 'the people'. Plato, in *The Republic* (Book VIII)

described the ends of democracy as liberty, equality, and variety. From that approach to the subject, it is clear that almost from the beginning 'the word "democracy" was associated with a set of ideals as well as with a form of government' (Raphael, 1976:144). Equally, it was heavily criticised in the ancient world. Plato rejected democracy precisely because he rejected the ideals of liberty, equality, and variety that he believed were at the heart of it.

The modern revival and rehabilitation of the democratic ideal was begun in the eighteenth century. In the development of the concept of democracy since then, there have been wide differences and disagreements between writers on basic points such as the priority to be accorded to different values or objectives, and the appropriate role of 'the people' in a democratic system.

One fundamental division is between writers who see democracy as a set of social ideals, and those who see it as denoting a set of political institutions. The analytic approach adopted in the present study is based on Plato's view that democracy is essentially a set of ideals, and that particular institutions must be judged by their capacity to meet or embody those ideals.

There has been a long-running debate on this question between those who have been termed 'classical theorists' such as Rousseau, James Mill, J. S. Mill, Bentham, and others in that tradition, who analyse democracy in terms of ideal values and the worth of the individual; and twentieth century writers, starting with Joseph Schumpeter, who developed 'empirical' theories in which democracy is conceived solely as a political method. Some authors have questioned the simplicity of such a division. Pateman (1970) has argued that the notion of one 'classical theory of democracy' is a myth, and has stressed the diversity of the set of theorists concerned. However, as Pateman herself admitted, the notion of a classical theory of democracy has been an enduring one, and still has a strong influence today, particularly on politicians' rhetoric (as Joseph Schumpeter points out, politicians like a rhetoric that flatters the masses). Hence, although there are important differences between theorists described as classical, it seems reasonable to consider the common elements of democratic theory that writers in the mid twentieth century thought they were challenging.

The classical theories and their contemporary offspring emphasised participation, the importance of self-development of the individual, and democracy as an ideal in itself. Consideration of the hypothetical situation of a perfect benevolent dictator brings out the contrast between conceiving democracy as having value in itself, and democracy as purely a kind of political method. J. S Mill wrote in *Representative Government* that a necessary condition of good government was the promotion of the right

kind of individual character, and without the opportunities for participation, beyond the mere fact of voting, in public functions and decision making 'the sphere of action of human beings is artificially circumscribed, their sentiments are narrowed and dwarfed'. It is only within the context of these popular and participatory institutions that the right kind of public-spirited character is developed. This of course implies an optimistic view of human nature, as essentially rational and improvable, and that it is possible to develop the kinds of institutions in which active political participation can occur.

The view that a vibrant representative democracy, in which electors with definite beliefs about policy would periodically vote freely for parties who would try to implement these policies, was increasingly challenged during the first half of the twentieth century. The work of the élite theorists was based on the premise that the mass of people were a threat to political stability and inherently incompetent: at best the mass of people were passive and pliable, at worst, unruly and threatening to the established order (Pareto, 1939; Mosca, 1935). Gustave Le Bon's (1960 [1895]) work on crowd psychology had already undermined optimistic assumptions about human nature. Roberto Michels (1958) argued that true democracy was in practice unattainable. From a study of European party systems and of various bureaucracies he deduced that all social organisations were subject to 'the iron law of oligarchy': an inevitable and irreversible trend to domination of the many by an élite leadership.

The mid twentieth century saw the appearance of a very different kind of democratic theory, one which adopted a narrower, and in the views of its supporters, a more realistic view of what democracy is. Joseph Schumpeter was one of the first proponents of this kind of theory (later characterised by Bachrach (1969) as 'democratic élitism') which saw democracy as simply a procedure for arriving at political decisions. Democracy, in Schumpeter's words, is no more than 'that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the peoples' vote' (1961:269). These ideas were advanced as 'scientific' or 'positive' theories of democracy, because they were based upon observations of actual political practice and disassociated from ideals or ultimate values. Such theories saw little potential for mass participation in public affairs; they held that the energies and capacities of most people are absorbed primarily in their personal lives, and that participation in politics (unless under highly unusual conditions) is of marginal interest. Findings gathered by American political scientists supported the view that most people participate in politics to only a limited extent. For example, Berelson's (1954) study of

voting behaviour found that the majority of people lack motivation, interest and knowledge about politics and the political system. Schumpeter and associated theorists did not see such findings as a threat to democracy; they assumed instead that an inactive and demotivated electorate was essential to the democratic system.

On this view, the mass of people are not a source of ideas or initiatives, but they still play an important role by choosing between competing élites. Writers like Dahl (1961) believed that the essence and safeguard of the democratic system lies in the dynamics of competitive behaviour between a plurality of élites. Downs (1957) and later Tullock (1976) developed an analogy between democracy and the market economy: they maintained that political parties and also individuals in the political sphere make rational choices with the object of maximising 'utility' for themselves, as assumed in classical economics. Just as in economic theory individual actions determined by self-interest produce output and employment for society at large, so in the economic theory of democracy, self-interested individual actions in the form of votes produce parties and administrations.

From this perspective, democracy denotes a set of political institutions. What makes a system democratic is competition for votes between leadership élites at periodic free elections. Elections are the principal way in which people exert influence over their leaders, who are influenced in their behaviour by the threat of being removed from office. Political equality means the right to vote, and a chance to join the leadership élite by running for election. Participation in political decisions means participation in the choice of those who are to take the decisions.

The re-emergence of a participatory theory

These 'empirical' theories of democracy gained widespread support during the 1950s and 1960s. The emphasis had moved away from looking for ways to extend participation, and towards stabilising the established system. Writers like Sartori saw the more idealistic participatory theories as verging on the dangerous:

Democracy is terribly difficult. It is so difficult that only expert and accountable elites can save it from the excesses of perfectionism, from the vortex of demagogy, and from the degeneration of the *lex majoris partis*. [1962:64]

A major difficulty for those who believed that there was more to democracy than the occasional choice between élite decision-makers was that these 'democratic élitist' theories seemed to provide the best fit to modern industrial society. Even where there was the opportunity for more widespread political participation, it was argued, the evidence was that

people simply would not be not interested. Politics was the interest of some, the hobby of a few, and the passion of even fewer.

Theorists who believed that more participation was possible responded by emphasising the potential importance of two settings for political participation outside the arena of national politics: the workplace, and local government. They argued that confining the sphere of politics to national institutions and processes made it inevitable that participation would be limited. But if the conception of 'the political' was extended to other social organisations and contexts, then the possibilities of participation would be expanded. It was the lack of such possibilities that had stifled interest in national politics and had fostered ignorance and apathy. The focus of most authors who took this line was upon extending the notion of democracy to the workplace (Bachrach, 1969; Pateman, 1970; Hodgson, 1984). The idea was that people will participate in decision-making about matters that affect them directly from day to day, whereas they may have little sense of involvement in matters debated in a national election, which generally seem far removed from their daily lives. Another potential arena for participation in democracy is of course local government. In fact, earlier theorists had not concentrated exclusively on national state institutions in their discussions of democracy. J.S Mill had argued strongly for an active local democracy, as a means of improving both administrative efficiency and the 'public education' of citizens.

The evidence from studies of workplace participation and industrial democracy is somewhat mixed. Much of the literature shares theoretical considerations with wider discussions about democracy. Fox (1974) distinguished between low- and high-trust principles of management control. Low-trust organisations are characterised by the strict division of labour, the separation of planning from execution, the breaking down of work into small separate tasks, the predominance of prescriptive rules, tight supervision and inspection, and the importance of management control. The costs of such a structure could be to alienate the workforce from the goals of the organisation, personal exclusion, low productivity and workplace conflict. In contrast, high-trust principles stress higher order worker needs over and above material gain, and try to develop ways of increasing worker commitment and motivation. The workforce are integrated into the organisation and given 'responsible autonomy'. This should reduce supervision costs, but more importantly, give the workforce the chance to participate in decisions immediately affecting their working lives. The concepts of shared goals, personal development, and moral involvement with the social structure of which one is a part, echo those found in participatory theories of democracy. This 'high-trust' approach inspired an

influential movement in personnel management away from traditional structures of collective bargaining and towards more individualistic attempts to enhance employee involvement. As the popularity of what became known as 'human resource management' (HRM) grew during the 1980s, there was increasing evidence that employers were adopting new measures designed to seek the active commitment and cooperation of employees. Such developments included team briefings, task participation groups such as quality circles, joint consultative committees, and incentive schemes designed to encourage identification with site, divisional or corporate objectives. The evidence from a number of studies, however, shows only a marginal effect of these developments. Marginson *et al.* (1988) found little evidence of a new integrated approach to employee relations, with few firms able to give detailed accounts of their policies, and those changes which had occurred being concentrated at higher management levels. Dale and Hayward (1984) found that the introduction of quality circles into British manufacturing firms had only a marginal effect. A more recent study of the Workplace Industrial Relations Survey (Millward, 1994:127) found that in terms of a shift towards HRM there was 'rather modest change and development, rather than a sea change'. Employment research evidence therefore tends to suggest that hopes for developing a vibrant participatory democracy at the workplace have yet to be realised.

With regard to local government, the experience of post-war Britain bears little resemblance to the vision of J.S Mill. Low turnouts in local elections provided further support for the democratic élitist notion that lack of interest and involvement in politics was the norm even at the local level: in fact, turnout is much lower in local than in national elections. After the 1960s there was a growing tendency for nationally-determined party priorities to be imposed on local government, with the result that local issues took on less importance. The style of local representation also provided good reasons for scepticism about local government. Cumbersome committee structures and slow decision-making processes made it difficult to see how citizens could influence local developments even if they did vote in larger numbers. It appeared that the democratic élitist model applied to local as well as to national politics. The welfare state had in effect delegated most of the responsibility for running public services to an élite who, according to critics, were largely insulated from the demands of the public. Increasing concern with the participation of the public in service provision surfaced in the late 1960s with the publication of Lord Seebohm's (1968) Report on social services, which singled out participation as an important goal. Richardson (1983) outlined some of the main problems that were

confronted by attempts to enhance consumer and employee participation across a number of public services during the 1970s. Most practical proposals focused upon direct consumers rather than the public in general, and gave the new participants only limited consultative powers. The central problem was the representativeness of participants because of the uneven distribution of the opportunity and the willingness to participate.

Concern with local participation was to reappear during the 1980s, when political radicalism in local government reached a peak, and tensions between radical left-wing councils and a radical Conservative central government broke out into open hostilities. Very different models of local democracy were developed by radicals of the Left and of the Right, but each, in its own way, claimed that it emphasised the increased participation of people in the system. Community theories of democracy stressed direct participation of suppressed interest groups, whereas market-based theories advocated the participation of citizens through individual consumer decisions (as discussed in an earlier section).

Conclusion

Discussions about democracy are ultimately concerned with values. Even though the development of 'empirical' theories of democracy attempted to separate the meaning of democracy from ideals, such theories themselves can in many ways be considered normative. As Pateman (1970) has argued, such theories do not simply describe how democratic systems function, but provide a set of criteria by which a system may be judged, and strongly imply that such criteria define a system we should value. For example, these theories not only describe the practical difficulty of attaining more widespread participation in political decisions, but also imply that it would be dangerous to attempt to develop this. They place value on leadership and stability, on a pluralistic competition between élites, and on the effectiveness of the system in producing political decisions. Thus, there are a number of ideals associated with democracy which need to be balanced. Different models of democracy involve an explicit or implicit value-judgement about the relative importance of these ideals.

Criteria of democracy: towards a framework of analysis

The preceding discussion has established that democracy is a set of ideals as well as a set of ideas. It has also shown that there have been many interpretations of democratic ideas, and that these differ in the emphasis they give to the various values inherent in them. The largest area of disagreement is over the emphasis that should be given to participation.

Of course, these ideas about democracy have largely been developed in the context of debate about national political systems. A central argument of this book is that the governance of organisations like the police force, which form a vital part of the social fabric, is at least as important in its implications for democracy as Parliament or the institutions of central government. In order to test in what ways the system of policing is democratic, it is necessary to adapt ideas about democracy that were largely developed to describe and evaluate national political systems.

The task in this final section is to propose a set of criteria for the purpose of testing how far the arrangements for making policing policy follow democratic principles. The following are the main candidates that have emerged from the preceding review.

Equity. In so far as the police are delivering services, these should be distributed fairly between groups and individuals. In so far as the police are enforcing the law in their adversarial role, the pattern of enforcement should be fair.

Delivery of service. The police should deliver the appropriate services (as determined on other criteria) effectively and efficiently.

Responsiveness. In determining the order of priorities, the allocation of resources between different activities and objectives, and the choice of policing methods, the police should be responsive to the views of a representative body.

Distribution of power. Power to determine policing policy should not be concentrated but distributed between a number of different bodies.

Information should be regularly published on funding, expenditure, activity, and outputs. A representative body should be able to engage in a continuing dialogue with the professional managers of the police force so as to become better informed and to elicit relevant information through a sequence of interactions.

Redress. It should be possible for a representative body to dismiss an incompetent or corrupt chief officer, or one who exceeds his powers. There should be means of redress for unlawful or unreasonable treatment by individual officers.

Participation. As far as possible, citizens should participate in discussion of policing policy with police managers.

Participation

Following the above discussion, there is a need to set these criteria of democracy in a suggested order of priority. This is not to suggest that those criteria coming lower down the list are unimportant – simply that there are ‘democratic criteria’ which, as regards policing, are *more* important. The

most important feature of this suggested order is that participation appears last. The wide disagreements between theorists as to the importance of participation as a principle of democracy have been set out above. There are two reasons for suggesting that it should be given a lower priority here: one general, the other particular to policing. The general point is that an emphasis on participation as something of value in itself to the self-development of the citizen only seems possible in a highly stratified society in which political activity is confined to a small élite. It would be unwise to overlook the fact that the idea of active participation in democratic government developed in the ancient world in small societies where the great majority of people were slaves or women, and were consequently excluded from the political process. J.S. Mill, now often considered the great proponent of participatory democracy, was writing at a time when only about five per cent of the population in England had the right to vote. In the highly stratified societies of the ancient world or the early nineteenth century, it was practicable to recommend that everyone who had the right to vote should take some part in politics at some level. In an industrial or post-industrial society with universal education, universal adult suffrage, and the mass media of communication, this no longer seems practicable, because it is not the case that every literate and sane person expects or wishes to actively participate in public policy-making. Indeed, it has been argued that ‘freedom from politics’ – the right *not* to participate – is a central element of contemporary democracy (Arendt, 1963).

The particular reason for placing participation last is that experience has shown, on the evidence summarised earlier in this chapter, that getting together groups of people to discuss policing policy is an uphill struggle. Most of the time, the issues are not salient enough to stimulate a continuing concern and commitment among a large number of people. The conclusion earlier reached by Schumpeter and others about participation in national politics also seems to apply to making policy about a local public service.

Of course, any kind of democratic process requires the participation of members of the public in some sense, whether it be as representatives, or in a broader sense. However, widening that participation beyond a fairly narrow circle may not always be possible or necessary, and other democratic objectives are substantially more important, because they can have a greater impact on the quality of life of the majority.

Equity

The idea of equity runs through all democratic theory. It is placed first in the order of priority here, because in practice other elements of democracy

derive from it. For example, the argument for universal suffrage is that it is fair for every adult to have an equal vote.

Although equity is here chosen as the first criterion of democracy, the application of the concept to policing policy is difficult, as was illustrated by the earlier discussion of Jefferson and Grimshaw's (1984) proposals. There is a serious conceptual deficit here, because the idea that there have to be policing policies is relatively new, so that how to decide whether particular policies are fair and just has been very little discussed. The best that can be done at this stage is to give a few pointers to the analysis of the problem.

First, it will be important to make a clear distinction between the police as providers of a service (for example, uniform patrol, security advice, help to victims of crime) and the police in their adversarial relationships with offenders or suspects. Where the police are providers of services, principles of distributive justice apply, which probably means in this case that services should be allocated fairly in relation to needs. Where the police are enforcing the law on offenders or suspects, equity dictates that the level of enforcement should be proportionate to the number and severity of the offences. If this principle is not qualified, it will lead to relatively high levels of enforcement among certain groups and in certain areas, the outcome that Jefferson and Grimshaw (1984) particularly wanted to avoid. How that can be mitigated is an important subject for discussion. Perhaps the most promising option is to require that different methods of enforcement should be reviewed, and that methods that are more even in their impact (for example on different ethnic groups) should be preferred so long as that is consistent with adequate law enforcement.

In any case, the application of the general principle of equity to policing policy is not something that could or should be decided in advance. There have to be institutional structures through which the general principles of equity can be applied to policing policy as part of a democratic process of decision making.

Delivery of service

Because policing is a public good, every citizen benefits if the service is delivered effectively and efficiently. Because a well-policed society is more just than a badly-policed one, the principle of effective service delivery flows from the principle of equity. Service delivery is given a higher priority than, for example, responsiveness or information because even citizens who know nothing about policing and do not wish to express a view will benefit if policing is effectively and efficiently delivered.

Responsiveness

The idea that policing policy should be responsive to some expression of the views of the public derives from the democratic principle that government should reflect the wishes of the people. This principle has to be placed lower than the general principle of equity or justice, however. For example, it would be undemocratic for the police to adopt a highly discriminatory policy of law enforcement, even if a local majority favoured such a policy.

What is the most appropriate method of testing the views of the public is open to debate. One method is through elected or nominated representatives. However, there is also an argument for using surveys of the general public, of people who have been in contact with the police. One approach could be to adopt a combination of different methods. One of the forces in the study supplemented the formal local representative mechanisms with a specially-designed public attitudes survey.

Distribution of power

The idea that power should not be too much concentrated among a few individuals or groups is one that runs through democratic theory. In any social structure, that individuals and groups will have different interests so that some conflict of interests is inevitable. An important feature of democracy is the provision of mechanisms to achieve stable compromises in the case of such conflict. Some concentration of political power in the decision-making structure is a necessary condition for effective administration, but it is important that there are sources of countervailing power and that no single group always prevails. Most criticisms of the current arrangements for police governance have identified the concentration of power in some sense as the problem. For example, critics on the Left have argued that the power balance excludes the interests of the dispossessed and disadvantaged. Other critics on the Left see the power balance as having shifted too far to the centre. Free market critics have argued that the monopoly supplier has too much power in the sense of being insulated from the demands of the consumer. Hence there is agreement across the political spectrum that power should be more evenly distributed. The need to prevent undue concentration of power flows from the prior democratic principle of equity.

Information

Good information is crucial for the achievement of all of the other democratic objectives. There is, again, wide agreement on this point across the political spectrum. It is notable, for example, that the Conservative

Government's policy of developing better measures of police performance, and publishing information based on those measures, is capable of providing material that will be useful to critics on the Left. However, the framework of any set of measures of performance springs from a set of political objectives. The democratic criterion cannot therefore be met by the provision of routine information alone. It is important, in addition, that some body should be able to interrogate the police service and find out more through a sequence of interactions.

Redress

The notion of redress is strongest in the theory of democracy as competition between élites, in which the ultimate sanction of the electorate is to remove an incompetent or malevolent administration from office. By extension of this idea, it should be possible to remove an incompetent or malevolent police management.

If certain groups are unfairly targeted by policing policies, it should also be possible for those groups to have the policy reversed. Finally, it should be possible for individuals who have been wronged by the police to have their complaints investigated, and to gain compensation if they are upheld.

Notes

1. There are differences of opinion as to how public opinion poll ratings of confidence in the police should be interpreted. For some, it is perceived as a significant falling off of public support (Kinsey, Lea and Young, 1986) and for others merely a slight decline from a position of extremely high public confidence (ACPO, 1993).
2. Smaller studies of the making of policing policy in France and the Netherlands will also be published by PSI.
3. These are discussed in considerable detail, from differing viewpoints, in T. Jefferson (1990) and P.A.J. Waddington (1991).
4. The Home Secretary intervened to prevent the watch committee from dismissing their chief constable who was investigating a number of councillors.