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Policing by Consent: Some Practitioner Perceptions

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Authors Declaration

The Researcher hereby signs himself the 'writer' of this thesis.

Signature………………………………………………………….

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Abstract

The purpose of this work is to examine the concept or notion of policing by consent and it is important to note, at the outset, that the vast majority of the literature produced on the subject, both current and past, has concentrated on policing by consent from many different viewpoints with one quite startling omission. There does not appear to be any academic study based on the views and perceptions of it [consent] that the practitioners, the police themselves, have.

In order to correct this imbalance the study therefore set out, by means of a series of semi-structured interviews, to obtain the views and perceptions of both serving and retired officers of a principle, certainly of policing in England and Wales, which is at the very core of their professional lives. Prior to the interviews, which took place between November 2007 and December 2008, the officers were arranged into four cohorts, each cohort consisting of ten officers, and within each cohort, the officers range across the continuum of rank, ethnicity, gender and length of service. This provided a series of wide ranging views, but with some important common themes, across the continuum of policing.

It is important to note however, that in a study as limited as this, it could never be said that the views expressed represent those of the police service in general, nevertheless, the study does represent the views of a number of officers, and, more importantly adds to the body of knowledge on the subject.

Following the interviews, which were digitally recorded and later transcribed, analysis, which was based on an amalgam of analytical methods, took place. The psychological aspects were dealt with by reference to both

axiomatic knowledge and the actions and motives of subjects who are placed in an interview situation

The findings, which have been arranged into a series of themes based upon various models of what has been termed the 'unofficial' culture of the police which often appears to be at variance with the accepted norms and values of policing. These 'official' values are driven by legislation, a series of national policies and national policing initiatives, all of which, in turn, are bound by the financial constraints of a fixed annual budget composed in part of a local policing precept set by the police and crime commissioners in consultation with Chief Officers. The remainder of the budget is funded by central government following the annual inspection of forces by Her Majesties Inspectorate of Constabulary (HMIC).

The findings also reveal the emergence of a strong sense of duty which, in turn, indicates, that as professional police officers, they do indeed both recognise and endeavour to practice policing with that most important element of consent. To their credit they have also acknowledged the occasions when through either their own actions or because of the constraints placed upon them by the legislation they have lost that vital element of consent and have reflected upon it and the impact that it has had upon their future practices.

The work, in its entirety, provides a valuable insight into the views of both serving and retired officers, particularly with regards to the effects that police culture have had, either knowingly, unknowingly or unwittingly upon their actions. It has also provided a valuable contribution to the extensive body of literature on policing in England and Wales.

Acknowledgements

Glossary of Terms and Abbreviations

ACPO   Association of Chief Police Officers

ACC   Assistant Chief Constable

ANPR   Automatic Number Plate Recognition – a roadside or mobile camera unit which captures vehicle registration marks and immediately transmits them to the PNC (see entry) which checks for current VEL and Insurance as well as any intelligence on the vehicle/owner or keeper.

APA   Association of Police Authorities

BCU   Basic Command Unit – A system of dividing a constabulary into semi-autonomous, self-budgeting areas usually commanded by a Superintendent.

BTP   British Transport Police – the force responsible for policing the entire rail network and its environs.

CC   Chief Constable

C/S   Chief Superintendent

C/Insp.   Chief Inspector

Core Policing   See also under 'response' – the shifts of officers who provide the day-to-day street cover, dealing with incidents and attending calls from the public – often seen as reactive policing.

CRS   Compagnies Républicaines de Sécurité – Republican Security Companies (military terminology not plc terms). This is the riot control arm of the French National Police.

DCC   Deputy Chief Constable

Elected Police
Commissioners   The Police Reform and Social Responsibility Act 2011(the Act) establishes PCCs within each force area and charges them with responsibility for the totality of policing within that area. The Act requires a PCC to hold the force area Chief Constable to account on behalf of the public which both the PCC and the Chief Constable serve.

Extended Police Family	The term currently used to describe the myriad of ancillary bodies who assist in the policing function and includes, amongst others, PCSO's, Special Constables, police support staff, Neighbourhood Watch and Community Wardens.
HMIC	Her Majesty's Inspectorate of Constabulary – a quasi-independent body of senior ACPO officers whose brief is to inspect forces and report on their efficiency or otherwise.
HMCIC	Her Majesty's Chief Inspector Of Constabulary. (At the time of writing it was Sir Ronnie Flanagan, one time Chief Constable of the RUC (now the PSNI).
HMRC	Her Majesty's Revenue and Customs. HMRC was formed by the merger of the Inland Revenue and Her Majesty's Customs and Excise which took effect on the 18th April 2005.
HPDS	High Potential Development Scheme. The HPDS is a five year programme delivered by the NPIA with an academic partner, Warwick Business School. It uses a range of innovative approaches to challenge and equip future leaders. Participants will have to demonstrate their desire, commitment and the potential to reach senior officer levels and progress to ACPO. It is open to serving police officers at the ranks of Constable and Sergeant only. Officers from all 43 forces in England and Wales and those from PSNI (see later entry), States of Jersey and BTP (see earlier entry) can apply for the scheme.
HRA	The Human Rights Act 1998. In 1951 the UK ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms. In 1998 UK law gave effect to the Convention by the enactment of the Human Rights Act.
IAG	Independent Advisory Group(s) created as a result of the McPherson Report which encouraged lay oversight of policing.
Insp.	Inspector

IPCC	Independent Police Complaints Commission – set up in 2005 to investigate complaints against the police. To date there have been a number of notable cases including Commander Ali Dezai of the Metropolitan Police, who was convicted in a criminal court and Graeme Maxwell the Chief Constable of North Yorkshire who was found guilty of gross industrial misconduct and given a final warning.
IPLDP	Initial Police Learning and Development Programme, introduced in 2005. It replaced the nationally delivered Probationer Training Programme and although there were core requirements for all forces contained in the programme forces were left free to design their own local requirements and delivery schedule according to their needs. Notably there was a national requirement that Student Officers must take part in some community based training prior to attending the formal law training sessions. This was designed to expose them to the problems of various hard-to-reach groups prior to their becoming 'contaminated' by the police mindset or 'canteen culture'. From personal experience I can state, with some certainty, that this particular facet of the programme was an unqualified success in Durham Constabulary, where I was employed.
KPI	Key Performance Indicator – one of a series of performance indicators introduced in an attempt to measure the effectiveness (or otherwise) of the use of an officers patrol time. It was treated quite contemptuously by the junior ranks who simply saw it as a 'tick box' exercise.
LSE	London School of Economics
MPS	Metropolitan Police Service
NCRS	National Crime Recording Standards - Adopted in April 2002 to provide greater consistency between police forces in the recording of crime and the collection of statistical data.
NDPB	Non-Departmental Public Body - of which the IPCC is one.

NPIA	National Policing Improvement Agency. An agency which was created to support police forces to improve the way they work by providing expertise in such areas as information technology, information sharing, and recruitment. It is a police owned and led body, which has replaced national policing organisations such as the Police Information Technology Organisation (PITO) and Centrex, as well as functions that were carried out by the Home Office and the Association of Chief Police Officers (ACPO).
PACE	Police and Criminal Evidence Act 1984. A seminal piece of legislation designed to curb the excesses of police officers conducting investigation/interrogation which had previously come under the auspices of the Judges Rules, which in turn had been regularly flouted and in some cases ignored. As well as regulating procedures the act also facilitated proper investigations by allowing the police to hold people in custody, but, at the same time being subject of strict time schedules and availability of evidence.
PEACE	The acronym used to define the interview methodology now adopted by the police and other law enforcement agencies as a result of the Baldwin Report. It sets out how all interviews with suspects should be conducted. **P**lanning and Preparation, **E**ngage and Explain, **A**ccount **C**losure **E**valuation
PC	Police Constable
PCA	Police Complaints Authority – forerunner of the IPCC (see previous entry) which fell in to disrepute because of both a lack of sanctioning powers and a perceived lack of independence from the police.
PCSO	Police Community Support Officer
PNC	Police National Computer – which, amongst other functions, has direct access to DVLA Vehicle Keeper details, DVLA Driver Records, the Motor Insurers Data Base, the Vehicle Inspectorate (Formerly Ministry of Transport) Test and Vehicle Inspection records. It also hosts the National Sex Offenders Register.

PND	Police National Database. A development of the PNC whereby, in addition to the historical information currently held there will also be a database of 'live' intelligence, both fed and accessible by all police forces.
PSNI	Police Service of Northern Ireland (Formerly the RUC)
PSU	Police Support Unit. A PSU consists of 1Inspector, 3 Sergeants and 30 Constables. Both the officers and the vehicles have riot equipment. They were introduced in the 1980's during the miners strike whereby each police force in England and Wales had to have available a number of trained and ready men and vehicles to respond to a cross-border request for mutual aid via the National Reporting Centre (an ACPO designed 'quango') It also raised the requirement for all officers to have regular public order training to Tactical Level 2 in order to ensure a prompt and balanced response to all public order situations.
Response	See 'Core'
RIPA	Regulation of Investigatory Powers Act 2000, which, amongst other things, set out to regulate and control the management and handling of police informants. It also defined covert and intrusive surveillance by various methods including CCTV, phone 'tapping' and computer 'hacking', and laid down the occasions when these methods could be employed and, perhaps more importantly, how they were to be conducted.
RUC	Royal Ulster Constabulary (See also PSNI)
Sanctioned Detection	A sanctioned detection occurs when (1) a notifiable offence (crime) has been committed and recorded; (2) a suspect has been identified and is aware of the detection; (3) the CPS evidential test is satisfied; (4) the victim has been informed that the offence has been detected, and; (5) the suspect has been charged, reported for summons, or cautioned**, been issued with a penalty notice for disorder** (my emphasis) or the offence has been taken into consideration when an offender is sentenced. **NB** The practice of issuing fixed penalty notices for relatively minor offences was viewed in some quarters as a 'quick fix' to enhance the crime detection rates.
Sgt.	Sergeant

SLSA	Socio-Legal Studies Association
SOCA	Serious Organised Crime Agency
Supt.	Superintendent
VEL	Vehicles Excise Licence

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Chapter 1: Introduction

This Chapter will briefly examine the historical background of the police in England and Wales prior to the introduction of the 'new police' in 1829 and will develop a time line to the present structure with the subsequent aim of examining policing by consent from a practitioner's point of view.

Historically the 'hue and cry', was a measure of citizen accountability which, from the time of the Norman Conquest, had been the mainstay of law and order. This system was improved in the middle ages with the appointment of town watchmen and in the late 1500s the office of parish constable came into being; these men (for they were always men) were variously appointed to what was an unpaid and usually unwanted office by Courts leet, parish vestries and town meetings who '….did not provide new constables with handbooks….nor were they given any formal instruction regarding their legal powers'. (Philips and Storch, 1999: p.24). The parish constables, together with a system of a local Justices of the Peace who, incidentally, had no say in the appointment of constables, courts of Quarter Session and District Judges who sat at courts of session, formed the foundations of the English legal system up until the revolution, that was to be called the 'new police', took place, starting in the late 1820s and culminating in the 1850s with the introduction of the County Police Act.

It is recognised that prior to the 1820s there were no regular full time paid police forces in England and it is only in 1829 that the Metropolitan Police Force was established. This subsequently gave rise to a veritable avalanche of legislation which saw, by the mid to late 1880s, the establishment of both County and Borough police forces.

The 'New Police': The Metropolitan Police Service

In 1956, towards the end of what was termed the 'golden age of policing', Charles Reith, a lifelong historian of the British police in a study of policing history, outlined Sir Robert Peel's nine principles of policing (See app 'A'). The work also examined the early years of the Metropolitan Police following the introduction Peel's Bill for Improving the Police in and near the Metropolis' in 1829. The Bill, for the introduction of a civil police service, in both the metropolis and later throughout England and Wales was placed before Parliament on no less than five occasions and its passage is recorded as a long and tortuous process. It is well documented that there was an overwhelming opposition to the concept of the 'new police'; indeed Phillips and Storch, whilst acquiescing to the well documented history of the formation of the Metropolitan Police, stated '...we should note....the opposition succeeded for 44 years in defeating all the moves for a professional police for London.' (Phillips and Storch, 1999: p.61)

The 'New Police': The County Police

This opposition was mirrored throughout the country, especially in the shire counties, and a police force for London '… appeared to many of the gentry as the thin end of the wedge; once granted, a police for the rest of the country, involving greater government powers and bureaucratic centralization, would surely follow' (Phillips and Storch, 1999: p.61). Indeed the opposition to county policing was to prove almost as intransigent as that to the formation of the Metropolitan Police and the County Police Act of 1839 which, although initially rejected by Quarter Sessions, courts that were held 4 times per year

and heard crimes that could not be tried summarily by Justices of the Peace, was eventually accepted in the face of Chartist unrest. Take up of the act was voluntary and by 1856 only 25 out of 55 (45%) of counties had installed a police force (Phillips and Storch, 1999: p.63).

Following a series of rancorous and excoriating exchanges in Parliament the County and Borough Police Act of 1856 passed onto statute. The act made the establishment of a police force obligatory 'on all counties in England and Wales and on all incorporated boroughs.' (Elmsley, 1994: p.54) The Treasury was to contribute one quarter of the pay and uniform costs to forces which had been assessed as efficient by the newly introduced Inspectorate of Constabulary and this, broadly speaking, this is the funding system that is still in place today whereby central government contributes 50% with the remainder being raised via the police precept on local Council Tax, currently standing at around 5% of the council tax collected. In the current [2009] financial climate Police Authorities who exceed that limit are 'capped' by government.

The 'New Police': The Current Structure

Following the last Royal Commission on the police in 1962, the Police Act of 1964 set out the tri-partite structure for the governance of the police, consisting of the Home Office, the Chief Constables and the local Police Authorities. The 1964 act also forced the vast majority of smaller borough forces into to amalgamation with their geographically co-terminous county force which effectively reduced the overall number of one hundred and sixteen forces to their current level of forty three. This system of police

governance remained relatively unchanged until 2012 when a new system was introduced. In their election manifesto the Conservative party promised, when elected, to remove most of the power from the locally elected Police Authorities and invest it in elected Police and Crime Commissioners. This promise was kept by the coalition government and in late 2012, following nationwide elections Police and Crime Commissioners were appointed for all forces in England Wales with the exception of the Metropolitan Police Service (MPS).

Prior to this in 2011 the Shadow Home Secretary Yvette Cooper asked Lord Stevens, a one time Commissioner of the MPS to chair an Independent Police Commission (IPC). The commission was given broad terms of reference, similar to those given to a Royal Commission, but without the extensive resources or the powers normally allocated to such a body. It was to examine all aspects of policing in the 21st century and in November 2013 the report, entitled Policing for a Better Britain, was published. This report will, in all probability, form part of the Labour Party Manifesto for the General Election to be held in 2015. It is a substantial report and its key findings will be examined in Chapter three, the Literature Review.

Returning to the opposition to the 'formalisation' of what had hitherto been viewed as a somewhat amateurish and, at times, chaotic state of affairs that comprised policing in this country prior to the introduction of the 'new police' features largely in policing literature. It has been comprehensively researched and documented and it continues to be of historical interest. As recently as 2000, Reiner again re-iterated the opposition to the formation of it

(the 'new police') which, he noted, was fiercely contested and '…a bitter and protracted process'. (Reiner, 2000: p.16).

The police are now established, governed, regulated and empowered by statute which, in turn is approved by a democratically elected parliament and, in an idealised world, represents the will of the people. Therefore neither the law nor elected politicians determine policing policy; neither does the law instruct the police in what they should pursue, nor the methods they should use, they have become guardians of delegated and independently exercised general policy responsibilities.

Consent

The concept of a police service which policed by consent was established by the first joint commissioners of the Metropolitan Police, Rowan and Mayne. It was unique in both an historical context and on a world-wide basis '….because it derived not from fear, but almost exclusively from public co-operation with the police, induced by them designedly by behaviour which secures and maintains for them the approval, respect and affection of the public.' (Reith, 1956: p.140). Whether in fact Rowan and Mayne ever used the term 'policing by consent' is open to a great deal of conjecture; however, I would support Reith's view that it is probable they may well have coined such a phrase because the notion of consent is implicit in the phraseology employed in the delineation of their principles.

In 2009, the Sage Dictionary of Policing took an entirely different view of policing by consent. The authors distanced it from Reith's concept of cosy

familiarity with its paternalistic overtones formed during that same 'golden age' of policing. They stated that, 'despite its iconic status....the phrase 'policing by consent' is oxymoronic. Policing is an inherently conflict ridden, potentially coercive mode of governance, concerned with the maintenance of dominant conceptions of order and the regulation of deviance, ultimately using legitimate force if deemed necessary.' (Wakefield and Fleming, 2009: p.52).

It is worthy of note at this stage that because of the pluralisation and commodification of certain functions within the police service which have been contracted out to private bodies the duties of the sworn officers, both regular and special constables, are being increasingly narrowed into dealing with only the conflictive and coercive aspects of policing. This, in itself, does not bode well either for the legitimation of policing as we know it or for the concept of policing by consent.

In between these radically opposed views we have the great 'myth' of the British Bobby who has been both lionised and vilified from the formation of the 'new police' to the present day. Whilst there has been a vast amount of literature published on the subject of 'policing by consent' it has, almost exclusively, been researched and written from either an official i.e. governmental standpoint or as part of a public viewpoint; however, the unique features of this work are the views of the practitioners themselves, in essence, the 'police' view of policing by consent.

It is essential to note however that the consent that is constantly referred to is the consent from which the power of the police is actually derived; that is from the common consent of the public and not from either

legislation or the legislature themselves. It is obvious that it does not mean, nor that it ever has meant, that individual citizens 'consent' to be policed. No one in this country has either the common law right or the legal (contained in legislation) right to remove their consent to be policed from those appointed to uphold the law or indeed from the legislation. It is this concept of consent that will run through this work.

Chapter two will outline key theories and concepts including police discretion, accountability and consent. It will highlight Sackmann's 1991 theory on cultural knowledge within organisations, which was in turn, employed by Chan in 1997 to develop her model of police culture. Additionally, Reiner's later (2000) model of police culture, which defines numerous aspects of that culture and also debates whether its mainly informal aspects, or sub-cultures, are for or against the official purposes of the police. Both of these models, as well as some of Holdaways earlier (1984) findings on police culture will be utilised later in the data analysis chapters.

Chapter three will review relevant literature, published nationally and internationally, on the subject of policing by consent. This will provide both comparison and contrast with that which is practised in England and Wales. Whilst it is accepted that most free and democratic countries police in many ways that are familiar to us, other more restrictive regimes appear at times to simply pay lip service to the concept. This position will also be briefly highlighted.

In Chapter four, a brief explanation of a number of different research methodologies that utilise qualitative data, both in the gathering and its

subsequent analysis will be outlined. This has a twofold purpose, firstly to identify the most suitable methodology for the collection and analysis of the research data and, secondly, as a means of justifying the chosen research methodology.

In addition, and, more importantly, Chapter four will highlight the impact of my positioning within the research where I have identified myself as a 'distanced insider researcher'. This positioning has offered almost unique access to the interview subjects and a greater understanding of the internal power relationships that exist within the police service. It has also provided some unrivalled advantages which have been afforded by a relatively informal and constant access. However, at the same time, there is sufficient distance insofar as the researcher is far enough removed from the strictures of being a serving officer and therefore able to ask the 'hard questions'.

The chapter will also include accounts of the research methods employed, including sampling methodology interview structure and ultimately, the data analysis.

Additionally, Chapter four will examine various aspects of police culture, and the development of a number of models. In 1997, in a study of policing in New South Wales, Chan designed a model of police culture based on both Bourdieu's habitus and Sackmann's 1991 concept, in which she proposed four dimensions of cultural knowledge, based on social axioms, within organisations. Further research in 2009 by C.-M. Hui and N.H.-H. Hui proposed that social axioms are '….fundamental psychological constructs tapping a person's beliefs about the social world and how it works….and

capable of predicting crucial psychological outcomes.' (C.-M. Hui and N.H.-H. Hui, 2009 : p1). They further identified that '….the five-factor model of social axioms is universal across multiple cultures.' (Cheung, Leung, & Au, 2006, Leung and Bond, 2004 in C.-M. Hui and N.H.-H. Hui, 2009 : p.14) .

In 2000 Reiner also examined police culture in some detail and his observations on the core characteristics of what he termed 'cop culture' will also be utilised to determine whether the particular features of that culture are often employed by the 'rank and file' officers to subvert or even defeat the recognised functions and official purposes of day-to-day policing. The model, Figure 6 shown on page 142, highlights the main features of Chan's, Reiner's and, to a lesser degree, Holdaway's 1984 models.

Chapters five, six, and seven will analyse the interview data, utilising these models and the views of the four interview cohorts will be measured against those models, particularly with regard to accountability, discretion and consent. Additionally, within these three chapters the validity and veracity of the replies will also be analysed and tested in order to identify answers that may be regarded as genuine and truthful as opposed to the interview subjects producing replies which are in accordance with what they think the interviewer wants hear and which are also contextual to the interview situation. These particular features are based on C. Wright-Mills's 'Situated Actions and Vocabularies of Motive' (1940). The particular question on when it was felt they, both personally and as the police service in general, thought they had lost the consent of the public will also assist in getting somewhat nearer the truth.

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Chapter eight, the findings chapter, will demonstrate the results of the findings and, additionally, identify any major themes or discourses that have emerged. It will also identify any particular themes of 'police culture' that are present and whether those themes can be said to be a particular construct of the differing age, gender, service length and rank of the four participating cohorts.

Chapter nine will present the conclusions drawn from the study and will highlight the three main models of culture drawn upon throughout the work. It will also examine the solutions proposed by Holdaway, Chan and Reiner, the authors of the models that have been utilised in the work. Finally it will include my recommendations which will at least open up the debate upon the influences of police culture as well as exploring the possibility of the creation of a 'jurisprudence of consent'.

Chapter Two: The Research Question - Key Concepts and Theories

This research has been undertaken in order to establish the validity and applicability of one of the basic, if unwritten, tenets of policing in the majority of democratic countries, that of 'policing by consent'. It is intended to examine the perceptions of this paradigm through the eyes of a number of carefully selected, purposive and highly structured cohorts across the continuum of age, rank, gender and ethnicity that comprises the police service in England and Wales.

This work falls within the boundaries of the University of Sunderland's Centre for Applied Social Sciences (CASS) general mission statement to address issues of equality and social justice. If those goals are to be achieved then this work, which examines the perceptions of 'policing by consent' but from the 'inside' as demonstrated in the previous paragraph, will make a substantial contribution to the eventual achievement of those goals. It will also open up the debate on the meaning of consent as understood from the inside and how that will, in turn, contribute to the overall aims of equality and social justice.

Objectives

To conduct a series of semi-structured interviews, and in the case of the additional Chief Constable interviews a further completely open, free flowing and unstructured data collection exercise to establish at a later stage in the research, whether their views on consent had changed substantially since initial interview.

To gather the perceptions of the four cohorts on how they personally view policing by consent, on how they feel that they are, or conversely are not

allowed, to exercise discretion in the daily performance of their duty and to employ the data as a barometer to gauge their views on both collective and individual accountability.

To further analyse the data in order to find any evidence of the employment of 'content specific rhetoric'.

To establish whether we can, methodologically, overcome the problem of convenient responses that are the outcome of a particular situation and pattern of personal questioning. If Mills is right then there are no valid responses as proposed in his hypothesis of 'Situated Actions' and 'vocabularies of motive'.

Having outlined the research questions, the key concepts and theories that will underpin the work will be examined. The concepts include accountability, control, discretion and consent. The key theories are based on both the work of Mills (situated actions and vocabularies of motive) and on Chans model of police culture which is, in turn, based on Sackmann's 1991 concept of cultural knowledge within organisations.

Accountability

It is well known that the police are now subject to a system of New Management Culture, identified by Hough in 2007, which, incidentally, is also present in most public services. Within this particular 'culture' they (the police) are required '….to explain, justify and answer for their conduct. Individual police officers are obliged to account internally to their superiors….(in rank) to an internal investigation unit and to....external, independent accountability institutions'. (Wakefield and Fleming 2009: p.1). However, the main concerns

were the individual officers' views of their accountability, not only to governmental officers and departments, but also their perceptions of individual and rank based accountability that they have towards their own organisation. Surely however their accountability to the public in general must remain paramount in order to ensure both continuing legitimacy and consent.

It could however be argued that, at the lowest level, they are accountable to themselves, that they make decisions every day which will see one offender being arrested and charged, another being given a fixed penalty notice, another being given a formal warning and another being ignored as being either not worthy of further attention or whose minor breach of the law is viewed by the officer concerned as part of the social milieu. As officers progress through the rank structure, accountability becomes a high priority, and indeed a higher profile priority, whereby Chief Officers are accountable both locally to the Police and Crime Commissioner and nationally to the Home Secretary.

In addition to these methods of control there is also the quasi-independent HMIC, the national police inspectorate, which follows the model for external inspection set by prisons, education and factories; this, however, is about to change to some degree whereby HMIC will be disbanded and a new Criminal Justice Inspectorate, encompassing the whole Criminal Justice System, will come into being. Whether this will result in the process becoming, as some commentators tend to view it, less incestuous and to some degree, less self-serving is open to considerable conjecture. There are striking similarities and comparable criticism to be drawn from comparison with the British Medical Association which also carries out its own investigation into to

their members' wrong-doings. However there are hopes that the most recent re-incarnation of the Independent Police Complaints Commission (IPCC) may go some way to finally creating a truly independent and indeed rigorous alternative investigative body into police wrong-doing.

The failings of Humberside police, which were revealed in the Bichard Report[1] into the police handling of the Soham Murders in 2002, eventually led to the then Home Secretary, David Blunkett ordering Humberside Police Authority to suspend David Westwood, the Chief Constable of Humberside over his force's alleged mishandling of 'intelligence' concerning Ian Huntley, who was subsequently convicted of both murders, with regard to his attraction for early and pre-teen schoolgirls. In the ensuing 'power' struggle, which was accompanied by the almost obligatory media frenzy, the Chief Constable was suspended; however, he was later re-instated with the caveat that he tendered his resignation, which he did so, leaving the force in March 2005.

This exercise of power, obviously at a much higher level, can be equated to Luke's three-dimensional view of 'power' whereby the focus is on '....decision making and control over the political agenda (not necessarily through decisions)'. (Lukes, 2005: p.29)

Parish constables, throughout their long history attracted a great deal of opprobrium and they were stigmatized by reformers, government ministers and justices as being 'lazy, recalcitrant, illiterate , officious, aged, bumbling, mercenary and corrupt, often perfect Dogberries.' (Phillips and Storch, 1990: 12). Critchley also commented that the constables, prior to police reform

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[1] Following publication in 2005 the police instigated the 'MoPI' (Management of Police Intelligence) system with rules for recording and retaining information/intelligence in line with the recommendations of the Bichard report. As a direct result the PNC (Police National Computer) by 2012 will metamorphose into the PND (Police National Database) and will contain 'live' intelligence as well as being a repository of historical information.

'….were at best illiterate fools, and, worse, as corrupt as the criminal classes from which not a few sprang.' (Critchley, 1979: p.19).

In 1986, Kent, in a work about early modern, pre-industrial rural England[2] traced the history of the office of constable. She devoted a substantial proportion of her book to a social profile of the communities and their constables. Within the profile she posited that the views (of the office) held by a number of historians were indeed wrong and that, in recent years, further research has shown that '….constables were more substantial and better qualified for the position than earlier writers contended'. However she also recognised that those constables were constrained by the process of consent and felt unable to deal with some strict applications of the law where the community would not support them. (Kent, 1986: p.80).

In 1979 Williams concluded that '…. the absence of a bureaucracy in the provinces does not seem to have constituted as a great weakness in the English polity as some have suggested' and that 'government by the informal mechanism of consent'. (Williams, 1979 in Kent 1986: p.101). This informal mechanism appears to have worked during most of the early years of policing.

It is at this juncture that those in authority were becoming more and more concerned with what they perceived to be an exponential increase in crime and general disorder; various debates took place culminating in the introduction of a number of statutes which facilitated the formation of police forces; the Lighting and Watching Act of 1833 allowed smaller boroughs to set up a police, the County Police Act of 1857, which followed the formation of the Metropolitan Police, facilitated the formation of county forces, through to the

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[2]   See Chapter 3 – Literature Review.

1964 Police Act which saw a number of amalgamations take place bringing about the demise of the borough Watch Committees, and the subsequent introduction of larger unitary police authorities.

It is clear from the evidence presented thus far that, certainly since the early nineteenth century, the police did, to a certain extent, become more accountable to those in political power, from the parish councils of the early years, to the current authorities which have a responsibility, by means of the council tax precept, for the funding of policing in their particular area, a system which ensures the continuance of accountability both locally and nationally.

Whilst there have been a number of statutes dealing with the establishment of a 'new police' one of the seminal pieces of police history, certainly in the twentieth century, is the 1962 Royal Commission on the Police which gave rise to the Police Act of 1964. The report of the commission and the subsequent legislation, initiated a series of amalgamations which, by 1974, had reduced the number of police forces in England and Wales from 125, to its current level of 43. Thus the political control of the service was invested in a smaller number of larger unitary authorities whose very remoteness led to a further loss of accountability. The tri-partite (Chief Officer, Police Authority and the Home Office) agreement drawn up under the act was, in theory, introduced to ensure that no one person or representative body had overall control.

It is interesting to note that the same report was quite ambivalent about a national police force with some members of the commission appearing to be in favour of such a move. This could have led to the police coming under the

direct control of the government of the day, a measure that was feared by the opponents of the both the Metropolitan Police Act of 1829 and the later County Police Act of 1856, although some would argue that, in certain situations in recent years, moves towards this have already occurred.

In recent years however, accountability, like consent, has become a casualty of circumstance. The breakdown of consultation between the police and community representatives, was in Lord Scarman's view, one of the key factors in the escalation of the Brixton riots in 1980s, reinforced by the reluctance of many senior officers '….to discuss operational questions with leaders of the local community'. (Scarman, 1981: para 5.55); he went on to say '….community involvement in the policy and operations of policing is perfectly feasible without undermining the independence of the police….' and that '….accountability is….the key to successful consultation and socially responsive policing.' (Scarman, 1981: paragraphs 5.56 & 5.57).

However in December 1981, following the Scarman report, the Home Secretary, William Whitelaw, stated in the commons that he 'did not rule out' a statutory framework to ensure that consultation between the police and local representatives regarding the operational running of the police forces should be put into place, if his consultations indicated its feasibility, but that the first step was national discussions with representatives of police authorities and chief officers. According to Baldwin and Kinsey;

> It seemed likely that ACPO (Association of Chief Police Officers) tried to persuade the government to keep the voluntary system that Lord Scarman criticised so heavily. For his part John Alderson, [Chief Constable of Devon and Cornwall and a champion of consultation at local level],

stated publicly that Scarman 'had been mugged' by the Government on the issue of statutory consultation. (Baldwin and Kinsey, 1982: p.114)

The creation of the National Reporting Centre, introduced by Chief Officers during the miners strike in the early 1980's, enabled calls for mutual aid to receive immediate response without the need to consult each other. Each force informed the centre, on a daily basis, how many Police Support Units (PSU's) they were able to supply without detriment to the normal policing requirements of their area. This facilitated the immediate mobilisation of those units to which ever force required mutual aid.

Many commentators viewed the creation of the National Reporting Centre as a 'bridge to far' and suggested that it may even help to facilitate governmental control of the police, a view unsupported by ACPO, who denied there had been any government pressure to set up such a body.

Further examples demonstrating the erosion of control and accountability abound; the lack of fiscal accountability in West Mercia Constabulary was highlighted by Young in 1993 when he stated '....it appeared we bought first and then perhaps told the Police Authority later, who then must have rubber-stamped these decisions made in the name of the chief constable....the previous chief had told the authority what he had done or wanted to do, and they merely agreed....' (Young, 1993: p.76)

Additional evidence to negate the concepts of both accountability and consent can be found in the policing of the miners strike in the early 1980s when the alleged sympathies between the police and the (Conservative) government highlighted '....the inability of local police authorities to challenge

the approaches taken in policing the pickets would generate concerns that continue about the centralisation and accountability of the public police in the UK.' (Reiner, 2000: pp.189-91).

In the early 1990s the basic structure of the majority of the police forces in England and Wales was changed and what had previously been referred to as Divisions became Basic Command Units (BCUs). A BCU is the largest unit into which territorial British Police forces are divided and, in most cases it is commonly referred to as a Command Unit; however it may have another designation, such as a Local Policing Unit (LPU) or area. There are 228 BCUs (including those with different titles such as Divisions) in England and Wales.

The BCU is usually commanded by a Chief Superintendent and most forces are divided into at least three BCUs with the larger forces having more; in some cases they are further subdivided into smaller units.

The Metropolitan Police use the term Borough Operational Command Unit (BOCU) for regional units (which are based on the 32 London boroughs) and the generic heading Operational Command Unit (OCU) for units outside of or in addition to the borough structure, for example the Aviation Security OCU.

More recently, in September 2005, an HMIC thematic report, entitled 'Closing the Gap', which examined key issues such as the capability and capacity of forces to provide the protective services required in this day and

age, the economics of policing and the risks posed by organised criminality concluded that;

> ….whilst the BCU arrangements and neighbourhood policing provides a solid local platform for the future, the current 30 year old, 43 force structure of widely differing sizes and capabilities does not. (HMIC 2005: p.1)

The report argued that the present policing structure was not sufficiently robust to provide the necessary level of protective services that the 21st century increasingly demands. Those services are divided into seven major groups as follows; counter terrorism and extremism; serious organised and cross-border crime (usually of organised criminals and major incidents, affecting more than one BCU); civil contingencies and emergency planning; critical incident management; major crime (homicide); public order and strategic roads policing.

The report concluded that some re-organisation of forces was necessary in the interests of efficiency and effectiveness of policing. Whilst a number of restructuring options were available, it recommended creating 'strategic forces' of a sufficient size to provide both effective neighbourhood policing and effective and sustainable protective services. Charles Clarke was the Labour Government's Home Secretary between December 2004 and May 2006 and he wholeheartedly welcomed this report. In consequence of its findings he then asked the police service as a whole to '….undertake radical reform of structures.' (Clarke, C. 2005). The proposed creation of a number of larger regional police forces was, according to the report, welcomed by some chief officers, particularly those who commanded smaller forces which had neither the capability or the resilience in staffing levels to meet the demand

engendered by the joint provision of protective services and BCU level policing.

In addition a number of forces, both large and small, had experienced fiscal problems due, in part, to the government 'capping' of the police precept at around the 5% level over the last few years and a number of Chief Officers view its loss as a 'missed opportunity', directly attributable to government failure in agreeing a proper funding structure.

At the same time 'Closing the Gap' suggested that public resistance to combining smaller forces could be abated to some degree by emphasising that local arrangements at both BCU and neighbourhood level would not change. Other proposed alternatives to the 'strategic forces' proposal were collaboration between forces; lead force for specialist capabilities; lead regional force and finally a federation of forces. However, the statement that local policing arrangements would remain the same failed to soften the public's dislike of even larger and more remote police forces. Indeed it was lost in the welter of publicity surrounding Charles Clarke's stated wish to adopt the strategic force proposal, which would see the creation of perhaps twelve forces. These [forces] would have the resilience and capability to deliver both effective and sustainable protective services and BCU level policing at a local level throughout England and Wales.

In April 2006 the Serious Organised Crime Agency (SOCA) was set up as a Non-Departmental Public Body (NDPB) in order to deal with serious, high level crime. It's inception followed a merger of the National Crime Squad, the National Criminal Intelligence Service (elements of which were

incorporated into the ACPO Vehicle Crime Intelligence Service (AVCIS), the National Hi-Tech Crime Unit (NHTCU), the investigative and intelligence sections of HM Revenue & Customs on serious drug trafficking, and the Immigration Service's responsibilities for organised immigration crime. The Assets Recovery Agency became part of SOCA in 2008, while the Serious Fraud Office remains a separate agency. In early 2013 SOCA was disbanded and became the National Crime Agency (NCA) whose purpose was similar to that of SOCA. It was, as the government proposed, designed to enable the NCA to deal effectively with the complex national and international crimes that are committed on a daily basis. As expected, Her Majesties Opposition called it a simple re-branding exercise without either an increase in existing funding or any new funding and involving very little structural change.

The proposed amalgamations into larger forces, culminating in the 'strategic forces' proposal, brought the formation of a national police force closer to reality, the feasibility and political will having already been demonstrated; however, Chief Constables themselves have expressed a somewhat pessimistic view that this will happen through time and, as one commented, '….the way things are going, if there's a political will, a national police force will come' (Reiner, 1991: p.265). Whilst this last comment, made in 1992 seems somewhat apocryphal, each and every one of the Chief Constables interviewed saw absolutely no merit whatever in the idea of a national police service.

Chapter three will outline the main recommendations of the 2013 report of the Independent Commission on Policing in England and Wales, chaired by Lord Stevens one time Commissioner of the Metropolitan Police. Amongst the wealth of proposals concerning greater visibility and numbers of patrolling officers, he also criticised the current structure of 43 forces as unwieldy and recommended a number (possibly eleven) of larger 'strategic forces. In essence this is a reiteration of the recommendation in the 2005 ACPO report entitled 'Closing the Gap'. Incidentally it is also interesting to note that he recommended that Police and Crime Commissioners should be done away with and their authority re-invested in the local police authority chairs. In an interview with the Telegraph newspaper on the 3rd of November 2012 Lord Stevens stated 'I am very worried about the politicisation of the police service, it concerns me that you've got one person covering a massive area, without the breadth of the old police authorities and their multiple members."

At a different level there is also an additional internal accountability that is the Police Discipline Code. It is governed by legislation, now principally contained within the Police and Criminal Evidence Act (PACE) 1984 and is used to regulate the working lives and actions of police officers and to facilitate the investigation of complaints about the behaviour of individual police officers from members of the public These complaints, if substantiated, can be subject to either local resolution whereby it is dealt with by an officer of the rank of Inspector, or to a full formal hearing before the Deputy or Chief Constable. It must be said, however, that it had the tendency to suffer from the same problem, as has been previously stated, that most self-regulatory

bodies suffer from insofar as it appears to be somewhat incestuous and, for this reason, is seen as an unsatisfactory and fundamentally flawed process.

Following the major public unrest in locations such as Brixton, Toxteth and Broadwater Farm in Tottenham in the early and mid 1980s the Police Complaints Authority (PCA) was introduced to investigate complaints against the police. This supposedly 'independent' body fell rapidly into disrepute because it had no powers of sanction, was as partisan as the previous internal enquiry processes had been and was, in fact, little different to what it had replaced. In 2003, in an attempt to install rigour into the previously flawed processes, the government created the IPCC which became operational on 1 April 2004. Although funded by the Home Office, it is, by law, entirely independent of the police, interest groups and political parties.

It has a legal duty to oversee the whole of the police complaints system, created by the Police Reform Act 2002; their stated aim being the transformation in the way complaints against the police are handled. In a relatively short time however, public confidence in the new system was badly shaken by the publication of an interim IPCC report into the Stockwell shooting in July 2005 where a young Brazilian national, John Charles De Menezes who was working in London, was shot by police as a suspected terrorist. The final report of the IPCC, published following the Health and Safety prosecution of the Metropolitan Police, made a total of sixteen recommendations which were addressed to Her Majesty's Chief Inspector of Constabulary (HMIC), the Home Office, ACPO and the MPS. The recommendations in full can be found in appendix 'B'.

In direct contrast to the Stockwell shooting, a more recent case has demonstrated a willingness by the IPCC to grasp the nettle. In July 2007 a number of complaints of indecent assault and sexual harassment were made against a recently retired police officer which were committed whilst he was still serving. These offences were investigated to prosecution solely by the IPCC, is this, rhetorically speaking, the 'new dawn' of their transformation into a truly independent investigative body which has powers that it is not afraid to use? Will this, in turn, contribute in some measure to instilling public confidence in the way in which complaints against the police are dealt with? Doubtless, in the longer term, it will add some weight and gravitas to the public perception of policing by consent and may even indicate the nascent beginnings of a 'jurisprudence of consent'.

Having examined the concept of 'accountability' within the context of policing, and, more importantly within the context of this work, it is abundantly clear that it (accountability) by its very nature is inextricably linked with the concept of consent. As has already been premised, if we do indeed 'police by consent' then whenever that consent, or implied consent, is withdrawn then it immediately raises the question of accountability; rhetorically speaking 'can there be accountability where there is no consent?' It could be convincingly argued, that if there is no consent, or that consent is negated by the actions of the police, then there is no requirement for accountability. If and when this happens, and some would say, to a certain degree, that it already has, then surely we will have moved further towards the formation of a national police force. This, in turn, will inevitably lead to the escalation of the social control,

which has already been evidenced, and place even more power into the hands of central government.

Whilst each of these concepts of accountability, control, autonomy and consent, can be seen as separate entities they are inextricably linked; there are elements of each present in the other and it would serve no useful purpose to examine them in isolation. Indeed even the literature under review does not attempt to examine them individually because they are, by their very nature, intrinsically linked.

Control

The third concept, which can rightly be labelled as the opposite of discretion, particularly in the world of policing, is control. If the structure and resources existed, every officer, from the beat constable to the chief officer would be subject to regulation and procedures which would, in effect, negate any vestige of discretion whatsoever. It could be legitimately argued that , in fact, this is already the position and that the police discipline code coupled with the statutory duties of the police that are enshrined in a multitude of law already create a situation that has no place for the exercise of discretion.

The premise that the police are but one means of social control, and that they are by no means the only or most important one in the regulation of daily life, was also made earlier by Banton, in his seminal work on policing, who recognised, amongst others, that '…. the police did not create social control by themselves, and were but one component of a diverse regulatory framework drawn from a patchwork of informal, formal, state, private and community sources'. (Banton, 1964: pp.1-11).

In order to meet the demands of the public, and, some would argue, the accretion of power by chief officers, there is always an on-going demand for increases in both the funding and the authorised establishment of police personnel in order to keep pace with the ever increasing work-load. The proposed increases are argued by each force's chief officer under the auspices of an 'Establishment Review', a process that employs a vast array of statistical and other evidence, which is submitted to both the Home Office and the appropriate police authority when they are bidding for increases, an annual process that takes place in the autumn.

Whilst this whole process may be viewed as part of a slow move into state control, it is both adroitly and astutely managed by the government whereby, according to Young '….political demands ensure that police growth is seen to be in line with the public acceptance of control, and not part of some move towards impending totalitarianism' (Young, 1992: p.136).

During this process Chief Officers are not afraid to use the media in order to highlight the various factors that support their request for increases, for they are always increases, in both budget and resources; witness the comments made by Julie Spence, the Chief Constable of Cambridgeshire during an interview on the Radio 4 'Today' programme (R4 'Today 19th September 2007) when she stated that extra funding was required due to the increase in policing problems caused by an influx of citizens from the recently expanded EU. Whilst acknowledging that they were, in many respects, one of the mainstays of the agricultural/rural economy, she stated that they also

brought problems in the shape of long running, bitter and divisive family feuds and an almost cavalier attitude to drink-driving and its associated problems.

Discretion/Autonomy

Discretion and the practice of 'officer discretion' at its 'lowest' level from an operational viewpoint, is the discretion exercised on the streets by patrolling officers. These individual officers still practise a day-to-day discretion, or some would argue, a preference based on personal prejudice, in whom they stop, in whom they decide to warn and in whom they decide to prosecute, proceeding by way of summary jurisdiction (summons) or by arrest and charge. In 1995 Weinberger highlighted this unusual positioning when she stated that 'uniquely, those at the bottom of the police hierarchy have wide discretion….their actions become some of the most critical in the whole criminal justice process' (Weinberger, 1995: p.3). The usual cliché applied to this situation is 'the lower you are the more discretion you have'.

It must be said however that although legislation defines what a crime is, out on the street 'crimes' or criminal acts do not always literally 'define' themselves. Therefore, in this respect it is the very practice of discretion which allows an officer to define that (a) a crime has been committed by examining the evidence available and (b) the immediate action needed in order to support the victim and, where possible, arrest the perpetrator. This filtering process is part of the on-going application of the legal and practical decisions made in day-to-day policing which, as a necessity, requires the application of that much maligned discretionary power.

At an early stage in the research indications emerged from the interview data that discretion appeared to be reducing because of the

bureaucratization of more and more aspects of an officers daily routine; however, as Lord Scarman pointed out in 1981 'It (discretion) is the policeman's daily task'.

Power

In 1969, Austin Turk viewed the social order as '....powerful social groups who successfully control society in their own interests.' He argued that social control is exercised by providing '....justification for the law which is then enforced by agencies such as the police' (Turk, 1969 in Burke, 2003: p.148). Turk had also argued that there are degrees of discretion in how the law is exercised '....which allows the powerful to manipulate the legal system....while still preserving an image of due process and impartiality.' (Turk, 1969 in Burke, 2003: p.149). Whilst the 'street' level of discretion involves a great deal of trust in the individual officer's honesty and integrity, and the concomitant legitimation of the doctrine of consent, it is nevertheless an area of police operations which always has, and will continue to provide, the fuel for both rational and irrational debate about the elements of social control that are forever present in the minutiae of policing, which, Waddington so succinctly described, stating that '....the police use the law rather than enforce it, as a means of achieving social order' . (Waddington, 1999: p.95)

Within this equation consideration also needs to be given to the exercise of 'power', in its most empirical sense, that is the exercise of autonomy by individual police officers over the people that they deal with when seeking their compliance; parallels can be found in the 'two dimensional' view of power, as identified by Bachrach and Baratz, where it involves '....coercion, influence, authority, force and manipulation'. (Bachrach

and Baratz in Lukes, 2005: pp.21-22). In their view compliance can, and, in many cases, no doubt is, secured by the application of one or many of these factors;

> ….coercion exists where compliance is secured by the 'threat of deprivation'; influence is used '….without resorting to either a tacit or an overt threat….'; authority is legitimated because the subject recognises the reasonableness of the command '…..either because it is legitimate and reasonable or because it has been arrived at through a legitimate and reasonable procedure*;* manipulation is identified as '….being an aspect or sub-concept of force…. since compliance is forthcoming in the absence of recognition….of the exact nature of the demand'; and finally, force, usually the last resort, is applied by removing the subjects '….choice between compliance and non-compliance….' (Bachrach and Baratz in Lukes, 2005: pp.21-22).

Turk (1969) also identified coercion as a means of controlling society by using 'the threat and exercise of physical force….the most obvious form of control' but added the caveat that, the more force is applied, the less likely it is to be accepted as legitimate, thereby making the control of society more difficult (Turk, 1969 in Burke, 2001: p.148). In 2007 McLaughlin highlighted coercion, as used by the police to validate and justify their work through the agency of the police officer as a 'ruler' in a 'moral enterprise'. Other authors, particularly Holdaway in 1984, have explored the use of force, both as a legitimate means in effecting an arrest and as an (illegal) means of re-enforcing an officer's personal authority when it is called into question. However, even within this 'illegal' use of force there are rules which have '….specific connotations which have to be described and analysed within the occupational culture….to be understood against a background of acquiescence, if not overt support, of colleagues.' (Holdaway, 1984: p.120).

In other words this 'occupational culture', according to Holdaway, leads to officers remaining silent, even when they know that their colleagues are acting, in some instances, outside the law. The parallels with 'street' policing are both obvious and readily identifiable within these paradigms.

In Chapter 3, the Literature Review, it will be demonstrated that there is vast and eclectic range of work on the police service in general and on 'policing by consent' in particular. It must also be recognised that in recent years some commentators and researchers, particularly in the western world, have reported on a reduction in the legitimacy of the police. In 1992 Reiner noted '….a decline in policing by consent.' (Reiner, 1992: p.49) and in 2009 Wakefield and Fleming also identified the same decline which they opined was allied to the '....democratisation of liberty and erosion of deference' which had '....produced a culture of egoism and anomie' (Wakefield and Fleming, 2009: p.54). That said however, police officers have not, until now, been asked to express their views on the legitimacy of either policing by consent or the somewhat esoteric doctrine of consent.

Consent

The overall purpose of this study is an exploration of the idea of 'policing by consent' which is both held and practised by serving police officers and held by retired police officers across most democratic societies. It is recognised that there is a vast literature on the subject of consent which has already been discussed in depth with notable contributions from Brogden (1982), Dixon Coleman and Bottomley (1990), Sutton (1999), Adlam (2002), Tyler and Huo (2002) and Innes (2004/2005) to name but a few; however, the

majority of these authors have concentrated on the juridical aspects of policing by consent.

In 1979 Brogden, in recognising the ambiguous nature of consent, stated that '….the general consent to policing is tentative….that consent is subject to continuing interpretation, re-interpretation, adaptation and negotiation – an endless testing and resolving of the contradictions and ambiguities and contemporary experiences…..' (Brogden, 1979: p.7). This constant negotiation and re-interpretation of consent is similar in many respects to the contrasting concepts of order that were prevalent in 17th century England where, according to Wrightson, the ideal of order was 'firmly embodied in the regulative penal legislation to which parliaments of the time devoted so much energy' (Wrightson, 1980: p.23); whereas, on the other hand, in the day to day relationships of neighbours in a community, order was seen as '….less a positive aspiration towards a national condition of disciplined social harmony than a negative absence of disruptive conflict locally,' (Wrightson, 1980, p24), which, in essence, meant '….little more than conformity to a fairly malleable local custom which was considerably more flexible than statute law.' (Wrightson, 1980: p.24).

It is important to state at this juncture that it is much easier, in linguistic terms, to describe it [consent] as an 'acquiescence based on limited knowledge' rather than a 'true' consent which would require codifying as part of the legal framework. This stance is, to a degree, supported by Dixon, Cole and Bottomley who, in 1990 stated, '....our conclusion is not that an attempt should be made to regulate consent out of policing. On the contrary, the

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issue's complexity partly stems from the desirability of (in a general sense) consensual policing, which may often (specifically) entail operating with consent rather than invoking legal powers' (Dixon, Cole and Bottomley, 1990: p.358).

Additionally it would be unreal to expect that the very minutiae of day to day policing would be carefully scrutinised at the commencement of every police/public interaction to ensure that a recognisable form of consent to what is taking place is present. The fact that it is taking place indicates that there is a tacit element of consent or at least acquiescence from both parties involved in the encounter.

If we accept that, in essence, Rowan and Mayne were the authors of the doctrine of 'policing by consent' then over the last 200, years it has become, to some, a byword for fairness and even-handedness in the pursuance and prosecution of offenders. It is, however, in many respects, an abstract concept which only comes to mind or to notice when it is withdrawn; it is there everyday and everywhere and in all circumstances until it is taken away or, worse still, denied, then it becomes noticeable by its absence.

Conversely its regular use by politicians, both locally and nationally, more particularly when they are introducing measures which may not have the approbation of the community but are nevertheless deemed to be necessary, has led, in this respect to it becoming a piece of much devalued institutional rhetoric, almost to the point of evisceration, by its constant and hackneyed use. 'The police are able to secure the **consent** of the public in a democracy to the extent that they police towards morally worthwhile ends in a morally

acceptable manner. The moral quality of both ends and means of policing are critical for effective policing' (Richards, 2003: p.70. added emphasis). This statement was made in 1992 by Neil Richards, the '*primum mobile'* in policing ethics at the National Police College, Bramshill who, incidentally, was instrumental in drafting the European Police Code of Ethics. He was, at the time, conducting an appraisal of the police service 'Statement of Common Purpose and Values' published by ACPO in 1992 and it is interesting to note that the theme of 'consent' figures quite prominently in his appraisal.

The notion of policing by consent also has its opponents and in 1999 consent was questioned, albeit from a very different political perspective, by Peter Morgan, who at that time was employed as a journalist by the Socialist Review, of which he subsequently became editor. He stated: 'policing by consent has served the ruling class well for a long period of time. ….that is why we see the constant harassment of working class people – and in particular blacks – by the police'. (Morgan, 1999: p.5)

It is obvious that 'policing by consent' is only one facet of the vast quantity of research on the police since Banton's seminal work but it is a subject area that has come under intense scrutiny by a number of researchers; however the bulk of their research on this important topic has been directed to investigating consent from the viewpoint of the legislature and the public. This research differs considerably in that it will obtain 'insider information' to illuminate the question from the police side. It is notable that the concept is regularly aired when either the police or politicians, at both local and national levels, are seeking to defend the excessive use of force, the

deployment of covert surveillance or as a means of softening the impact when introducing contentious measures. In these and other situations the vast majority of police officers throughout the service use the phrase without even giving its utterance a second thought.

One of the emerging themes of this work will be an attempt to define a 'jurisprudence of consent' which relies, in part, upon the recognition that there only exists at present a 'doctrine of consent'. It is contended that the two are inextricably linked and without a doctrine' no 'jurisprudence of consent' can be developed. The absence of any philosophy of police, or even a doctrine of consent, which was identified by Adlam in 2003, has already been noted earlier in this chapter.

However, it is contended that consent, in its many different forms, which include the legal, moral and theoretical positions, is a 'golden thread' which runs throughout the whole continuum of policing in this country. This thread will be identified throughout this work and developed as a 'jurisprudence of consent', having due regard to, amongst others, Kant and the Categorical Imperative which can, in turn, be linked to a logical construct of 'reason' and 'duties'.

In the later chapters the interview data will be analysed in order to adduce evidence for the existence, within the confines of the police service, of a doctrine, or perhaps even a jurisprudence of consent if indeed such a concept exists. If the existence of such a concept cannot be found it is proposed that a jurisprudence of consent could well be a set of behaviours taught to all police officers of all ranks. It should generate a set of rules and/or

procedures to guide and monitor police performance, particularly in the exercise of discretion, autonomy, power and control. It should also be designed to provide an open and frank forum to enable the critical examination of all police practices. This may necessitate the introduction yet another totally impartial 'body' to carry out and oversee these functions. The main caveat however is that this could, in turn, become yet another layer of bureaucracy which may well become mired in inefficiency.

The Police and the Public - Discourses of Power

It is recognised that both inside and outside their spheres of operation Chief Constables wield a great deal of power over the population. This exercise of power can also be extrapolated across all ranks of the police service. In 1956 Mills stated 'that the powers of ordinary men....often seem driven by forces they can neither understand nor govern' (Mills 1956 in Lukes, 2005: p.1). This view, to some extent, accords with the views of Foucault who stated that power

> '....operates within people through internalised disciplines and normalised identities, routines and practices. Power is everywhere, as is resistance to it, it is not simply the province of privileged or 'legitimate' authorities.' (Foucault in Layder, 1994, p.107).

There are frequent, large and violent disturbances that take place in our capital during allegedly 'peaceful protests' that are testament to this resistance of power.

This view was further supported by Layder when he stated, in contrast to Habermas who '....viewed power as if it was a single type of phenomenon rather than something which takes on different forms and functions at many

different locations in society' whereas '....Foucault manages to capture something of the way in which power enters into the domain of everyday life in a more convincing manner' (than Habermas – text added). (Layder, 1994: p.204).

This employment of power, involving as it sometimes does, a failure to act, was identified by Lukes in 2005 when he highlighted Mills's explanation that '….all men are not in this sense ordinary….whether they do or do not make….decisions is less important….that they do occupy pivotal positions; '….their failure to act….is often of greater consequence than the decisions they do make' (Mills in Lukes, 2005: p.2). There is a notable occurrence which highlights this 'failure to act' where a past Metropolitan Police Commissioner, Sir Ian Blair, refused to resign in 2008 over the shooting of John Charles De Menezes and the MPS's totally inept handling of the aftermath (see Introduction).

Contrast this with the resignation of his successor, Sir Paul Stephenson as well as his Assistant Commissioner John Yates in July 2011 in the wake of the 'phone-hacking' scandal that involved the global media organisation News International, the demise of one of their UK news titles and the setting up of a judicial enquiry under Lord Levison to investigate the whole affair. The recent new bill, which several members of the House of Lords have recommended, should be enhanced by the addition of Levison's proposals in order to give them legal teeth. This view was contrary to that of the incumbent Prime Minister who stopped short of recommending the whole of the control of the press should be governed by legislation.

It can be readily appreciated that this explanation of power and discourse theory juxtaposes easily with the locus of police officers within society but there is, at once, a dichotomy. This is revealed in chapter five where one Chief Constable, outlining his accountability stated:

> I'm accountable....to the Queen, a crown agent as I am, ...to my police authority who conduct, with HMIC, my PDR....The key stakeholders.. who have a view on how I am performing, on some of the decisions I take.... MPs, who I regularly speak to,....the Home Office....government, who will exert a certain degree of influence over chief constables. **Constitutionally, we're in an interesting position because we don't have a boss.** (added emphasis) CC4/M/51/32/3

At once we can appreciate that, even with the apparent trappings of power particularly those held by Chief Constables, the broad-based accountability factors or what could be termed as 'discourses', which Foucault described as 'knowledge based ways of thinking and acting' (Foucault in Jones, 2003: p.125) and which we are powerless to resist, seem, in essence, to render them, in many ways, 'prisoners of their own discourses'. In this respect Foucault then went on to posit that '.... because as humans we constantly assess what we should and should not do in relation to the cultural knowledge we have acquired – because *we police ourselves* – the delivery of discursively directed order is ensured' (Foucault in Jones, 2003: p.136).

We therefore, according to Foucault, become as those imprisoned in Bentham's Panopticon where something takes place which he (Foucault) describes as 'self-surveillance' '.....which each individual....thus exercising this surveillance over and against himself' (Foucault, 1980: p.15) and, as a consequence find themselves unable to escape in a discourse-directed world.

In 2007 Hough highlighted the New Policing Management Culture whereby the police were duty bound to record and explain almost every action that they take, and that as a result, the recording process itself had become more important than the outcome. It is almost a Benthamite situation where they find themselves within a Panopticon type structure where their every move is, or can be observed and minutely examined.

There is, however, an alternative view that escape from this discourse-directed world is possible. That means of escape was identified by Giddens in his theory of 'structuration' where he proposed a 'dialectic of control'. This, he stated, was always at work wherever power existed and that it (the dialectic) referred to the alterations in the balance of power over time and circumstances. He emphasised that this occurred at the individual as well as the group levels in order to '….underline the fact that people are never simply the helpless playthings of social forces beyond their control' (Giddens in Layder; 2006: p.170). This dialectic was constructed to highlight Giddens's belief that Foucault had made an erroneous assumption in his discourse theory insofar as that we are powerless in the control of these social forces. The dichotomous nature of these themes and the tensions between the two different interpretations will be explored in greater depth as the chapter develops. However it should be noted that Foucault did talk about resistance so he has at least addressed the idea that humans are not just 'victims' of discourse.

Societal Influences

The changes within the police service, some of which were occurring during the data collection phase of my research were, of course, a mirror of what was happening in society at this time. Additionally within the last three decades, a number of major societal upheavals, and their attendant consequences upon the police service, included the miners' strikes of 1972 and 1984 and the Brixton riots in 1981 which were a direct result of racially insensitive policing[3] resulting in an independent enquiry chaired by a law lord, Lord Scarman. In his report Lord Scarman, whilst not branding the Metropolitan Police as 'institutionally racist', recommended that every officer receive extra equality and diversity training. He further recommended that the initial training course for all police officers should be extended to provide this training and this was later introduced.

The death of Stephen Lawrence in 1993 and the unsatisfactory conduct of the investigation into his death was later the subject of the Macpherson enquiry. The report, published in February 1999, in contrast to Lord Scarman's earlier report, did identify the Metropolitan Police as an 'institutionally racist' organisation. This institutional racism was also described by the black activist Stokely Carmichael as "….the collective failure of an organization to provide an appropriate and professional service to people because of their colour, culture or ethnic origin". (Carmichael in Bhavani, Mirza and Meetoo, 2005: p.235). This issue, it was felt by many commentators, had been effectively side-stepped by Lord Scarman. It also raised questions as to the effectiveness of his (Lord Scarman's) recommendations and the lasting effect, if any, that they had on the equality

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[3] Particularly the MPS's use of the infamous 'sus' law which appeared to give officers almost carte-blanche powers to stop, question, search and even detain youths, particularly those from ethnic minorities, on nothing more than a whim.

and diversity training of the police service and its working practices. It is worthy of note that some thirteen years further on the same questions were raised by Lord Macpherson leading to an impression they (Scarman's recommendations) had never penetrated the organisation to any great depth.

Other serious public disorder incidents, which were undoubtedly escalated by intensive, over-bearing and insensitive policing, occurred at Broadwater Farm in London and in Toxteth, a district of Liverpool, culminating in a series of crises in public confidence in the police service which undoubtedly led to some very personal crises of consent within the service.

It is against this background of major upheaval in the policing of this country that the choice of the subject under research and its raison d'être has been clearly signposted notwithstanding a long and varied policing career. My locus within the research places me in a position that can be described as an 'insider researcher' and this will be explored in depth in chapter 4, the methodology chapter. A number of recognised methodologies for analysing qualitative data will also be briefly examined and then a rationalisation to justify the choice of the interview method selected. It will also serve to highlight the both the survey and interview methods identified as being apposite for the work.

In Chapter 3, the Literature Review will further examine some of the extensive literature on policing by consent and, as a means of comparing and contrasting the theory and its practice in England and Wales, it will also briefly examine the concept in several other countries.

Chapter 3 Literature Review

> 'The police are able to secure the **consent** of the public in a democracy to the extent that they police towards morally worthwhile ends in a morally acceptable manner. The moral quality of both ends and means of policing are critical for effective policing' (Richards, 2003: p.70, added emphasis).

This statement was made in 1992 by Neil Richards, the '*primum mobile'* in policing ethics at the National Police College, Bramshill who, incidentally, was instrumental in drafting the European Police Code of Ethics. He was, at the time, conducting an appraisal of the police service's 'Statement of Common Purpose and Values' published by ACPO in 1992 and it is interesting to note that the theme of 'consent' figures quite prominently in his appraisal. However it is an interesting comment because it assumes a moral consensus in society. Whether that 'consent' can be translated into a 'jurisprudence of consent' or, indeed a 'philosophy of police' is open to considerable conjecture; a survey, carried out in 2001, among delegates attending the police Senior Command Course, which is an essential course for senior officers who achieve ACPO rank, at the National Police College, Bramshill, found that many confused a 'philosophy of police' with '….some orthodoxies of police doctrine such as….we police by consent' (Adlam, 2003: p.39) with one student (a Superintendent) stating 'I don't think we, as an

organisation, know what a 'philosophy of police' actually is'. (Adlam, 2003: p. 39).

Having set out to examine the views and perceptions of a number of serving and retired police officers on the subject of policing by consent it is interesting to note the comments made in the previous paragraph about a lack of awareness of a 'philosophy of police'. In this chapter the literature on the theme of policing by consent will be examined and also present the findings of a number of other authors who have already explored the subject, albeit from a different or 'outsider' standpoint.

In 1990, Dixon Cole and Bottomley, whilst acknowledging the voluminous mass of philosophical, theoretical and practical literature on what constitutes consent, made no attempt to review that literature but, instead, proposed that there are '…. two significant components of consent which must be considered….These are (i) knowledge: that is, information about what is requested; and (ii) power: that is an ability to make choices on the basis of knowledge and to use the available information' (Dixon, Coleman and Bottomley, 1990: p.346). They went on to examine the relationship between the police and citizens, stating that, because of the inequality of power between the police and the policed, regardless of whether they were suspects or not, that '….full consent, is….in practice, unobtainable' (Dixon, Coleman and Bottomley, 1990: p.346).

There are a number of other concepts that are both parallels of and are necessarily connected with consent and these will be subject to equal scrutiny. The first of these 'additional' concepts is discretion; at its 'lowest'

level from an operational viewpoint, it is the discretion exercised on the streets where individual officers still have a day-to-day discretion, or some would argue, a preference based on personal prejudice, in whom they stop, in whom they decide to warn and in whom they decide to prosecute, proceeding by way of summary jurisdiction (summons) or by arrest and charge. In 1995 Weinberger highlighted this unusual positioning when she stated that '….uniquely, those at the bottom of the police hierarchy have wide discretion….their actions become some of the most critical in the whole criminal justice process' (Weinberger, 1995: p.3).

It can therefore be appreciated that, within policing, power and discretion are inextricably linked. As previously stated Austin Turk, in 1969, viewed the social order as consisting of'….powerful social groups who successfully control society in their own interests.' He argued that social control is exercised by providing '….justification for the law which is then enforced by agencies such as the police' (Turk, 1969 in Burke, 2003: p. 148). Turk had also argued that there are degrees of discretion in how the law is exercised '….which allows the powerful to manipulate the legal system….while still preserving an image of due process and impartiality.' (Turk 1969, in Burke, 2003: p.149). Whilst the 'street' level of discretion involves a great deal of trust in the individual officer's honesty and integrity, and the concomitant legitimation of the doctrine of consent, it is nevertheless an area of police operations which always has, and will continue to provide, the fuel for both rational and irrational debate about the elements of social control that are forever present in the minutiae of policing, which, Waddington

so succinctly described, stating that '….the police use the law rather than enforce it, as a means of achieving social order' . (Waddington, 1999: p.94)

Within this equation consideration also needs to be given to the exercise of 'power', in its most empirical sense, that is the exercise of control by individual police officers over the people that they deal with when seeking their compliance; parallels can be found in the 'two dimensional' view of power, as identified by Bachrach and Baratz, where it involves '….coercion, influence, authority, force and manipulation'. In their view compliance can, and, in many cases, no doubt is, secured by the application of one or many of these factors; coercion exists where compliance is secured by the 'threat of deprivation'; 'influence is used '….without resorting to either a tacit or an overt threat….'; authority is legitimated because the subject recognises the reasonableness of the command '…..either because it is legitimate and reasonable or because it has been arrived at through a legitimate and reasonable procedure*;* manipulation is identified as '….being an aspect or sub-concept of force…. since compliance is forthcoming in the absence of recognition….of the exact nature of the demand'; and finally, force, usually the last resort, is applied by removing the subjects '….choice between compliance and non-compliance….' (Bachrach and Baratz in Lukes, 2005: pp.21-22).

Turk (1969) also identified coercion as a means of controlling society by using '….the threat and exercise of physical force….the most obvious form of control' but added the caveat that, the more force is applied, the less likely it is to be accepted as legitimate, thereby making the control of society more difficult'. (Turk, 1969 in Burke, 2001: p.148). In 2007 McLaughlin highlighted

coercion, as used by the police, to validate and justify their work through the agency of the police officer as a 'ruler' in a 'moral enterprise'. Other authors, including Holdaway in 1984, have explored the use of force, both in its legal use in effecting an arrest and as an (illegal) means of re-enforcing an officer's personal authority when it is called into question. However, even within this 'illegal' use of force there are rules which have '….specific connotations, and these have to be described and analysed within the context of the occupational culture"….however the behaviour has to be understood against a background of acquiescence, if not overt support, of colleagues' (Holdaway, 1984: p.120). The parallels with 'street' policing are both obvious and readily identifiable within these paradigms.

At an early stage in the research indications emerged from the interview data that discretion appeared to be diminishing because of the bureaucratization of more and more aspects of an officers daily routine; however, as Lord Scarman pointed out, in the introduction to his report in 1981 'It, discretion, is the policeman's daily task'. (Scarman,1984. p.1). The concept of discretion will be explored in depth in chapter four.

The second concept, which can rightly be labelled as the opposite of discretion, particularly in the world of policing, is control. If the structure and resources existed, every officer, from the beat constable to the chief officer would be subject to regulation and procedures which would, in effect, negate any vestige of discretion whatsoever. It could be legitimately argued that , in fact, this is already the position and that the police discipline code coupled with the statutory duties of the police that are enshrined in a multitude of

statutes already create a situation that has no place for the exercise of discretion. The premise that the police are but one means of social control, and that they are by no means the only or most important one in the regulation of daily life, was also made earlier by Banton, in his seminal work on policing, who recognised, amongst others, that '…. the police did not create social control by themselves, and were but one component of a diverse regulatory framework drawn from a patchwork of informal, formal, state, private and community sources'. (Banton, 1964: p.2). There is an identifiable fusion here between managerialism within the police and control of society. Both could have the same political origins, mistrust of professional autonomy and of the public in general, but in effect they are two different but *parallel* agendas. However, I am more interested in the control, or perhaps better described as the autonomy that individual officers exercise over the daily performance of their duties; this leads readily to the next concept, that of accountability.

To whom are the police accountable? It could be argued that, at the lowest level, they are accountable to themselves, that they make decisions every day which will see one offender being arrested and charged, another being given a fixed penalty notice, another being given a formal warning and another being ignored as being either not worthy of further attention or whose minor breach of the law is viewed by the officer concerned as part of the social milieu. This 'action' or 'inaction' that is so much a part of an officer's daily routine is explored later in this chapter. Once again, as we progress through the rank structure, accountability becomes a high priority, and indeed

a higher profile priority, with both local and national politicians, in the form of the police authority or the Home Secretary who are able to call Chief Constables to account. In addition to these means of control there is also the quasi-independent HMIC, the national police inspectorate, which follows the model for external inspection set by prisons, education and factories; this, however, is about to change to some degree whereby HMIC will be disbanded and a new Criminal Justice Inspectorate, encompassing the whole Criminal Justice System, will come into being; however, at the time of writing (July 2014), this new inspection body had not yet come into being.

One fairly recent and notable example of central intervention and accountability can be found in the failings of Humberside police, which were revealed in the Bichard Report[4] into the police handling of the Soham Murders in 2002. These particular failings led to the then Home Secretary, David Blunkett ordering Humberside Police Authority to suspend David Westwood, the Chief Constable of Humberside over his force's alleged mishandling of 'intelligence' concerning Ian Huntley, who was subsequently convicted of both murders, with regard to his attraction for early and pre-teen schoolgirls. In the ensuing 'power' struggle, which was accompanied by the almost obligatory media frenzy, the Chief Constable was suspended; however, he was later re-instated with the caveat that he tendered his resignation, which he did so, leaving the force in March 2005.

This exercise of power, obviously at a much higher level, can be equated to Luke's three-dimensional view of 'power' whereby the focus is on '….decision

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[4]　Following publication in 2005 the police instigated the 'MoPI' (Management of Police Intelligence) system with rules for recording and retaining information/intelligence in line with the recommendations of the Bichard report. As a direct result the PNC (Police National Computer) by 2012 will metamorphose into the PND (Police National Database) and will contain 'live' intelligence as well as being a repository of historical information.

making and control over the political agenda (not necessarily through decisions)'. (Lukes, 2005: p.29)

Whilst each of the three concepts of consent, control and accountability may be viewed as separate entities, within the context of modern policing they are inextricably linked; there are elements of each present in the other and it would serve no useful purpose to examine them in isolation. Indeed the literature under review does not even attempt to examine them individually because they are so intertwined.

Whilst the main research question seeks to garner the views of both serving and retired police officers on the concept of policing by consent in England and Wales it is nevertheless important that an exploration, albeit a brief one, is made of the international arena in order to both parallel and diversify the main theme of 'policing by consent' so, that by drawing comparisons across the globe, a rationale can be identified for its continuance. In respect of this rationale a continuum has been drawn across the spectrum of policing world-wide in order to provide a measurement of contrast in policing styles. Whilst it will be recognised as a fairly subjective view the intent is to highlight both similarities and differences, which in turn, will illuminate the British model.

International Perspective

This brief continuum is based on five examples: firstly the Hong Kong police, a body which is seen as a para-military and coercive force which pays lip service to community based policing; policing in the United States of America where the majority of senior appointments within both the police and the prosecution agencies are subject to local election processes, or are

'political' appointments, and as such are viewed as both powerful and corrupt/corrupting; policing in Japan where the co-operative attitudes of citizens, an acceptance of questioning by those interrogating them and confessions, made by suspects through personal remorse and the Japanese obedience to authority, helps to retain public confidence in the police; the People's Republic of China, which is undergoing a police legitimacy crisis whereby evidence is emerging that passive non-co-operation or active obstruction are the signs that the police are losing the support of the people and, obviously, without legitimacy, the exercise of authority by the police is increasingly likely to be challenged. Finally the position of the British police will be established within this continuum.

The Hong Kong Police

The Hong Kong Police, formed during the years of colonisation has demonstrated that, within its structure, it is more closely allied to the colonial model of military rule which could be found across the British Empire but adopting the same doctrine as the British police whereby they (the police) are the representatives of the government in policing society. In its 150 years of history, the (Hong Kong) Police have moved little towards the ideal of 'policing by consent' and although there are conflicts within the service because of its '….colonial, bureaucratic and hierarchical structure'. (Choi, 1995: p. 74) there is an increasing acceptance of policing by consent.

At the same time, despite some hopeful signs, '….its coercive capability has been strengthened, the development of its command and control it is closely related to and associated with para-militarism….' (Choi 1995: p.75); there is still little integration with the local community. Recruits

are taken in as a body, posted to a barracks and given a militaristic training with little emphasis on professional ethics, social awareness and human behaviour. Corruption, despite the best efforts of the anti-corruption commission, remains a problem.

In 1997 control of the Crown Colony of Hong Kong was ceded to mainland China in accordance with its constitution, and whilst it was, without doubt, viewed world-wide as a 'decolonization' process, described by numerous commentators as the 'setting of the sun on the British Empire' it was not, in any way, a democratization process. As Choi stated in 1995 The Hong Kong Police appears set to remain a '….para-militaristic and coercive arm….of the Chinese Government with little or no public scrutiny or accountability' (Choi, 1995: p.14).

United States of America

Over the last fifteen years in America the police have undergone, and continue to undergo, enormous changes, particularly in accountability. Having said this, police reform is nothing new and even at the start of the twentieth century the American police system was '….mired in corruption, brutality and inefficiency' (Walker, 2005: p.20) despite the number of police reform movements that had been in existence over the same time period. However, the overall feelings are that police reform has concentrated on 'notorious incidents and misbehaving individuals', (Armacost, 2004 in Walker 2005: p.455) rather than on the dysfunctional aspects of police organisations that sustain and, in some ways, even promulgate serious misconduct.

Although in many respects the system that allows public offices such as Chief of Police or District Attorney to be 'elected offices' and thereby

subject to the vagaries of election procedures, appears to be fundamentally flawed, it must be said in its defence, that following the reformation of the whole electoral system, the first black sheriffs were elected in the southern states, once, in an historical sense, the bastion of slavery and repression of the black minority.

It is worthy of note that elections for the first Police and Crime Commissioner appointments did take place in November 2012 and most forces in England and Wales, with the exception of the MPS, now have independent Police and Crime Commissioners.

Japan

As already indicated, the police in Japan have traditionally relied upon the co-operation of the citizens and that whilst a minute examination of evidence is carried out during court procedures any failure to convict has, in recent years, been laid more and more at the door of the police where most citizens equate 'arrest' with guilt.

Under fairly recent reforms the police were required to treat citizens' requests and complaints in an honest fashion and '…..to document their responses'. (Masakatsu, 2003: p.139). They are also charged with continually reviewing the relationship between the police and the citizens. However investigations by the police in Japan are sometimes criticised for 'involving too much interrogation' (Masakatsu, 2003: p.137), where a suspect can be held for a maximum of 23 days before indictment; witness the current debate in England where the police are seeking a maximum time of 42 days detention without charge in order to deal with the ever increasing threat of

international terrorism but which is being resisted in some quarters and is seen, in some respects, as a 'bridge too far'.

The relatively recent (2002 – 2003) increases in serious crime in Japan have seen a government decision to increase police numbers by 10,000 officers but this is still not recognised as addressing all problem areas and has resulted in a shift of attention to the more serious crimes. This has resulted in new laws to control stalking, child abuse and domestic violence which have been shaped by public requests and indeed mirror the situation, certainly in respect of domestic violence, which has seen many UK police forces adopt a policy of 'positive action' whereby any domestic violence incident is expected to have a 'positive' outcome i.e. the arrest of the perpetrator.

The People's Republic of China

The data on the abuse of powers by police officers in China highlights what is obviously a serious problem and in the years between 1993 and 1997 there were a total of 40,846 officers involved in violations of both the law and discipline procedures. Amongst the more 'notable', or perhaps notorious, cases 1,272 officers received a criminal sentence, nineteen of which were life terms and '107 of which involved the death penalty'. (Wong, 2004: p.201). It is felt that raising the legitimacy question and exposing the problem will '….improve the police's law enforcement standards and enhance the public's legal education' (Wong, 2004: p.205). In other words if the police themselves follow the law then the people will respect the law. This concept however was totally disregarded in June 1989 when the repressive arm of the state, in the

form of the army, complete with tanks, rather than a lightly armed police force, brought a bloody and fatal end to a peaceful student demonstration in Tiananmen Square. This appears to demonstrate that there may be, at most, a nod in the direction of the concept of policing by consent.

England and Wales

Emerging from this brief selection of policing research it is obvious that there are many different interpretations of the concept of policing by consent but I must return to the British police who sit somewhere in the middle ground, almost at the fulcrum of this continuum. Since the formation of the 'new police' they have moved, in an historical context, from the reportedly 'bitter and divisive process' (Phillips and Storch, 1999: p.75) which saw their formation in the early to mid-19th century, through the so called 'golden age' of policing of the late 1940s and early 1950s to the present day where they were deployed by the Thatcher Government during the miners' strike of the 1980s. In this context they now appear to have moved from a policing only regime and have widened their scope of activities to carry out a social control role. This situation appears to be causally linked to the introduction of the 1998 Crime and Disorder legislation because of the increasing concern over 'anti-social' behaviour and its attendant consequences. This highlights what appears to be a social control role for the police within a network of agencies which, although quite loosely formed, appears driven towards a societal rather than an individual response, to both victims and offenders. Placing them [the British Police] in this position, it is felt, is neatly adjusted to the British, or perhaps more accurately, the English sense of compromise.

Literature Review on Consent and Accountability

In the remainder of this chapter some of the major literary works on consent, discretion, accountability and police culture are reviewed and in order to present a cohesive time line they are dealt with in date order. This will also help to demonstrate the chronology of the many and varied developments that have taken place in policing from the beginning of the new police up until the present decade. They serve, not only as barometer of the changes in policing, but also as a sociological calendar charting the changes in government policy.

It has always been recognised that Sir Robert Peel's principles of policing for the 'new police' can be found in a number of different guises throughout the democratic world and many governments have established a police based on similar principles. However the British police still maintain a unique position in so far as there are no overtly armed uniformed officers patrolling our streets on a daily basis. This force, or service as some would wish it to be called, is quite overt and the fact that they are unarmed appears to be a standpoint that other countries and states would aspire to. Again it is also accepted that there are armed officers available and on immediate response in every police force in the country but it must be stated that this was a reactive rather than a pro-active move in response to the growth of the illegal use of firearms that has occurred especially during the last thirty or so years.

There have been a number of other areas where certain aspects of the policing function, as performed by sworn or warranted officers, has seen the addition of Police and Community Support Officers (PCSOs). They were first employed by the MPS in 2002 under the auspices of the Police Reform Act 2002 and later recruited by the majority of police forces in England and Wales. They perform front line patrols and are deployed to handle low-level, high volume nuisance in order to release warranted officers for the aspects of police work that include the arrest and detention of suspects.

Privatisation of other aspects of the policing function has seen private security firms being contracted to transport prisoners between police stations, courts and prisons. Additionally both the Jailer and Custody officer roles, at one time the preserve of sworn officers, have been civilianised, and a number of forces now employ civilian investigative officers, who, in many instances, once a sworn officer has made an arrest, take over the background preparation of the case by obtaining witness statements and completing the necessary paperwork for case presentation. However it is important to note that front line policing, or at least the confrontational and coercive aspects of front line policing are still dealt with by sworn, unarmed, uniformed officers.

Similarly the police do, in many different guises, work undercover and in secret, employing specialist officers and the confidentiality of what they deal with is governed by the Official Secrets Act. Having examined the unique position that the British police occupy it is, as I have already stated, well documented that the introduction of the new police was a long and difficult process. Within this process there are two contrasting sides of police reform; the '*popular*' and '*official*' views on the 'Birth of the Blues' (Reiner, 1985: p.10),

which highlights the long, arduous road that saw a seismic shift from the rag-bag collection of diverse enforcement agencies including village or parish constables, docks police and paid watchmen, to the formation of the Metropolitan Police in 1829. The introduction of a full time, uniformed and paid 'police' which had policing by consent at its heart, was not without its problems and Sir Robert Peel's bill for the establishment of such a force for London was laid before parliament on no less than five occasions, it was a bitter, hard fought contest which polarised the rival factions and resulted in notable occurrences of social disorder throughout the country.

These problems were mirrored in the social disorder that oversaw the Constabulary Force Commission, led by Lord John Russell which led to the formation of County police forces under the auspices of the County Police Act of 1839. Factions opposed to the introduction of County forces feared 'the spectre ….of paid police and stipendiary magistrates replacing the unpaid parish constables and JPs throughout the country'. (Phillips and Storch, 1999: p.61). It was seen as a threat to their own governance of the diverse parishes and counties which would ultimately involve greater control by central government with its accompanying bureaucracy. The influence of the various political parties, presenting as they would, their own views on the merits and de-merits of a full time paid police coupled with the influence of the landed gentry who had no wish to disturb the status-quo provided that they remained in a position of both power and authority all added to the difficulties that accompanied the introduction of the County as well as the Metropolitan police as we know them today.

Prior to that period, as a study by Kent (1986) shows, part of that rag-bag collection of enforcement agencies was the village or parish constable, who was viewed by the majority of historians in a comedic light. Indeed 'Shakespeare's Dogberry, Dull and Elbow dominated historians' views of constables as well as those literary scholars who discussed the constableship'. (Kent, 1986: p.2). The office was seen as an unpopular one and some villagers, who were in a more substantial position, sought exemption from the office, usually by employing a paid deputy to carry out the duties of the office on their behalf. To the remainder, those that had neither the financial acumen nor the wit and who almost always occupied the lower strata of village society, fell the lot of carrying out the office. In some areas however they were often elected, or at least selected by the village ratepayers, who represented about 45% of most (male) village householders.

In 1977 Critchley compounded the majority view when he claimed that by the late seventeenth century the office (of village/parish constable 'was regarded as suitable only for the old, idiotic or infirm' (Critchley, 1977: p.10) and, that as previously stated, the wealthier farmers, tradesmen and merchants bought their way out of serving. Parish constables did, throughout their long history attract a great deal of opprobrium and even into the 1990s, they were stigmatized by reformers, government ministers and justices as being 'lazy, recalcitrant, illiterate , officious, aged, bumbling, mercenary and corrupt, often perfect Dogberries'. (Phillips and Storch, 1990: p.12).

Kent, in tracing the history of the office, devoted a substantial proportion of her findings to a social profile of the communities and their constables. She proposed that the views held by a number of historians were

wrong and that, in recent years, further research has demonstrated that '....constables were more substantial and better qualified for the position than earlier writers contended'. (Kent, 1986: p.80). It is also noteworthy that, even this early in police history, there was recognition of an informal consent to the policing carried out by the village constables. She (Kent) noted that '....the absence of a bureaucracy in the provinces does not seem to have constituted as a great weakness in the English polity as some have suggested' and that '....government by the informal mechanism of consent....' (Williams, 1979 in Kent 1986: p.101) appears to have worked during most of the period. That it did indeed work is surely testament to this very early appearance of something akin to policing by consent.

Moving forward from the 15th and 16th centuries and into the 17th and 18th centuries there were, according to Wrightson (1980), two distinct concepts of order.

> The ideal of order was firmly embodied in the regulative penal legislation to which parliaments of the time devoted so much energy whereas, on the other hand, in the day to day relationships of neighbours in a community order was seen as less a positive aspiration towards a national condition of disciplined social harmony than a negative absence of disruptive conflict locally, which, in essence, meant little more than conformity to a fairly malleable local custom which was considerably more flexible than statute law. **(**Wrightson, 1980: p.34)

In essence this indicated that social peace was preferred to the strict enforcement of the law and that people preferred to settle their many disputes in an informal and somewhat friendlier than manner than resorting to prosecution, the cost of which they invariably had to bear themselves. This situation accords with the views expressed by both Kent and Williams and it could by convincingly argued that, even in these early times, the British mind-

set was adjusted to social and judicial compromise with a concept of something very similar to the concept of consent, which although not expressed as such, was ever present. It would therefore appear, according to the views expressed by both Kent and Williams in the previous paragraphs, there are indications that perhaps, in some cases, the restoration of social peace took precedence over the prosecution of offences. That trend continues to this day whereby neighbourhood Anti-Social Behaviour Orders (ASBOs) are issued in an attempt to control this type of behaviour and, in some instances, domestic violence is tackled with a view to restoring order rather than prosecuting offenders.

In 1967, Critchley published one of the first full length histories of the police in England and Wales in over seventy years. It examined, amongst other areas, the structure of the police, the training they receive, their relationships with the public and the challenges they face. In many respects Critchley, very much in line with his post within the Police Department of the Home office and as Secretary to the 1960-62 Royal Commission, presented a fairly orthodox view of police development which was almost Reith like in the picture painted of the police; a straightforward, linear development which took no cognisance of the various social, sociological and legislative difficulties that accompanied the introduction of the 'new' police.

It was, nevertheless, a very comprehensive study of the police that included a history of the reasons which lead to the formation of the Royal Commission on the Police of 1964. The report of that commission gave rise to the Police Act 1964 which, on its enactment, resulted in a series of amalgamations that saw the number of police forces in England and Wales reduced 112 forces to the current structure of 43 forces. A recent (2006)

government proposal would have seen this number reduced to twelve 'strategic forces', providing economies of scale to deal with what are now regarded as 'strategic' policing areas[5] whilst the day-to-day local policing would have retained the current BCU model.   The proposal failed for a number of reasons not the least of which was the lack of planning as to how it would be financed.

It is recognised that Critchley produced what is regarded as an establishment view of the police service, supporting the Reith-like concept of the 'golden age of policing by consent', which was generally regarded as having occurred in the late 1940s though to the early 1950s. It is, however interesting to note, that in the preface to the second edition, published in 1978, Critchley very presciently stated that:

> 'The task of the police is becoming increasingly hazardous, they can no longer count on the support of some minority sections of the public and the Government….which has come perilously close to forfeiting the confidence of the federated ranks.' (Critchley 1978: preface p. xv)

Subsequent research however has de-bunked the 'golden age' paradigm and in a Guardian newspaper article in 2005, Robert Reiner, a noted author on the police, claimed it was a 'Cop-sided' view of history'. He wrote;

> The supposed golden age of British policing by consent (most of the 20th century, but particularly the 1940s and 50s) was a confidence trick. Crime and order were maintained by informal social controls, above all the gradual inclusion of the whole population into common citizenship.

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[5]   There are seven groups listed as, counter terrorism and extremism; serious organised and cross-border crime; civil contingencies and emergency planning; critical incident management; major crime (homicide); public order; strategic roads policing i.e. those services where the public depend on police for Level 2 Services – cross-border issues, usually of organised criminals and major incidents affecting more than one BCU.

However, the police took much of the credit. In myriad individual cases police helped people in distress, although there was also rampant corruption and brutality. But the contribution of policing to the maintenance of order overall was primarily symbolic. Much research evidence shows that policing had little effect on levels of offending. (Reiner, From an article entitled 'Be Tough on a Crucial Cause of Neo-Liberalism'. (The Guardian Newspaper, 24th November 2005)

In 1977 Brogden wrote about policing and in particular the problem of consent and the class nature of the police. He stated that police autonomy depends on the consent of the people being policed i.e. the public, insofar as their acceptance of authoritative control over their lives thereby gives legitimacy to police practices. Later, in 1982, he developed this particular theory in much greater depth in a later work on autonomy and consent. Doubtless public acceptance to both the police and being policed is crucial to the concept of police power but the public's view is, at best, ambiguous and consent is always tentative, conditional and easily withdrawn. It continually undergoes re-interpretation and adaptation and is usually negotiated within the context of the current situation.

What then are the limits of consent, especially at the lowest levels, the interaction between police and public during the day to day contacts on the streets? Is it a consent legitimated by a public knowledge that the police are accountable for their actions and, by their (the public's) acquiescence, are therefore facilitating the doctrine of consent? On the other hand, in these situations, it could be, and often is, viewed as a coercive use of both legal powers and unregulated/illegal activity that is practised on people who remain ignorant of both the law and the powers of the police as laid down in statute.

From a slightly different historical perspective, but still keeping the principles of policing by consent to the fore-front, the 'Unit Beat' policing model, introduced in the mid to late 1970s, was sold as 'all things to all men' [sic]. The model was designed to provide a number of 'home' or unit beat officers carrying out foot patrols on their own local or 'home beat' with a number of 'area' cars superimposed over the beat structure. The principle behind the system was that the foot patrol constables would attend to the 'community needs' by being a visible and reassuring presence as well as liaising with the local community groups. The area cars, in the tier above the foot patrols, were designed as additional mobile cover as well as providing a swifter response to those situations that demanded it.

Unfortunately, in the area that I served in at that particular time, the opposite was achieved and there was, in many cases a reduction in police visibility and a diminution of foot patrols when there were insufficient resources to man the vehicles. The system rapidly became open to much criticism and the allegation that officers were 'working it to suit themselves'. This may also have indicated the nascent beginnings of the audit culture within the public service whereby 'provider interest' would shape the system rather than the needs of the 'customers' – hence market systems would discipline the self-interested professionals of the public services.

Having been involved at 'ground level' during the introduction of the Unit Beat system I can honestly state, that in my experience, the negative aspects of the system were highlighted particularly by the loss of the essential day-to-day contact with the public; indeed it has, to this day, remained lost, much to the detriment of the public persona of the police.   However,

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reclamation of the ground which was lost began with the relatively recent introduction of Neighbourhood Policing, which, in itself was a re-introduction, or perhaps more of a re-working, of the 'community policing' initiatives that were first introduced in Exeter by the then Chief Constable John Alderson who was of the opinion that the cultivation of good community relations was '....a task, not for some but for **every** (added emphasis) police officer' (Baldwin and Kinsey, 1982: p.225,).

Now Neighbourhood Policing (NHP) teams, which include PCSOs, and involve partnerships with community groups and local authority services all endeavour to provide a 'local' policing presence, particularly in the high visibility presence patrols performed by the PCSOs. This joint approach has seen the reduction of low level, high visibility vandalism and annoyance as well as providing a measure of community reassurance. Notable achievements have been made in the policing of anti-social behaviour by local youths particularly in one of the forces from where a number of interview subjects were drawn. This partnership, consisting of the police, local authority members and community representatives has enabled the clearing of graffiti and the provision of extra street lighting where required. It has also involved the planting of dense and particularly anti-personal shrubbery (Pyrethrum) as well as the provision of youth activities introduced to discourage groups congregating on street corners, church yards and public parks, causing general nuisance, drinking alcohol and, in some instances, indulging in drug taking. The success of this initiative was measured by a full internal evaluation. Unfortunately I was unable to gain access to the report which, in my position as an evaluator, I had researched and compiled.

Returning to the question of consent, it is a well recognised fact that police officers of all ranks and the majority of politicians, of whatever persuasion, regularly espouse the notion that, in this country we have policing by consent, without even giving thought to what they are saying. However, developments in policing policy in the 1970s and 1980s '….called such, possibly glib, assertions into question.' (Morgan, 1989: p.217). Within this same framework it is also questionable to what degree policing can be 'by consent' because of the politicisation of the police.

The PACE Act 1984 introduced, for the first time, community consultative committees; this particular section, (106 of the Act) was designed to ensure that police forces consulted with the communities they policed as to the way they would carry out that duty. However, there was a divergence of views as to whether they were designed to provide a measure of local control over police policy or simply a forum for consultation '….without power and formal political accountability' (Morgan 1987:p 32). Morgan, in explaining the structure of these committees, highlighted the dichotomy wherein;

> '….members are seldom under 30 and are active 'respectable' members of the community….not people who have been in conflict with the police….Groups hostile to the police typically dismiss consultative committees as a meaningless charade on the grounds that they lack power….' (Morgan, 1987: p.33).

Indeed Morgan went on to comment that during the 1980s the claim '….that there is an acceptable level of consent, in all four senses of the term legal, political, operational and attitudinal – has been seriously challenged.' (Morgan, 1989: p.219).

It was also well recognised by Smith that there was never going to be a consensus about the kind of policing the community wants because of the conflicts present within and between the various groups of the public within that community. 'The idea of community cannot be successfully applied to policing if it is used to avoid finding the forms and institutions needed to strike a balance between conflicting demands'. (Smith, 1983: pp. 63-4).

The Brixton, Toxteth and other inner city public disturbances, together with an increase in the 'public' face of chief police officers focussed attention on the police/public relationship and led to an examination of police accountability from the development of the 'new' police up until the 1980s. It drew historical material from the formation of one of the first provincial police force in Britain, the Liverpool Police, and demonstrates the freeing of the police from central political influence contending that '….the attainment of autonomy owes much to a particular ideological conception of the legal status of police officers'. (Brogden, 1982: p.2)   The new police, during their formation, were always viewed as instruments of the ruling classes and were therefore used as a form of social control. As was the picture throughout the country during the 19th century the concerns of the middle and ruling classes were what shaped policing policy, especially in Merseyside, not the concerns of the lower social orders.

In 1982 Baldwin and Kinsey carried out research on the local politics of accountability and such police practices as intelligence gathering, unit beat policing and community policing now currently known as 'Neighbourhood Policing'. In the late 2000s this became the preferred model of central

government who drove its introduction and continuance through the auspices of the HMIC. The force that I was employed by until the finalisation of my contract, underwent the inspection process entitled 'Embedding Neighbourhood Policing' and I was responsible for carrying out an audit of the process. It has also been said that there was a dilemma as to whether the police practices in 1982 were reforming the law or legalising abuse. This created a dilemma for the legislature as to whether the then current political and social environment would create a situation whereby forces would have to make a conscious decision to police by confrontation or consent. Given that sworn officers now deal more and more with the coercive and confrontational aspects of policing it would appear that decision has been, as premised, forced upon the police service.

In 1989, Reiner, in furtherance of the accountability debate, stated that 'The position of chief constables has always been central to the accountability debate'. (Reiner, 1989: p.195). He later produced a work entitled *'Chief Constables, Bobbies, Bosses or Bureaucrats'* which was published in 1992. In the introduction Reiner stated that *"a series of scandals"* led to the formation of the 1960 Royal Commission on the Police, which, under the Chairmanship of Sir Henry Willinck QC, was appointed,

> ....to review the constitutional position of the police throughout Great Britain, the arrangements for their control and administration and, in particular, to consider:- (1) the constitution and functions of local police authorities; (2) the status and accountability of members of police forces, including chief officers of police; (3) the relationship of the police with the public and the means of ensuring that complaints by the public against the police are effectively dealt with; and (4) the broad principles which should govern the remuneration of the constable, having regard to the

nature and extent of police duties and responsibilities and the need to attract and retain an adequate number of recruits with the proper qualifications. (Interim report of the Royal Commission on the Police, 1960: pp. 1-2).

That the question of police accountability still occupies the foreground of public debate is beyond question. The killing of a Brazilian national, John Charles de Menezes, during a police operation to identify and arrest the people connected with the attempted London bombings of 2005 identified is one of a series of highly publicised police 'mistakes' in recent years. The IPCC report on the shooting identified what it regarded as systemic rather than individual failure but the Metropolitan Police Authority overtly criticised the Commissioner Sir Ian Blair over the debacle at Stockwell underground station, indeed some members called for his resignation but he took refuge in the evasive tactic of refusing to take personal responsibility, stating that if he had been personally responsible he would have resigned.

The subsequent prosecution of the Metropolitan Police by the Health and Safety legislature over the Stockwell shooting identified the 'systemic' failures in procedure which were listed in the judgement, although the judge specifically directed the jury to absolve the Gold Commander, Commander Cressida Dick, from blame. The subsequent IPCC report made sixteen recommendations in the general areas of Police use of Firearms, Operational Considerations, Surveillance Operations, Post-Incident Management, Communications Infrastructure, Training and Exercises and finally Community Reassurance (See Appendix 'B'). They were addressed to HMIC, the Home Office, ACPO and the MPS.

Further work on accountability, or more correctly the lack of accountability, particularly in sector or BCU policing, was carried out in 1994 by Dixon and Stanko. They found that:

> What is needed, in the brave new world of de-centralised policing, are local forms of accountability capable of yielding a new set of relationships between police and people at sector or neighbourhood level. Only in this way can substance be given to the rhetoric of policing by consent. Sector policing sets off….by establishing a new institutional structure….as a means of increasing accountability and promoting consent. (Dixon and Stanko, 1994: p.182).

It is worthy of note that the authors link successful and open accountability with the principle of policing by consent, both of which, as I have already premised, are inextricably linked. It is also worth noting that the 'sector model' has since been replaced by the 'neighbourhood policing model', and whilst it is out-with the scope of this research, it is nevertheless a development worth monitoring in order to gauge whether it will be any more successful than the preceding schemes.

Vocabularies of Motive

As a caveat to the theme of consent, and in order to assist in the interpretation of the interview data, I have examined a relatively early sociological theory of C Wright-Mills in 1940 entitled 'Situated Actions and Vocabularies of Motive (Mills, 1940). Mills's theory was a massive *volte-face* from the original theory that the main function of language was already expressed as 'prior elements' within individuals. Mills postulated that '….we must approach linguistic behaviour, not by referring it to private states in individuals, but by observing its social function of co-ordinating diverse actions." Rather than expressing something which is prior and in the person,

language is taken by other persons as an indicator of future actions.' (Mills 1940: p.904). This is what he termed 'situated actions' and 'vocabularies of motive', or to put it somewhat more simply 'how do we know this is the real reason?' According to Mills all reasons given are the outcome of the situation in which they are produced to the people asking the questions and that no answers are either 'real' or more real' than any others. We must then decide how we interpret the reality expressed within those expressions of motive. For example if, in reply to a question about the control of public disorder, a chief officer stated that he believed that we (the police) have the consent of the public to use what are virtually para-military tactics in the control of public disorder. According to Mills's theory this answer is neither a real and factual response, or is believable as a sincerely held view because the subject clearly apparently believes it. It is simply nothing more than a convenient verbal strategy in a particular context.

In 1997 Campbell suggested that it would be worthwhile re-visiting Mills on motive and carrying out the research that Mills originally recommended but, importantly, recognising that "vocabularies of motive" encompasses concepts that relate to both roles and persons.

In order to test Mills's theoretical framework thereby providing a means to anchor his original theory of 'situational actions and vocabularies of motive' the motives that have prompted the interview subjects will be identified, firstly in responding to the interview request, and secondly in the nature of their replies, given that they were talking to a distanced 'insider' researcher. This may, in itself, create yet another 'vocabulary of motive' arising out of that

particular situational action. Mills's concepts will be explored more fully in the methodology chapter.

The principles of autonomy will also be explored in greater depth in Chapter 4, suffice to say at this stage, it is well recognised and accepted that the greatest autonomy, particularly in the milieu of day-to-day policing, is practised by the most junior (in rank) officers, the constables. This was supported in 1991 by Shearing and Ericson who explained this particular facet of policing which they termed '….culture as figurative action….' (Shearing and Ericson,1991: p.481). In effect they demonstrated that they viewed police activity as an act or actions that might have taken place but, in fact, did not. This can be illustrated by the following set of circumstances. A patrolling police officer sees a youth standing in a car park where a number of vehicle thefts have taken place but decides, for whatever reason, not to take any action. What else might the officer have done; he may have spoken to the youth in general terms and, depending on the response received, carry out a 'Stop and Search procedure under the auspices of the PACE Act 1984. He may also have carried out both local and national computer checks to establish whether or not the youth was either a wanted person or a missing person; however, these are only a few of the actions or more correctly in this context 'inactions' that may or may not have taken place.

The type of decisions taken by those involved in the 'craft of policing' demonstrate that police work is done from '….moment to moment….often without reflection' (Shearing and Ericson, 1991: p.487) whereby the officer grasps the essentials of what is required, getting to the heart of the matter almost immediately. Officers have been interviewed about how police work is

'done' and, according to Shearing and Ericson; they invariably cite previous experience as being an almost infallible guide.

Returning to the continuing development of the new police further research was conducted by Taylor in 1995 when he examined the formation of the Middlesbrough Borough Police. This force, according to Taylor, did not have the approbation of the citizens of Middlesbrough; indeed their development mirrored the development of other police forces in this period with the over-riding concern of the ruling class being to exert some form of social control over the 'working classes', who were doubtless the people most affected by the 'increasing regulation of everyday public life' (Taylor, 1995: p.45).

From the 1850s when, in the main, the force consisted of men who viewed the office as a short term casual measure, to the 1880s and 90s, where it was viewed as a career rather than yet another form of casual employment, highlights the development of the force. This growth in stature was due in no small measure to a form of social cohesion within the force, almost an esprit de corps, a sense of belonging and a sense of pride in being a police officer. Whether or not they aspired to the Peelian principles of policing by consent is a matter for conjecture and it would be wrong to ascribe those principles to them.

That same development of policing during the nineteenth century was further examined by Taylor in 1997 when he identified three main strands of it [that development]. The first, he termed the 'orthodox or Whig interpretation'

(Taylor, 1997: p.2) where authors such as Charles Reith, Sir Leon Radzinowicz and T. A. Critchley viewed the development of the new police as having the consent of the public, which, in turn, had developed in response to the concerns of the public in the most appropriate way. The lawlessness on the streets of 19th century London being a notable case in point became, according to these commentators, the driving force behind the introduction of the Metropolitan Police. However this view is flawed on several counts by failing to satisfactorily account for the dichotomy which existed between both sides of the argument for police reform.

The second strand, which Taylor identified as the '….revisionist school' (Taylor, 1997: p.2) is based on the conflict within society where the working classes presented both moral and physical threats to the stability and good order of that society with the ruling classes seeking to extend a form of social control over the under-class. However, there are problems in this interpretation in so far as the triumph of good over evil, as identified in the orthodox view, and distinctions between 'rough and respectable' are far to simplistic and say little or nothing about the complex social relationships that are present within any society. Indeed whilst the reformers sought to direct the police towards the control of drunkenness and prostitution with an almost messianic zeal, some chief officers turned a blind eye to these problems provided that '….it did not involve violence or blatantly indecorous behaviour on the streets'. (Taylor, 1997: p.4).

The third strand concentrates on more recent research which, in general terms, presents a much more complex view than those of the two previous strands, by identifying the multi-layered variations which occur

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throughout society and, by default, the same variations which in occur in the
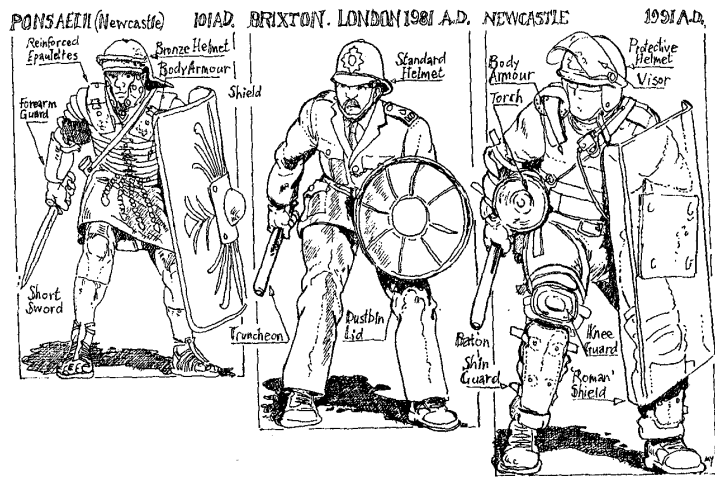
development of the 'new police'.

Figure 1

(With thanks to Malcolm Young)

The control of public order and the implications on the nature of consent.

Virtually every police force in England and Wales now provides armed response units on a 24/7 basis. In addition, during periods of heightened national security and often in response to terrorist threats, heavily armed officers overtly patrol high-risk locations such as airports. The rise in what some commentators have termed para-militarism can be found in the equipment that officers don to police public order situations; crash helmets complete with radio communications, flame-retardant overalls, shin and arm guards and polycarbonate shields. The equipment (see Fig.1 above) was improved following the number serious injuries to officers during the Brixton riots. The illustration neatly encapsulates the historical significance of the equipment.

Within the service this is viewed, not only as a Health and Safety measure designed to prevent officers being injured by the increasingly sophisticated tactics of rioters, but also to provide a high profile, robust and measured response to large scale public disorder.

Emerging evidence from the Chief Officer's interview data, whilst indicating broad support for the Health and Safety aspect, does not, in any way, support the formation of a 'third force' to deal solely with public disorder, and those views will be fully explored in later chapters; however such para-military or 'third forces' already exist in one form or another on mainland Europe. In France the Compagnies Républicaines de Sécurité (CRS), are seen principally as a riot control force, deployed to disperse rioters with the

use of CS Gas grenades and water cannon[6]. They are the general reserve of the French National Police, who themselves are part of the much older Gendarmerie, a semi-military force which found favour in the times of Napoleon III and '….who had responsibility for policing outside the major towns of metropolitan France….and providing the first line of defence against insurrection in his capital'. (Emsley, 1999: p.2). A gendarmerie also provided, according to Napoleon 1st '….a surveillance half civil, half military spread across the whole territory….'. (Correspondance de Napoléon 1re, Paris, 1862 in Emsley 1999: p.2). Indeed the Gendarmerie can boast a lineage of some '….eight centuries of history' (Emsley, 1999: p.13). The Carabinierie in Italy perform a similar function and the Guardia Civil in Spain provide an overarching or Federal armed police function.

There is a commonality in the para-military appearance of all of these 'third forces', bearing in mind their military ancestry; they usually reside in some form of regimental barracks, and certainly, in respect of the CRS, operate away from their base town, being deployed only when the situation warrants it. Lack of local accountability is the principle danger inherent in deployments of this nature whereby they are not seen as 'ordinary' members of the community fulfilling a policing function but more as a repressive arm of the state that will deal specifically with the disorder and then withdraw leaving the 'local' police to clear up the detritus and endeavour to restore whatever is regarded as the norm in day-to-day police/public relations.

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[6]   At this juncture it is important to note that in early 2014 an ACPO commissioned report regarding the purchase of water cannon for use in the Metropolitan Police area, and if required in other force areas within England and Wales. It did not meet with overwhelming approval and there were a number of major dissenters. In Chapter 9, Conclusions, the report is examined in more detail. However in June 2014 the purchase of three second-hand water cannon for use by the MPS was authorised by the Mayor of London Boris Johnson.

In 2002 Rowe examined what had become a '….pre-eminent theme in current debates about policing' (Rowe, 2002: p.424), that of policing diversity. He further argued that the requirements of policing diversity were such that they may even represent a '….fundamental break with long-standing notions such as 'policing by consent' (Rowe, 2002: p.424).

The policing of diversity in England and Wales has had a long and sometimes troubled history with the Brixton and Toxteth riots in the 1980s, and, notably, the Broadwater Farm riots in 1985, which were the triggered by the death of Cynthia Jarret whose death was accelerated '….by a negligent push from one of the searching officers' (Gifford, A. (Lord) 1986: p16) during an unjustified search of the Jarret home following her husbands' arrest. The subsequent riots culminated in the murder of PC Keith Blakelock. A number of people have been brought to trial as recently as 2014 but as yet, there have been no convictions. The murder of Stephen Lawrence in 1993 and the subsequent mishandling of the investigation into his death have also proved to be a long and protracted process, which, twenty years on, continues to provide evidence that the MPS were, and still are, guilty of mismanaging the whole affair.

Notwithstanding these notable cases Rowe still argues that the 'notion of policing diversity appears to encapsulate and further the principle of policing by consent that has informed the development of policing in Britain since the establishment of modern police forces….'(Rowe 2002: p.439). As the reader is already aware, the principle of policing by consent has been in existence for many, many years and is often expressed in a straightforward and simple manner whereby if the police live up to public expectation, using

as little force as possible, at the same time dealing fairly and equitably with the general public then that consent, in the majority of cases, will be secured.

However the policing of diversity has demonstrated, singularly and clearly, that the police cannot achieve that fairness by treating all groups or communities in a similar manner. Rowe opines that diversity, particularly to the police, equates to racial and ethnic minorities and that their training and focus has seen an over-concentration on this particular aspect of policing. This has been to the overall detriment of the policing of the many other communities which are based on many other social factors rather than just ethnicity.

Surely then this has implications for a proposed jurisprudence of consent whereby the make-up and variety of the many differing communities in Britain must be taken into consideration in order to ensure, that if such a jurisprudence is feasible, then cognisance must be taken of the much wider 'community diversity' which Rowe has identified.

Also in 2002 Sir (now Lord) John Stevens, gave an interview in which he explored his career and expounded his philosophies. The interviewer, Westmarland, identified his underlying approach to his work, including his often forthright views on policing philosophy and practice, young people and crime, the legalizing of drugs, the impact of terrorism, collaboration between research and practice, police subculture, racism and ethnicity, police corruption and last but by no means least his views on consent and autonomy. When asked if it was possible to have a 'fair' police service Lord Stevens commented '....the principles of this country are the principles of

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policing by consent and the independence of our actions'. (Westmarland, 2002: p.6)

Further to this in 2013, at the request of Her Majesties' opposition, Lord Stevens produced a report regarding the future of policing which, it is widely recognised, will form part if not all of the Labour Party manifesto for the 2015 General Election. The key findings of his substantial report are summarised as follows;-

1.   The new governance system, that of the Police and Crime Commissioner regime, has 'fatal systematic flaws' (p13) and should be replaced. Three options are given with the recommendation being that policing boards should be established, the members being the leaders of local authorities in each force area.   Building greater accountability at the lowest tier of local government is also advocated. (pp.72-91).

2.   Policing should be 'grounded in values that are widely shared among the British People' (p.14) and revised and updated 'Peelian Principles' are proposed (pp.29 -35). This particular recommendation would appear to be somewhat similar to my propopsed 'jurisprudence of consent'.

3.   Neighbourhood policing is under threat, largely as a result of austerity cuts and a narrow focus on crime reduction

and consequently a 'social justice model of neighbourhood policing….should be enshrined in law (p.26) and a 'local policing commitment should be introduced'. (p.14).

4.   Officer morale was at 'rock bottom' (p13) and recommendations are made for a 'new deal for police officers and staff' and for 'building a police profession' and new standards and misconduct procedures are proposed. (pp. 94-136).

5.   The importance of 'creating effective partnerships' is emphasised. (pp. 56-67).

6.   The current force structures need to change, all three options considered will result in fewer but larger forces or a national force. The commission recognised that there is no consensus on a way forward. (pp.139-154). It is interesting to note that this recommendation is in line with similar proposals made by Charles Clarke, the then Home Secretary under the Labour Government in 2005, for the establishment of '11 or 12' regional forces, coupled with the retention of BCU policing at a local level. Whilst there was no consensus for this proposal there is now a model for a national police service following the creation of Police Scotland on April 1st 2013.

7.   Technology is considered with recommendations focusing on procurement but also examining mobile technology, on-line reporting of crime and opportunities for a shared intelligence platform. (pp. 171-172).

8.   Recommendations are made concerning the use and procurement of forsensic science services. (pp. 171-172)

9.   Principles are proposed for private sector involvement in policing. (pp.177-179).

10.   A recommendation is made to merge the IPCC and the HMIC. (p.138)

11.   Media and police relations would be improved by a more trusting and confident relationship, with recording of contacts but not restrictions. (p.125). This reccommendation is would appear to be directly connected to the revelations made during the Lord Levison[7] public enquiry into the conduct of the press which is still on-going.

As stated, accountability has also been the subject of considerable research and in 2005 Cheung carried out a review of current literature in an attempt to find a generic definition of police accountability. She examined the

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[7]   The Leveson Inquiry is an on-going judicial public inquiry into the culture, practices and ethics of the British press following the phone hacking scandal within Rupert Murdochs' News International conglomerate. The inquiry is chaired by Lord Justice Leveson who was appointed in July 2011. During 2011 and 2012 a series of public hearings were held and the Inquiry published an interim report in November 2012. This report reviewed the general culture and ethics of the British media and made recommendations for a new, independent, body to replace the existing Press Complaints Commission. The terms of reference for this new body would be enshrined in law. Part two of the inquiry has been deferred until after the criminal prosecutions arising out of the conduct of the editor and staff at the News of the World.

origins and meaning of accountability and developed a conceptual theoretical framework for ensuring it (accountability) particularly in relation to the policing of Hong Kong. Whilst there are, as I have already explored, similarities in policing in Hong Kong and in Britain based on the creation of Hong Kong as a Crown Colony, there are also major differences. However the creation of a set of accountability principles can provide guidelines to ensure a similar set of principles in Britain which would incorporate '….an understanding of the wider political system and political developments in society….rather than focusing too narrowly on the police organisation itself (Cheung, 2005: p.24). Once again I would expect to incorporate these accountability principles in order to underpin my proposed jurisprudence of consent.

Further to this, and again in 2005, Wood and MacAllister examined the relevance of police independence in view of the accountability mechanisms in the UK which encourage the police to be more locally responsive.

At first glance this concept could easily viewed as oxymoronic insofar as that encouraging and promoting local response from a national (governmental) level will tend to negate at least the impression of independence. They carried out a close investigation into the relationship between accountability and independence, and argued that, although they are separate entities or opposites, we should view them as '….separate, albeit related, aspects of an officials relationship with others'. (Stenning, 1999 in Wood, D. and McAlister A. 2005: p.338). From this interpretation it is suggested that '….there must always be a 'trade-off' between these competing concerns; the more accountable we make the police the less

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independent they become and vice-versa.' (Stenning, 1999 in Wood, D. and McAlister A. 2005: p.201).

In 2005 Goldsmith opined that because of the fact that the salient feature in police-public relations is a lack of trust there have been a large number of police reforms carried out, particularly in developing and post-authoritarian countries. This, in turn, makes policing by consent, or even the introduction of the concept, almost impossible to implement. Indeed before such a concept can be introduced there must, at all costs, be a framework of trust in the police which can be built through a provision of security to the population. This, in turn will then, according to the National Research Council, ensure that the legitimacy of the police is enabled by '….the judgements that ordinary citizens make about the rightfulness of police conduct and the organisations that employ and supervise them' (National Research Council, 2004: p.291).

As already premised earlier in this chapter the increasing privatisation of parts of the police service in relatively recent times have been viewed by many as an attempt by chief officers to ensure that sworn officers are able to fulfil the daily requirements of the duties that require their particular expertise and exercise of their legal powers. The dichotomy that this presents was highlighted in 2007 by Ericson who drew comparisons between the use of police power, with its attendant strictures and procedural rules governing the majority of police/public interactions and how a number of public, private and regulatory bodies now operate in the field of enforcement without the same strictures.

These procedures, which Ericson called 'Counterlaw I', which passes laws 'that negate the traditional principles, standards and procedures of criminal law' and 'Counterlaw 2' that takes the form of '….surveillance infrastructures that facilitate direct behavioural control and self-policing without recourse to legal regulation'. (Foucault, 1977: pp.221-3).

This counter-law environment of "policing networks, legal exceptions and surveillance technologies (see pages 87 to 89) is increasingly relied upon to ensure that '….the police are watched as well as watchers' (Ericson, 2007: p.367) "quis custodiet, ipsos custodes?". Literally, who will guard the guards? (Juvenal, 56 AD).

Public confidence in policing has always been an essential element in the building of trust and the acceptance of policing and in 2007 Jackson and Sunshine examined the sociological and social-psychological processes that underpin support and trust in the police in an English rural setting. According to them, from a neo-Durkheimian perspective, confidence in the police is not driven by worries about becoming a victim of crime but rather, concerns about social cohesion where the police are judged more on moral order and social stability rather than the fear and threat of crime. In addition the police, in order to gain public confidence, must not only be seen to possess the same moral values as those whom they police but that they must treat that same public with fairness and dignity. Again this demonstrates a return to the fact that gaining the public trust becomes a major plank in the social and moral development of the police. Additionally these factors surely would tend to indicate support for at least a doctrine, if not a jurisprudence of consent.

Pluralism was further also looked at by Vaughan in 2007 when he dealt with the question of legitimacy in public policing. He also questioned which individuals or activities should be policed, which in itself causes public disagreement over what and who should be policed; policing priorities often conflict with public demand therefore giving rise to discontent. The article analyses how three major political theorists, John Rawls, Michael Walzer and Friederich Von Hayek dealt with these issues with their insights being utilised to define a principal of non-domination which is regarded as '….a freedom from interference on an arbitrary basis as best suited to justify policing in an era of pluralism' (Vaughan, 2007: p.347).

In an article published in 2005 in Theoretical Criminology entitled 'Police Reform and the Problem of Trust' Goldsmith researched a number of police reforms, particularly in post-authoritarian states. In 2007, Chan, returned to the theme of reform, and, in particular, examination of reforms that have been applied to police practices and procedures which have failed because '….the idea of a recalcitrant police culture being an impediment to reform is one that has general currency' (Chan,2007: p.324). The bulk of Chan's enquiry centres on a survey on the introduction of new accountability procedures in New South Wales Police. The survey population was drawn mainly from the rank and file where the new procedures are seen as yet another administrative burden which, in turn, removed resources away from front-line policing.

Parallels to this can be found in policing in England and Wales whereby the recording procedures contained in the PACE Act of 1984, which

although designed to protect both the police officer and the suspect and to provide a framework enshrined in the Codes of Practice annexed to the act, has seen yet another administrative burden placed on the police.

Officers are now bound by that same legislation and the processes contained within the 'New Public Management Culture' (Hough 2007: p.66) which appears to regard the process of recording as the most important part of any encounter, a process which Hough feels may well have a negative effect on police legitimacy. Within that same culture forces now have to adhere to the Home Office National Crime Recording Standards (NCRS) introduced on April 1st. 2002, which are aimed at recording crime in a more victim-focused way and maintaining greater consistency between police forces in the recording of crime. It has, in some instances, resulted in the 'criminalisation' of schoolchildren involved in minor assault cases whereby in order to record the offence as a sanctioned detection, statements have to be taken and the aggressor arrested and processed, with the usual outcome being at the level of a juvenile caution.

As with any other subject, the focus of research and subsequent policy making in policing changes over decades; witness the 1970s and 1980s when both academics and police leaders sought to legitimate policing and espoused the concept of policing by consent. These ideas were rapidly overtaken in the 1990s by a culture of '….crude managerialism from which we are only now emerging.' (Hough, 2007: p.64). As Jackson, Bradford, Hough, and Murray, stated in 2012, there has been '…. a resurgence of interest in ensuring that the public a) find the police trustworthy b) think the police are a legitimate

authority, and c) believe it is morally just to both obey the law and cooperate with legal institutions' (Jackson, Bradford, Hough, and Murray, 2012: p.29). They also went on to say that if they '….demonstrated moral authority….the police can embody, in more general terms, a shared sense of right and wrong and a commitment to the rule of law. This does no require them to be moralists, or to demonstrate moral superiority. But it does require them to negotiate order **in a way that maximises consent'** (added emphasis) (Jackson, Bradford, Hough, and Murray, 2012: p.34). Surely a demonstration that, once again, both the climate and time is right to further explore the design and implementation of a jurisprudence of consent.

It is well recognised that, according to Hough in 2008, the attempts to modernise the British police via the means of the New Public Management Culture, '….have narrowed police function in a way that has damaged public satisfaction with and confidence in the police' (Hough 2008: p.63). There is also little doubt that within the rush to embrace this particular culture severely damaged the legitimacy of the police, but fortunately a number of chief officers had already recognised this prior to government and political awareness of the damage being caused and, in order to counteract its effects they '….initiated a new Reassurance Policing Policy' (Hough 2008: p.63). The police are usually granted legitimacy because they are seen to embrace legitimating values insofar as the fairness of the process of justice itself, and, equally important, outcomes that are satisfactory to all parties involved. Again this fairness and legitimacy are worthy of serious consideration within the auspices of the proposed jurisprudence of consent.

Surveillance

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In the late 1960s and early 1970s criminologists developed what was to become an influential concept in preventing crime by means of environmental design by proposing that '….the nature of the built environment can effect the level of crime by influencing potential offenders and by affecting the ability ….to exercise control over their surroundings. There is essentially a powerful belief in the capacity of surveillance to help control crime'. (Burke 2001: p.196).   The fact that Britain has the highest concentration of CCTV surveillance in Europe is testament to the exponential growth of intrusive surveillance, which, in turn, prompted the Information Commissioner Richard Thomas to comment in an article in the Times Newspaper (August 2007) that 'the UK could sleepwalk into a surveillance society as a result of ID cards and other plans'.

It is particularly interesting and notable that, despite the concentration of intrusive surveillance in these islands, no government to date has seen fit to introduce any legislation to control either its use or its growth. Whilst it is accepted that there are security industry bodies which lay down codes of practice for the installation, operation and monitoring of these systems as yet there has been no serious parliamentary debate about the introduction of primary legislation to control and properly monitor both surveillance equipment and its operatives. It is more than fair to posit that the government, of whatever hue, is content with the status-quo and that regulation, and the subsequent monitoring required, would somewhat lessen the preferred 'governmental light touch' which also, in turn saves them from being bound and restricted by the self-same legislation.

Further to this, in a radio interview on BBC Radio Five Live on Tuesday 23rd October 2007, Thomas stated, that in mid 2006, his office had produced a report highlighting the use of pilot-less drone (See Fig 2, p.89) aircraft that carry equipment which is able to oversee ground events and home in pictorially on individuals. He envisaged that this kind of technology might well be in use by the police during the London Olympic Games in 2012; however, in interview, he was 'staggered' to find that in August 2007 one police force (Staffordshire) had actually deployed one of these drones at the 'V' Festival, held in Weston Park, Staffordshire, ostensibly to monitor the car parking area in connection with vehicle theft and associated vehicle crime.

Even more disturbing, these drones can also be fitted with additional equipment that has the capability of using Smart Water, a unique chemical signature, to mark selected individuals on both skin and clothing, enabling them to be traced at a later date. (The Guardian Newspaper, 21st August 2008).

Figure 2

Police Culture

> 'Police culture refers to the values and assumptions shared by police officers as a group or as an occupation. These shared values underpin how officers see the role of the police, their judgement about people, how they relate to each other and how they interact with the public….It also includes special knowledge and skills, ways of thinking and working, rituals and rules of thumb, language and vocabulary….that the police have developed in their work.' (Chan in Wakefield and Fleming, 2009: p.72).

A number of authors have examined the phenomenon of police culture. They include, amongst many others Manning and Van Maanen (1978), Holdaway (1984), Shearing and Ericson (1991), Chan 1997, Reiner (2000), Foster (2003), Chan, Devery and Doran (2003), O'Neill, Marks and Singh (2007), and Bradford and Quinton (2014). These authors have all, in numerous ways, explained police culture in a way that is synonymous with Chan's explanation. However, even within those many cultural types that have been identified, there are also numerous sub-cultures which exist and which appear to assist in both driving and directing the day-to-day actions of patrolling police officers. This area has also been subjected to dedicated research by a number of authors.

However it is fair to say, without listing every sub-culture that has been revealed and analysed by the authors listed above and others, that there is ample evidence to identify the existence of something that has often been termed the 'canteen culture'. Anecdotal evidence for its existence can be found in the 'advice' given to newly trained police officers by their mentors on their first operational posting, of which I had first hand. In general summation

the recruit(s) were advised to forget 'all that rubbish you learned at training school, this is the way we do it here to make the job work.' Doubtless this will strike a cord within the memory of most police officers, certainly of my generation, and anecdotally, the policing generations that followed. It is also worthy of note that there are also many 'givens' or tacit agreements that exist within police work. For example, whilst it may never be stated outright, you will always support a colleague, even if they are in the wrong. This (support) can either be by demonstrative positive support and action or, at the very least, by inaction, a situation highlighted by Holdaway in 1984.

It is also important to mention that many of the self-same authors have proposed various solutions to the elimination of certainly the more contentious and almost unlawful aspects of police culture. The solution proposed in 2000 by Reiner, who, in echoing the views of many others, stated that;

> '….the nature of police work does seem to generate a recognisably related culture…. Fundamental change in this requires not just changes aimed at individual officers (for example in selection and training), nor grand policy declarations, but a reshaping of the basic character of the police role as a result of wider social transformation.' (Reiner, 2000: p.106).

In 1997, Chan conducted a research study of the New South Wales Police in which she first identified and itemised a number of different aspects of police culture and then identified strategies for change. Chan recognised that the debate on police reform, either through legislation or cultural change '….has been stymied by an inadequately theorised notion of police culture. (Chan 1997: p.65). She then went on to reconceptualise police culture in order to understand why reforms, both legal or cultural '….often make little

difference to police practice.' (Chan 1997: p.65). Her cognitive model of culture adopted Bourdieu's concepts of 'field' and 'habitus' '….to represent the structural conditions of policing and the learned dispositions of police culture respectively.' (Chan,1997: p.65). It is Chan's model of culture, an explanation of which follows, that will be employed to identify underlying themes.

The linear model of police practice, demonstrated below, indicated that it was possible to '….change cultural knowledge and police practice and police practice simply by changing structural conditions' (Chan, 1997: p.73).

Figure 3

STRUCTRAL CONDITIONS (The field)	CULTURAL KNOWLEDGE (Habitus)	POLICE PRACTICE
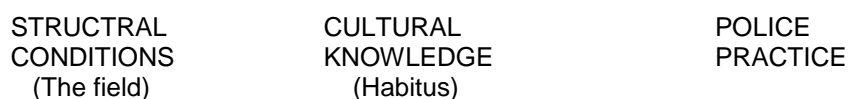
Figure 3: A linear model of police practice (Chan, 1997: p73)

However this model '….neglects the centrality of police officers as active participants in the construction and reproduction of cultural knowledge and institutional practise'. (Chan, 1997: p. 73). Her amended model was based on whether '….structural change results in any change in cultural knowledge or institutional practice depends….on the capacity of officers to adapt to the change'. (Chan 1997:p.74). See figure 4 (below).

Figure 4

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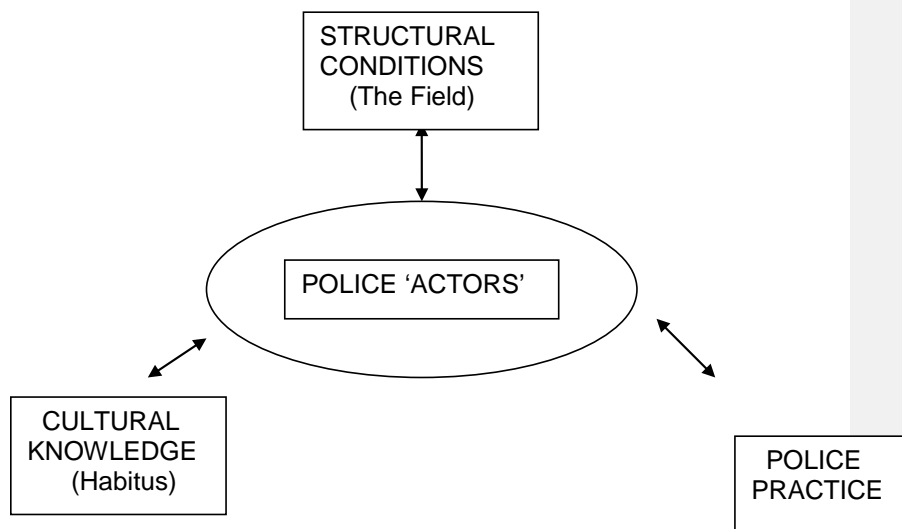
Figure 4: An interactive model of the production of police practice (Chan, 1997: p.74)

It is important to note that the relationships between the elements are neither uni-directional nor deterministic. (Chan,1997: p.74). The centrality of the 'police actors' in this model, as opposed to the linear model demonstrated on the previous page, enables or helps to enable changes in both cultural knowledge and institutional practice provided, as Chan recognised, that the officers involved have the capacity to change.

According to Chan, in her discussion on habitus, she reveals that:

> '….there are four dimensions of cultural knowledge in street-level police work: axiomatic knowledge (which constitutes the basic rationale of policing), dictionary knowledge (which sets up categories about people whom police come into contact with), directory knowledge (which informs officers on how to go about getting their work done), and recipe knowledge (which prescribes the menu of acceptable and unacceptable practices in specific situations). (Chan, 1997: p.76).

Axiomatic Knowledge.

This deals with one of the fundamental assumptions regarding the why and the wherefore of the way actions are carried out within an organisation. Traditionally, police officers view their daily routines and work '....in terms of waging a 'war against crime', maintaining order and protecting peoples life and property.' (Chan, 1997: p.76). It is interesting to note that echoes of these three axioms can be readily identified in both the constables 'oath of office' taken by every police officer at the start of their policing career, and in Sir Robert Peels nine principles of policing. Other authors, including Reiner (1992) and Manning (1978) have identified that officers often develop a sense of mission towards their work and, that without their intervention, the social fabric would be destroyed. Because of the way police officers have portrayed themselves as professional enforcers of the law, without recourse to any political implications, the public have grown to expect a level of service, particularly from those self-identified guardians of public order and crime fighters, which cannot support their expectations. Manning termed this particular situation as '....the impossible mandate' (Manning, 1978 in Chan 1997: p.76). In addition officers themselves tend to categorise their work into 'proper police work' such as arresting the perpetrators of crime, preventing crime and saving lives; the other routine tasks which, in reality, form the bulk of their working day then becomes unworthy of their attention.

Dictionary Knowledge

In many of the situations that arise during an officer's working day they are called upon to rapidly assess those situations and then to take action to resolve them if possible. In this respect research has shown that officers develop an awareness of what they see during their patrol time and that this

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awareness is translated contextually into notions of normality and abnormality.

Indeed through this often highly developed awareness officers infer;

> '….the probability of criminality from the appearances persons present in public places….What is normal for a place is normal for the place at a time. The meaning of an event to the policeman at a place depends on the time it occurs.' (Sacks, 1978 pp.190-194 in Chan,1997: p.77).

Research has also revealed that many officers tend to categorise people they deal with into those they feel are respectable and those that are more representative of a class of people who would challenge an officer's authority. Ethnic stereo-typing has also been seen as part of this 'dictionary knowledge' and the Brixton riots are testament to the MPS's over-enthusiastic application of what become colloquially known as 'Sus' Law. In order to combat this stereo typing an official internal campaign took place within the police service in the mid-1990s. One of the most powerful features of this poster campaign showed a young black man in a BMW, who, according to Chan's description of 'dictionary knowledge' was worth, in officer parlance, a 'stop'. The poster then stated that in fact the driver was a police Chief Inspector thereby highlighting the dangers of ethnic stereo-typing.

Directory Knowledge

This knowledge, according to Chan, informs officers how operational work is routinely carried out and, in many respects, follows on from the categories which were revealed in the area of dictionary knowledge. This can, and often does, lead to officers targeting those whom they regard as less than

respectable, including groups of young people who habitually 'hang about' in shopping centres, fairgrounds and amusement arcades.

The use of force, which has already been explored earlier, is also a particularly salient feature of police work and Bittner (1978) considered it to be one of the core roles of the police stating that '….every conceivable police intervention projects the message that force may be, and may have to be, used to achieve a desired objective'. (Bittner, 1978 in Chan, 1997: p.78). It is also worthy of note that the use of force is viewed by officers as a legitimate means of taking charge of a situation, however more often than not it is the threat to use force rather than its overt use which is employed to resolve those situations where the officer deems it necessary.

In summation most officers contend that they never know what they will be dealing with when they 'walk round a corner' and that their own instincts, experience and common sense will see them through rather than relying on theoretical knowledge of the law and policing regulations.

Recipe Knowledge – Police Values

This section deals with '….the normative dimension of cultural knowledge'. (Chan, 1997: p.79). and covers the action i.e. what should or should not be done in certain situations as well as providing coping strategies for the officer(s) concerned. It also introduces the concept of solidarity among police officers whereby they view themselves as working in isolation, but at the same time, being able to rely on colleagues to 'cover their backs' in difficult and often dangerous situations. Attitudes to police mis-conduct also are also features of 'recipe knowledge' and, as Holdaway and others have

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previous highlighted, officers will often 'turn a blind eye' to a colleagues malfeasance in order to preserve their solidarity.

Whilst there are a number of parallels in Reiner's theories on police culture there are also a number of differences, particularly where he highlights the ways that 'cop culture' is often seen to subvert or even defeat the official purposes of the police function. According to Reiner;

> Cop culture has developed as a patterned set of understandings that help officers cope with and adjust to the pressures and tensions confronting the police. Successive generations are socialised into it….mediated by stories, myths, jokes, exploring models of good and bad conduct, which through metaphor enable conceptions of competent practice to be explored prefiguratively. The culture survives because of its elective affinity, its psychological fit, with the demands of the rank-and-file cop condition. (Reiner, 2000: p. 87).

According to Reiner one of the central features of cop culture is a sense of mission. It is not just another job; rather it is more a vocation with a worthy and worthwhile purpose. This, however, is not regarded as being problematic indeed it is often viewed by its actors as '….fun, challenging, exciting, a game of wits and skill.' (Reiner, 2000: p. 89). He also highlights the 'machismo syndrome' involved in the thrill of the chase and the violence used to affect an arrest, which although they form only a small part of the day-to-day routines of patrol work, they are worthwhile because officers see themselves as '….one of the good guys' (Reiner, 2000:p. 89), which in turn facilitates them to act in this manner. Furthermore '….it is important in understanding police work that it is seen as a mission, as a moral imperative, not just another job. This makes its established practices much more resistant to reform than if they were merely self-serving.' (Reiner, 2000: p. 89).

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However, most officers, through the socialisation processes already outlined, readily acquire a cynical and pessimistic set of values.

'The core of the police outlook is this subtle and complex intermingling of the themes of mission, hedonistic love of action and pessimistic cynicism. Each feeds off and reinforces the others, even though they may appear superficially contradictory.' (Reiner, 2000: p.90). It is apparent that, by applying these sub-cultures to their role, police officers are, in many ways, subjugating the normal day-to-day reality of police work, which, in many respects, is '….often boring, messy, trivial and venal.' (Reiner, 2000: p.89). Additionally the sub-cultures and mores which underlie the more dominant features of police culture and the adherence to and the practise of them, in many instances without conscious thought, allow the police in seeing themselves as guardians of the social fabric of society.

Police officers are, from the very beginning of their careers, encouraged to view everything with suspicion which encompasses the need to be constantly aware of any signs that trouble may develop, or that a person (s) may be about to commit an offence. This attitude can and indeed has lead to police stereotyping of different groups within society, which, although can be an aid to carrying out the police function, can also lead to an increase in arrests of these particular deviants, in other words the self-fulfilling prophecy.

Reiner also goes on to identify various categories of citizens who fall within the police purview, many of whom are viewed as people who interfere with the policing purpose and, as such are to be wherever and whenever possible, disregarded.

Earlier in 1984, Holdaway also looked at police organisational culture and his findings mainly deal with the stories and jokes that police officers use to inform and enlighten both their colleagues and, to a lesser degree, their supervisors about courses of action they have taken. These stories are often embellished, usually in favour of the teller, in order to make themselves feel better if they have had the worst of the encounter, or conversely, to put the recipient in a bad light if they feel that they have gotten the better of them.

In summation, the utilisation these particular models of police culture, together with the life history narratives of the officers concerned will help to illuminate the study.

This position was summed up by Gelsthorpe who stated that '….social researchers want to say something about the subjects….whom they are studying who then become the 'objects' of their study….in engaging in this process, however, researchers may actually be saying something about themselves.'(Gelsthorpe, 2007: p.518).

The study will also provide an authoritative 'inside' or alternative view of what has been variously described as the social practice or orthodox doctrine of 'policing by consent' which is distinctly different from 'policing by law' as well as '….assessing the Janus-like task of the police in protecting the rights and liberties of the public while fulfilling the policing requirements of the state' (Emsley and Weinberger, 1999: introduction p.xiii).

Conclusions on Consent

Having traced the development of the 'new police' particularly in respect of the three main themes it is still notable that, to this day, as Brogden commented in 1979,

….the general consent to policing is tentative….that consent is subject to continuing interpretation, re-interpretation, adaptation and negotiation – an endless testing and resolving of the contradictions and ambiguities and contemporary experiences….” (Brogden, 1979: p.7).

Later, in 1982 he expanded on his earlier work, stating that;

'In….England policing by consent has not merely been an artificial construct, an ideological conspiracy, deliberately manufactured as a rationalisation, or a concealment for maleficent practices….' ; rather, he has argued that '….it represents a concrete ideology, a major substantive review of the relation between civil society and the police as affirmed by senior police officers, and repetitively reiterated in a myriad of public and private statements'. (Brogden, 1982: p.170).

This is a view supported by many other authors including Dixon, Coleman and Bottomley, who concurred with Brogden's view, stating that '….consent should be seen as an area of negotiation over shifting elements of knowledge and power;….practical implications….include the need to see 'policing by consent'….as requiring attention, and when appropriate, regulation just as much as the use of police powers'. (Dixon, Coleman and Bottomley, 1990: 347).

Others, who have also been reviewed in this chapter, have explored and continue to explore the concept at some length and to considerable depth; however, to re-iterate, none of them, so far as far as I am aware, have considered or examined the concept from a police officer's viewpoint, an omission that will be rectified by this work.

Thus the current situation with regard to the large number of works already researched and published on both the police as a body and the

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concept of consent has, as a natural consequence, provided the both the rationale and the impetus for the research.

Summary of Police Culture

Having examined Chan's model with its four levels of knowledge, Reiner's model of police culture with its many facets of both the protagonists and the people they deal with on a daily basis, and, finally Holdaway's earlier findings on stories and jokes, cognisance must also be taken of the many other authors who examined in some depth other facets of police culture. They include Manning and Van Maanen (1978), Holdaway (1984), Shearing and Ericson (1991), Chan 1997, Reiner (2000), Foster (2003), Chan, Devery and Doran (2003), O'Neill, Marks and Singh (2007), and Bradford and Quinton (2014).

Holdaway was concerned, amongst other things, with the unwritten law of 'guarding a colleague's back' and in recording and recounting the stories and jokes that officers relate about their diverse daily encounters. In 2000 Reiner devoted a chapter to what he regarded as the core characteristics of 'cop culture' (Reiner, 2000: pp. 85 – 106). His research identified a series of personal attitudes both to the job and to the people they dealt within their daily policing tasks.

It is readily apparent that a lot of the studies mentioned have assumed that police culture has a negative effect upon both the probity and the work ethic of its proponents and therefore becomes an obstacle to change, which is in itself a feature of police management 'speak' voiced on numerous occasions, that the 'culture needs to be changed.' Other studies, such as

Chans, are more subtle and she points to the fact that a wide variety of cultures and sub-cultures can and indeed do exist at any one time within the organisation and that they either knowingly or unknowingly affect the outcome of many police/public encounters.

In summation it is fair to say that most of the concepts are in fact trying to define the same problematic elements of work-place cultures. For example, Polanyi's concept of 'tacit culture' seems to bear a striking resemblance to Schutz's idea of the 'taken for granted' typifications that a group employs in order to make sense of their everyday world. Similarly Chan's identification of the four facets of police knowledge is trying to analyse the way a profession or occupational group produces a collective set of values, ideas and practices in order to make sense of their daily routine, and, in their view, to make the job work. Chan's approach is more subtly nuanced than the others insofar as she breaks the knowledge into different elements, for example highlighting the 'recipe knowledge' that a group may acquire during informal training which is gained by different ways of interpreting some of the problems revealed in day-to-day routine police work. However, she does not emphasise the way this knowledge is produced, nor does she identify whether it is counter to the official aims of the organisation.

In marked contrast to Chan's findings, the concept of the 'canteen culture' (Holdaway 1984, Reiner, 2000) appears to be closer to a delinquent sub-culture, insofar as it credits police officers with the ability to create their own world view, indeed they are not merely making passive acceptance of their position within the confines of this particular model. However, in marked similarity to participants in delinquent gangs, the sub-culture is both *creative* in

adapting to new problems and *coercive* insofar as it socialises the new recruit into accepting its values rather than accepting the official principles and rhetoric of the police organisation.

These are some of the key elements that will be utilised to assist in the analysis of the data and in Chapter 4 the methodology adopted to carry out the analysis will be explained.

Chapter 4: Methodology

Introduction

In Chapter 2 some of the key theoretical factors involved in police practice were identified including accountability, discretion (autonomy), control and consent. In Chapter three, as well as an examination of the main literature on policing by consent, police culture was also examined as was Mills's theory, albeit briefly, on situated actions and vocabularies of motive.

The purpose of chapter 4 is to establish a sound method of obtaining the ideas that police officers, both past and present, across the continuum of rank and service, have about their role without recourse to conventional professional rhetoric that they often adopt as a default position when trying to explain how things have gone, in some cases, spectacularly wrong.

Within my knowledge no other researcher has conducted such a cross rank survey of ideas and attitudes. Whilst, as demonstrated in the previous chapter, the Literature Review, there is a considerable body of work on policing by consent, it has, in many important respects, been neglected. Indeed no one has actually asked officers whether in fact it works in practice. However, it must be stressed, that whilst searching questions were asked, particularly on consent, they were not designed to trip up the respondents or to get them to make any damning admissions; rather they were designed to encourage them to reflect upon their experiences, without recourse to official rhetoric thereby representing their personal as well as professional views.

In the previous chapter Chan (1997) highlighted her views on the main factors identified within police culture and how those factors impinged upon

and in some cases interfered with the impartial and fair dispensation of justice. Briefly those factors can be summarised as follows:-

Axiomatic knowledge deals with one of the fundamental assumptions regarding why things are done the way they are in an organisation. 'Traditionally, police officers view their daily routines and work '….in terms of waging a 'war against crime', maintaining order and protecting peoples life and property.' (Chan, 1997: p.76). Surely this is both classic and tacit axiomatic knowledge which, although not actually stated, is nevertheless revealed by the view expressed.

Dictionary knowledge encompasses many of the situations that arise during an officer's working day. They are called upon to rapidly assess those situations and then to take action to resolve them if possible. In this respect research has shown that officers develop an awareness of what they see during their patrol time and that this awareness is translated contextually into notions of normality and abnormality.

Directory knowledge, according to Chan, informs officers how operational work is routinely carried out and, in many respects, follows on from the categories which were revealed in the area of dictionary knowledge. This can, and often does, lead to officers targeting those whom they regard as less than respectable, including groups of young people who habitually 'hang about' in shopping centres, fairgrounds and amusement arcades.

Finally there is Recipe knowledge linked to police values and it deals with '….the normative dimension of cultural knowledge'. (Chan, 1997: p.79). It covers the action i.e. what should or should not be done in certain situations as well as providing coping strategies for the officer(s) concerned. These

concepts of the hidden cultures of the police will be methodologically examined in order to evaluate the impact, if any, they have had upon the decisions that have been made, as well as a means of revealing any particular themes that emerge.

The 'coping strategies' also include the concept of solidarity among police officers whereby they view themselves as working in isolation, but at the same time, being able to rely on colleagues to 'cover their backs' in difficult and often dangerous situations. This 'back covering , whereby officers, in an expression of that solidarity,   either by positive action or inaction (saying nothing) will support a colleagues position, whether right or wrong, was also highlighted by Holdaway in 1984 and also referred to by Reiner in 2002 where he also identified a number of aspects of 'cop culture'.

Having highlighted the problems associated with police culture it is appropriate to state that the methodology to facilitate revelation of how those factors impinge upon their daily professional and in some cases personal lives, will be based upon the effects that Chan's four facets of police culture, Reiner's in-depth examination of the same subject, and supported by Holdaway's earlier findings. As an important adjunct the rhetoric versus reality argument found in Mills will be employed in order to facilitate the exploration of their ideas and to see beyond the effects of both rhetoric and culture.

Data Analysis

In order to enable selection of the most appropriate data analysis methodology a number of major theories on data collection and analysis have been researched and examined They include Life History, Oral History (Memory and Retrospection), Discourse Analysis (DA), Critical Discourse

Analysis (CDA) Conversational Analysis (CA), Grounded Theory (GT) and Situated Actions and Vocabularies of Motive. Having examined the majority of these approaches and having extracted the basic tenets and principles of the various research paradigms they were then applied to the interview data in order to establish their suitability. It became readily apparent that, in essence, most of the aforementioned methodologies involve a deep immersion within the data, which, particularly in the case of CA (see Glossary) involves the use of very sophisticated computer software.

Whilst there are a number of valid reasons for selecting a particular methodology both time and logistical constraints impacted upon the final decision to utilise a methodology which could best be described as textual analysis and which is best described as an amalgamation of the major features of each theory. It is based on the semi-structured interview, relies, to a considerable extent, on Mills's Situated Actions and Vocabularies of Motive as well as Chans four factor model of police culture as previously demonstrated in the Literature Review.

Vocabularies of Motive

It is a salient feature of the majority of qualitative research, particularly where a subject's recall of past incidents is tested, that there is an ever present dichotomy between rhetoric and reality; between the view as it was and as it is now. This raised further concerns regarding the approach insofar as what was being said may not be either the truth of the matter, or an approximation which might be as near to the truth as was likely to emerge. Both the questions and the responses were analysed to identify whether the subject(s) revealed either their true feelings or their motives; did they in fact

produce, in most cases, what they thought the questioner or 'other party' to the conversation 'wanted' to hear or what was specific to the current situation.

On a number of occasions it was noted that their rhetoric appeared to be at variance with their (the interviewee's) true feelings. On these occasions the extensive knowledge as a 'distanced insider' knowledge' based on the long history of service with the police enabled its identification as such. This has been classified as conventional professional rhetoric insofar as the officers are saying that they carry out these processes in order to deliver a service (similar to other public utilities) to the public. In effect it was simply employed by them as a tool to provide a response to the question without really answering it.

Further concerns with regard to the research were also inherent within these cases with the added difficulty that the responses would be revealed to be merely formulaic, especially when they were compared to their actual experiences and their reactions to them. It was also possible that their responses were simply anticipatory and that they were either producing a response by saying what they felt the interviewer wanted to hear or were responding, particularly in respect of an organisation like the police, with the official response vis 'a police spokesman' commented.

In respect of the methodologies employed by social actors in response to being questioned about past actions Mills hypothesised that;

> '…. we must approach linguistic behaviour ….by observing its social function of co-ordinating diverse actions….language is taken by other persons **as an indicator of future actions**' (added emphasis)….Rather than fixed elements 'in' an individual, motives are the terms with which interpretation of conduct by *social actors* proceeds….

> The differing reasons men give for their actions are not themselves without reason. (Mills 1941: p. 904).

In other words, according to Mills, the answers are the product of both the situation and the relationship. In effect, none of the reasons or explanations of past conduct given are truer than any others and it is therefore not possible to divine the truth of given explanations with any certainty. This will always be an ever present difficulty where qualitative interviewing is involved and which highlights the concerns about correctly locating and interpreting the responses given during interview. If they are purely the anticipatory responses, as demonstrated in the previous paragraph then if Mills' theory is correct, within the context of this work, there is no truth. Indeed, based on this interpretation the research interviews simply become situated actions, and, within each of those actions there will be vocabularies of motive produced purely in response to the interview situation.

Mills Re-Visited

Mills's work was neglected for a number of years then in 1972 Taylor studied the significance attached to motivational accounts by social scientists with more than a passing nod to Mills; however Taylor's work was concerned with sexual deviancy, which, he suggested, in effect, deprives the 'actor' or deviant to describe his behaviour in anything other than a '….deterministic vocabulary of motives' which was, in turn determined by and derived from their interrogators, medical inspectors and lawyers'. (Taylor 1972: p. 23) It is, of course, entirely possible that this category of offender either did not, because of their condition, or were not allowed to, possess their own narratives of motive. This of course is in direct contrast to my interview cohorts who were free of any such strictures.

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In 1983 Bruce and Wallis concluded that inferring motives in an attempt to explain social action is a precarious enterprise and that it should be avoided. Whether it is a precarious enterprise or not it is still worthy of both exploration and explanation as it goes to the very core of my methodological approach.

Further to this, in 1991 Campbell suggested that it might be worthwhile re-appraising Mills on motive and carrying out the research that Mills originally recommended but, with the caveat of recognising that '....vocabularies of motive encompasses concepts that relate to both roles and persons' (Campbell 1991: p.89). By this he meant that there needed to be a recognition that the role and the person were inextricably and could not therefore be separated out in order to assign vocabularies of motive.

However, in 1996, Campbell re-visited Mills arguing that sociologists tended to be overly pre-occupied with the relationship between the actors' explanation for behaviour and that offered by the sociologists. He questioned whether in fact there were any causal links between motives and conduct and he also argued that many objections could be raised against the Millsian arguments for his 'vocabularies of motive'

This situation presents an ideal opportunity to test Mills's theoretical framework as well as providing evidence which will either support or reject his original hypothesis. As Campbell further identified '....there should be an effort to plot such vocabularies by institutions, societies and historical periods as a necessary preliminary to a more sophisticated understanding of the variety of

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substantive motive forms that have in fact guided action' (Campbell 1991: p.96). Certainly the police institution is rich in its own vocabulary, which has, on many occasions caused the generation of those very formulaic responses.

Serendipitously, what better way is there of testing the theory than by identifying the motives that have prompted the interview subjects, firstly in responding to the interview request, and secondly in the nature of their replies given that those questions were being posed by a distanced inside researcher? Indeed it is felt that these situated actions have provided a rigorous justification of the research position adopted, that of a 'distanced insider researcher', in whose presence the subjects undoubtedly felt relaxed and at ease.

This part of the analysis, based on Mills's original hypothesis, postulates that, in any given situation, the 'actor' or in this context, the interview subjects, will react accordingly to both the situation and the questioner and produce talk. This 'talk' has already been classified as conventional professional rhetoric and, in order to allow the reader to see beyond this rhetoric, they have been asked for detailed accounts of their professional experiences particularly on the (many) occasions when they felt they had lost the consent of the public for what they were doing. Some of the situations quoted, for example during the miners' strike in May 1984 where, at Orgreave depot in the midlands, '….1700 officers….confronted 1500 pickets ….such tactics increase the risk of violent confrontation….baton charges were made on horseback by helmeted riot squads.' (Uglow,1988: p. 82) the overall conclusion was that 'public consent' during that particular

dispute, particularly in respect of the outwardly aggressive form of policing, had been well and truly lost.

It would appear that 'putting them on the spot' also facilitated the assessment of what was being said and which then enabled a value judgement of their responses using these criteria. This, in turn, coupled with the inside knowledge, enabled ascertation, at least to a degree, of the veracity and validity of their replies. On further examination it also, in many ways, provided an antidote to the rhetoric because they were being asked to recall something which in most cases, may have caused them some personal embarrassment. Once again by employing personal knowledge of those self-same scenarios enabled arrival at a position where something close to the truth was emerging.

Qualitative Data
Justification for the Collection of Qualitative Data.

Both the method of collection and the nature of the data collected through a series of semi-structured interviews from a number of highly specific and targeted groups of both serving and retired police officers will be justified. The choice of collecting qualitative rather than quantitative data will be justified by the fact that the interviews would, and indeed did, facilitate the expression of some honestly held and often forthright views on the nature of police autonomy, police accountability and particularly 'policing by consent'. This self-revelatory process could then, in turn, reveal some hitherto undisclosed facts about both the successes and failures within the careers of the interview subjects. The choice of data collection methodology is vindicated

and amply demonstrated in chapters 5, 6 and 7, the data analysis chapters, which follow.

In 2004 Kincheloe and Berry argued that '….quantitative data collection is superior to philosophical enquiry….' (Kincheloe and Berry 2004: pp.14-15). On the other hand it is argued that statistical proof is needed in order to support a theoretical stance and that this is the most rigorous method of enquiry. However, in direct opposition to the quantitative approach, the use of qualitative data, by its very nature, brings the work 'to life' by allowing the reader to 'hear' the voices of the various social actors who, in this case, are the police. It (qualitative research) also provides opportunities to explore how people make sense of their lives particularly with regard to meanings, understanding and perceptions. Therefore, in this context, in many ways, helps the police to make sense of their work, particularly in relation to the key concepts of autonomy, accountability and consent.

Additional support for the collection and analysis of qualitative data was identified by Kvale and Brinkman in 2009. They opined that the qualitative interview is designed to "....understand the world from the subjects' point of view, to unfold the meaning of their experiences, to uncover their lived world...." (Kvale and Brinkman, 2009: p.1) and the interview questions employed were designed to do just that '….to uncover their lived world.'

As previously iterated there are other attendant problems associated with the collection of qualitative data in that people's recollections of the past are often based on what their current world view is and not a true recall of what happened in the past. In 1999 Rubin recognised this problematic area when he stated that '….replies are neither accurate or inaccurate, but that

they are not encoded, stored and retrieved as wholes but rather are created at retrieval….the construction is guided by the persons goals at retrieval….' (Rubin, 1999: p.4). This supports the theory that the experiences spoken of in interview are viewed 'through the eyes' of today rather than being true and factual recall of the incident, which, in turn demands that further and differing proofs are identified in order to provide some validation of the accuracy of what is being said.

Having explored the use of both biographical and autobiographical data in a previous work (Robertson, 2003, unpublished) it was recognised that the validity and veracity of any data collected '….relies heavily on a process known as triangulation ….which helps to eliminate bias ….and detect errors and anomalies in your discoveries….' (Anderson 1998: p.131). This particular view was supported by Cohen, Manion and Morrison who echoed Anderson's concerns when they stated '….reliability in life history hinges upon the identification of sources of bias and the application of techniques to reduce them.' (Cohen, Mannion and Morrison, 2001: p.167).

It is therefore imperative that further means to validate qualitative data, especially data based on subjective memory recall, is identified because, as Grumet recognised, '….a failure to engage in some analysis of the autobiographical texts beyond celebration and recapitulation leads to patronizing sentimentality…. resonant but marginal because it is not part of the discourse that justifies real action'. (Grumet, 1990: p.3). This view was later supported by Rubin who proposed that memory recall was based on what the subject feels at interview, not what actually occurred.

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In 2000 Lucius-Hoene and Depperman also identified a possible means of validation when they stated that '….the interview as an interactive process calls for a communicative and constructionist approach to oral narratives which reveal different levels of the listener's conceptions of himself or herself and the research situation in that narrator's story.' (Lucius-Hoene & Depperman, 2000: p.1). In other words they suggest that the interviewee should place or 'construct' his or her interpretation of what is being said at the fore-front of what they are saying.

The Interview

What is an interview? What is its purpose?

'If you want to know how people understand their world and their lives, why not talk to them?....In an interview conversation the researcher asks about, and listens to, what people themselves tell about their lived world' (Kvale and Brinkmann, 2009: p. xvii). That simple, but not simplistic explanation provides a sound basis and a starting point to initiate and negotiate entry into the world of qualitative research interviewing. Once that starting point has been reached then further research is required in order to identify the various types of qualitative interview of which there are many. Indeed the type of interview chosen will often be dependent upon the sources of research that are chosen.

In one particular source, that of Cohen, Manion and Morrison in 2001 they, in turn, list a comprehensive list of sources that have identified various interview types from a number of authors as follows;

> LeCompte and Preissle (1993) give six types: (a) standardised interviews; (b) in-depth interviews; (c) ethnographic interviews; (d) elite interviews; (e) life history interviews; (f) focus groups. Bogdan and Bilken (1992) added to this; (g) semi-structured interviews; (h) group

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interviews. Lincoln and Guba (1985) add (i) structured interviews; and Oppenheim (1992: p65) adds to this (j) exploratory interviews. Patton (1980; p206) outlines four types: (k) informal conversational interviews (l) interview guide approaches; (m) standardized open-ended interviews; (n) closed qualitative interviews. (Cohen, Manion and Morrison, 2001: p.207).

A similar research problem was encountered earlier in this chapter where a diverse plethora of data analysis methodologies were identified and briefly outlined. In this instance, as in the former, the same techniques were applied to each of the methodologies in order to arrive at a method that would gather the information in a relatively structured way, bearing in mind both the time and logistical constraints that were faced. However, it is necessary to make some further exploration into the overall concept of the interview in order to assist in identifying the most suitable for this work.

In this respect, Kitwood, in 1997, contrasted three conceptions of the interview;

> '….firstly as a potential means of pure information transfer and collection; secondly as a transaction which inevitably has bias, which has to be recognised and controlled…. The interview is best understood in terms of a theory of motivation which recognises a range of non-rational factors governing human behaviour.'….;an encounter necessarily sharing many of the features of everyday life. What is required….is not a technique for dealing with bias but a theory of everyday life that takes account of the relevant features of interviews. (Kitwood, 1977: p.40)

It is interesting to note what appears to be an echo of Mills's work on 'vocabularies of motive' when Kitwood talks about '….a theory of motivation which recognises a range of non-rational factors governing human behaviour'.

The Semi-Structured Interview

Within this work it was decided to employ a format of questioning known as the semi-structured interview. (Cohen, Manion and Morrison, 2001; p.271). This particular methodology involves giving prior written notice to the interview subjects about the main topics that the interview will cover; it does not pose the specific questions that will be asked which, in turn, helps to eliminate a response which would be in all likelihood the 'conventional professional rhetoric' which has already been identified. Specifically in this work, prior notification was given that a number of questions would be posed on the topic of policing by consent. It was not indicated that the questions would include asking for their perceptions and views about consent or the PACE requirement to consult the public about policing in their area or the specific occasions when they felt consent had been lost. This was left until the interviews commenced when the individual questions within the topic of consent were introduced in turn. This, in turn, facilitated a more in-depth discussion, whereby all of the variables and nuances of the subject could be teased out and, where necessary, explored in greater depth with spontaneous questions allowing the pursuit of anything within the boundaries of the subject matter which were thought was worthy of further exploration.

The strengths of this particular method enable the collection of more comprehensive data in a systematic manner and it also allows the researcher to immediately identify gaps in the data and to subsequently fill them. Additionally the interview remains on a conversational level. It must also be recognised that there are weaknesses in the methodology. As Cohen, Mannion and Morrison stated: 'Important and salient topics may be

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inadvertently missed or omitted. Interviewer flexibility in sequencing and wording of questions can result in substantially different responses, thus reducing the comparability of responses'. (Cohen, Manion and Morrison, 2001: p.271).

It was still felt however that, provided care was taken to ensure all the salient topics were included and that the order of questioning was rigorously maintained, utilising the same wording, that the data provided would facilitate a readily comparable series of responses.

In order to ensure that the semi-structured interview would be the best methodology for this work further justification in support of its selection was provided by the following facts. The gaining of unfettered access to all four cohorts was in no small part a recognisance of the position of both my current and previous positions within the organisation, which, in turn, also facilitated identification as the 'distanced insider researcher, a position which was briefly demonstrated in the Introduction chapter and which will be explained more fully later in this chapter. The working schedules of all four cohorts necessitated carrying out interviews at a variety of times within the working day and indeed they were sometimes interrupted, especially with the more junior (in both rank and service) officers due to the pressures of 'removing' a working resource from the station manpower.

The senior and particularly the ACPO officers, Chief, Deputy and Assistant Chief Constables, were different in other aspects of accessibility where, following initial contact, it became necessary to stipulate that the interview would take a maximum of two hours per interview. Whilst it can

readily be appreciated that any time limitation precludes a free-form interview it is my contention that the semi-structured interview facilitated more focussed and productive interviews. The fact that several chief officer interviews exceeded this time limit is testament to the fact that they obviously felt strongly enough about the issues raised and were quite happy to extend   the interview time to allow the introduction of some supplementary questions which had never even been outlined in the pre-interview schedule.

Finally,   support for the semi-structured interview was supported by Denscombe in 1998 who stated that '….the interviewer still has a clear list of issues to be addressed….and is prepared to be flexible….to let the interviewee develop ideas and speak more widely on the issues raised…. The answers are open ended.' (Denscombe, 1998: p.113). This was the final vindication of choice.

Outline of Methods/ Forms of Analysis.

The cohorts were drawn from across the police continuum in order to gather the differing views of autonomy, accountability and policing by consent through the range of participants in an effort to establish if a 'doctrine of consent' did in fact exist, and, it did exist how it is arrived at and applied.

Within QSR NVIVO, attributes were created for each interviewee defined by the following: rank, department (or force), gender, education, ethnicity, years of service within their current or final (in the case of retired officers) police force and total years of service within the police organisation. These cases generated individual, organisational and cross-border insights into learning, training and development. Additionally the combined use of cases with extensive coding uncovered the central themes occurring across

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the interviews and this established the relationships between the particular sets of attributes. This also helped to establish that gender, previous education and ethnicity were important influential factors in an individual's experience of learning and training and development in the police organisation.

Cross organisational analysis

The cross-organisational analysis was derived from each single case analysis and focused on senior management support, resource allocation, organisational expertise and staff appraisal. Also included were individual and team development, strategic integration, breadth, depth and relevancy and overall job satisfaction. Many of these themes emerged from the data through the medium of the initial coding that was performed whilst other themes emerged from the discussions with the interview subjects themselves. This also facilitated an in-depth understanding of capability gaps across current roles and functions.

The 'Insider' Researcher

There are a number of studies that have examined the ethical position of those who are carrying out research within the organisation where they are working and other studies have been carried out concerning the inherent bias that may be present in the data that are collected.

In 1998 Morse commented:

> 'It is not wise for an investigator to conduct a qualitative study in a setting where he or she is already employed and has a work role. The dual roles of investigator and employee are incompatible, and they may place the researcher in an untenable position' (Morse, 1998: p.61).

It is worth noting however that this caveat was contextually specific to funded qualitative research.

In 1993 Hockey suggested that being an insider 'may potentially influence the whole research process….site selection, method of sampling, documentary analysis, observation techniques and the way meaning is constructed from the field data' (Hockey 1993: p.200). Similarly, in 1998, Griffith claimed that an insider produces 'a different knowledge from an outsider' (Griffith 1998: p.362). Unfortunately Griffith did not expand, explore or evidence this statement any further. In 2007 Mercer remained '….unsure about the extent to which differing degrees of insiderness (or outsiderness) affect research processes and findings' (Mercer, 2007: p.14). In 2009 Kvale and Brinkmann also drew attention to the dangers inherent in the '....close interpersonal interactions with their participants....' whereby '....they do not maintain a professional distance....and interpret everything from their participants perspective.' This they described, in an anthropological sense as '....going native.' (Kvale and Brinkmann, 2009: p.75).

The choice to research in this manner, as it were from the inside, was made with full acknowledgement of the inherent dangers of bias. Having been part of the police organisation for most of my working life there was cognisance of the rank-based structure and its attendant strictures. The 'insider' knowledge also enabled the interviews to take place in a mutually agreeable atmosphere where there was no need to establish job credibility; it was already inherent from my career history. However, steps were taken to ensure that they were well aware it was not just a cosy informal conversation

between colleagues; it was a piece of serious research which required open and honest responses. However, at the same time, it did not preclude the posing of the 'hard questions'. The positions which had been and were currently held within the organisation facilitated re-entry into the world of operational policing but without being drawn back into the position of being relatively junior in rank whilst serving.

As a counterweight to the concerns expressed by Morse, Hockey, Griffiths, Kvale and Brinkmann, and, to some extent Mercer, other insider research theorists have demonstrated that, provided the biases inherent in the situation are guarded against and objectivity is maintained, then the unique positioning of the insider can prove to be both insightful and valuable. Coghlan (2001) and Zuber-Skerrit & Perry (2002), drew attention to the increase in insider research by individuals who, whilst working full time for their organisation, were engaged in a part-time academic study, who, they reasoned, selected their research site on ready access, familiarity and as a more than adequate field setting for their research. However, the major caveat expressed by other researchers would suggest that it is too difficult to untangle the contradictions inherent in the situations whereby an empathetic researcher can possess sufficient objectivity to overcome the dangers of inherent bias.

In further support of the positioning as a 'distanced insider researcher' I turned to Ninian Smart, a leader in the field of secular religious studies, who, in 1983, introduced a new method of examining any subject, which was not necessarily exclusive to religious studies, which he identified as Worldview Analysis. It involved a further concept which he termed structured empathy

and he opined that '....structured empathy is a necessity in the understanding of Worldviews in order to understand views other than our own'. This, in turn, provides an openness of mind, which Smart said allowed the retention of '....one's own perspective but, at the same time, recognising the perspectives of others' (Smart, 1983).

In essence Smart's concept adds further weight to the 'distanced insider' position; the structured empathy he identified is the principal of both interpretive and directed enquiry. In simple terms this, in essence, means that whilst able to empathise with the subjects the ability to pose the difficult questions remains intact.

In 2007 Brannick and Coghlan further examined the implications for insider researchers. They concluded that, provided researchers were able to address the duality of roles involved, with cognisance of their practical experience of the organisation allied to their theoretical knowledge; 'there is no inherent reason why being 'native' is an issue and that the value of insider research is worth reaffirming' (Brannick and Coghlan 2007: p.59). They also highlighted the unique position of the 'insider' researcher and the dynamics of that positioning which were grouped under the headings of '....access, preunderstanding, role duality and managing internal politics.' (Brannick and Coghlan, 2007: p.59). This positioning was also highlighted by Kanuha (2000) when she recognised the '....complex and inherent challenge of being both and 'insider' with intimate knowledge of one's study population and an outsider researcher....' (Kanuha, 2000: p.1)

Evidence to support qualitative 'insider' research, particularly within the police service, can be found in the works of Holdaway (1984) and Young

(1991 and 1993). Their research, far from placing them in an untenable position, enabled them to arrive at a distanced and critically balanced view of the organisation, more particularly, the actions of its employees. That said however, there are a number of caveats attendant upon the views of the supporters of 'insider' research. Not the least of these is the continuous effort that must be made to ensure complete objectivity on the part of the researcher as well as imposed strictures to guard against the biases inherent in the circumstances.

The 'Distanced Insider'

It is well recognised that because of the unique position as an insider researcher unrestricted access was gained to a wide variety of officers, ranging in rank from Chief Constable to Police Constable, from a number of different forces, spread over a large geographical area. It is, however, incumbent upon me at this stage to fix the locus within the research. Whilst not being, in the truest sense, an 'insider researcher' because the research topic is not part of the daily work schedule, unlike teachers, as Mercer expressed, who are researching their own practices, it is a logical step to be described as a 'distanced insider'.

This simply means that whilst I am no longer a practitioner, the insider knowledge of the organisation and its inner workings, together with my prior working relationships with some of the respondents, placed me in an extremely valuable locus to carry out the research. Indeed it was because of these facts that the data collection was facilitated and ensured the inclusion of both authority and authenticity within the interview proceedings.

The analysis of this data in later chapters reveals just how rich, multi-layered and complex it is. Indeed in many respects it is as revelatory, personal, and in many respects unhindered by any need, especially in the case of Chief Officers, to use an interview situation as a means of airing the official, that is the Home Office, view in a relatively public forum. It must also be said however that, generationally, certainly in the case of the interviews with the younger, newly appointed[8] student officers, even the possession of insider knowledge does not always allow the sharing of experiences because of the changes in both legislation and society experienced by me but not necessarily by this particular group.

However there was no concern with regard to the views of the organisation, the interest was directly concerned in the interview subjects' individual responses to a series of questions and was seeking personal as opposed to '*official*' views. This is most apparent in the responses made by the student officer population whose replies demonstrate an almost refreshing naivety in certain areas and without the all-pervading cynicism, or indeed the unknowing and unthinking acquiescence to the *mores* of police culture, that tends to colour the views of officers who have a considerable amount of service. On the other hand, the views of Chief Officers tended to be in line with official thinking. That said, however, they themselves did not appear to be constrained or bound by any official view and frequently ventured outside the safe haven of the 'police spokesperson' official position voicing something already identified earlier as conventional professional rhetoric.

Sources

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[8] Officers whose appointment has been confirmed following their two year probation period

A proportion of the interview questions employed in my work are based on those asked by Robert Reiner in pursuit of the research he conducted on Chief Constables in England and Wales between 1987 and 1989 and published in 1991. (Reiner,1991: p.p. 356 - 361). Whilst there are broad based similarities in the questions I employed, I have, where necessary expanded the range of some of the questions in order to accommodate changes in policing that have occurred since its publication. More importantly however, and the factor which adds the unique aspect to my work, is that the questions asked, particularly in the three areas highlighted , are concerned with gaining a personal point of view, which, in turn, will provide insight into how their views impinge upon their actions as police officers.

Societal Influences

As previously highlighted this study is limited insofar as it is a 'snapshot' of the interview subjects' views at a time when, amongst the major socio-political concerns, Charles Clarke, the then Home Secretary a proposed major re-structuring of the police. This was covered in chapter 2, but, in essence, it involved the creation of twelve regional police forces and, during interview, a number of the chief officer's cohort expressed favourable views of his proposal but, in all fairness, there were also those who were vehemently opposed. Another major policing milestone was the creation of the SOCA which replaced the Regional Crime Squads. It was not staffed exclusively by police officers but drew the majority of its personnel from the police service, the Immigration Department and HM Revenue and Customs. Its remit was to combat cross-border and international crime. In 2011 SOCA

was disbanded and the NCA was created. It deals with border control, economic crime, organised crime, cyber crime and is also dedicated to preventing the sexual exploitation of children.

Core concerns

Some of these concerns occurred whilst the fieldwork was in progress and doubtless influenced some of the answers; however, in turn, these same influences helped to identify the core themes of the research which was concerned with autonomy, accountability and perhaps, most importantly, a practitioners view of policing by consent.

The Four Cohorts

The core of this study rests heavily on the collection of qualitative biographical data from each of four cohorts. They consist of both serving and retired police officers drawn from a number of police forces in a geographical area extending from the Scottish Border to the south east of England. Each of the cohorts consists of a carefully selected and highly structured sample of officers who fall within the parameters set. They were selected as being representative of the continuum of rank, service and experience within the police service based on the principles of non-probability sampling.

Non-probability sampling does not involve random selection but it does not however indicate that they are not representative of the overall survey population. However, because of the inside nature of the research, coupled with the need to represent the police across the continuum expressed, it was

neither feasible nor supportive to use random or probability sampling. (www.socialresearchmethods.net/kb/sampnon.php).

The four cohorts, based on the principles expressed above, comprise as follows:-

Cohort 1 - 10 Chief Constables.

The selection of the Chief Constable cohort was initiated by an approach to a serving Chief Constable who was a student at Dishforth (No. 2 District Police Training Centre)[9] in North Yorkshire in the early 1980s where I had been employed as a trainer. As a consequence of my initial approach the Chief Constable then contacted a number of ACPO colleagues who expressed both an interest in and a willingness to participate in the research.

Cohort 2 - 10 Senior/Middle Management Officers.

This cohort ranges across the rank structure and include 2 Deputy Chief Constables (DCC), 3 Chief Superintendents, 1 Superintendent, 1 Chief Inspector, 2 Inspectors and 1 Sergeant. The selection of the two DCCs in the Senior/Middle Management group resulted from the situation whereby two of the Chief Constables indicated that, should their deputies be available on the day chosen for interview, they would ensure that the invitation was extended to them if it was felt desirable to include them; an effect which can be described as 'snowballing.' This involves the identification of those that you wish to include in the study, and rather than asking them to recommend

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[9]   This Centre was part of the NPT (National Police Training) organisation that was responsible for all police recruit training, to a national (one size fits all) programme, at this time. This was replaced, in 2001 by CENTREX which, in turn was replaced by the National Policing Improvement Agency (NPIA) in 2007 who introduced the Initial Police Learning and Development Programme (IPLDP) a 'generic' programme of core training which was suitable for adaptation by individual forces to suit local conditions and practices.

others who meet the criteria they themselves recommended other chief officer colleagues who also met the selection criteria. This enabled the numbers in this particular cohort to be brought up to its strength without any further requests for interview being made. The remaining officers in this particular cohort were selected from officers with whom I had both worked with and served under and also included senior colleagues who had been on both regional and national working groups and joint interest forums within the service that I had also been involved in.

Cohort 3 – 10 Retired Officers.

These officers represent my peer group. The cohort includes 1 Chief Superintendent, 3 Superintendents, 1 Chief Inspector, 2 Inspectors, 2 Sergeants and 1 Constable. They were selected from three forces that I served with, namely South Shields Borough, Durham Constabulary and Northumbria Police, as well as those I worked with at No. 2 District Police Training Centre in the mid 1980s and those with whom I worked in both regional and national police computing forums. In this respect it contains an eclectic blend of rank and experience across the continuum of policing since the mid 1960s.

Cohort 4 - 10 Student Officers.

These ten officers were, prior to the Initial Police Learning and Development Programme IPLDP, colloquially known as probationers, but are now known as student officers until the completion of their two year probation period.   Some members of this cohort are officers who, in my capacity as both a National Police Trainer and later as an IPLDP trainer I delivered initial

training to. The remainder, including the High Potential Development Scheme (HPDS - see glossary) officers were chosen through contact with the individual force training managers with whom prior professional and personal contact had already been established.

To enable the reader to identify the rank, gender, length of service and service in the rank the nomenclature, which can be found in appendix 'D', was employed This will not only assist in giving an insight into the age and experience of the subjects but will also enable the reader to evaluate the statements which are undoubtedly indicators of the social, political and professional morés of the time which influenced their thinking and decision making. The tables (Figs. 5.1, 5.2, 5.3 and 5.4) shown on the following pages illustrate briefly the personal and professional characteristics of each of the cohorts. A series of targeted interviews were carried out with the four cohorts, who are all at different levels of the police service and encompass the differences in rank, gender, ethnicity, length of service and specialist experience. This, in turn, provides a snapshot in time of the ideas and experiences of the different 'generations' of officers in the context of rapid change in the organization and direction of the police service as a whole.

As can be seen from the make up of the four cohorts I had indeed worked with a number of the officers, particularly within the peer group cohort, throughout my service as a 'sworn officer (30 years) which commenced in 1964. Whilst, on many occasions this facilitated a more easy-going interview care was taken to ensure that it did not turn into a cosy chat between friends and that constant vigilance was employed in order to maintain objectivity. The

interviews with the subjects, not previously known, were also treated with the same constant vigilance together with an awareness of any bias that may have arisen and which was successfully eliminated.

Figure 5.1 – Chief Constables

Rank	Gender	Age	Years Service	Years in Rank	Education
Chief Constable 1	Male	51	24	2	BA (Hons.) 3
Chief Constable 2	Male	54	31	3	M.Phil.
Chief Constable 3	Male	53	29	4	Masters Criminology
Chief Constable 4	Male	51	32	3	BA (Hons) 2.2
Chief Constable 5	Male	52	31	1	BA (Hons) 2.1
Chief Constable 6	Male	52	33	8	M.Phil. (Psychology)
Chief Constable 7	Male	54	31	3	BA (Hons) 2.1
Chief Constable 8	Male	52	29	4	BSc 2.2
Chief Constable 9	Male	56	36	5	BA (Hons) 1st
Chief Constable 11	Male	48	27	1	BSc. Economics

Figure 5.2 – Senior/Middle Management

Rank	Gender	Age	Years Service	Years in Rank	Education
1. Inspector	Female	48	27	10 years	BA (Hons) Combined
2. Sergeant	Male	49	29	6 years	Secondary Education – no formal qualifications
3. Dep. Chief	Male	47	21	1	BA Theology 2.1
4. Chief Inspector	Male	53	23	7	PhD Ecology
5. Chief Superintendent	Female	42	15	1	MSc (Police Leadership
6. Inspector	Male	42	23	5	LLB
7. Chief Superintendent	Male	44	25	1	MSc
8. Chief Superintendent	Male	50	31	3	BSc (Hons)
9. Dep. Chief	Male	57	30	4	BA (Hons)
10. Chief Superintendent	Male	40	20	1	BA (Hons)

Figure 5.3 – Peer Group

NB The (R) indicates the officer has retired

Rank	Gender	Age	Years Service	Years in Rank	Education
1. Inspector (R)	M	52	30	6	BSc
2. Constable (R)	M	58	30	30	MA (FE&T)
3. Chief Superintendent (R)	M	67	30	3	Nat Cert Engineering
4.Chief Inspector (R)	M	64	30	8	NVQ L5
5. Inspector (R)	M	57	32	10	'A' Level
6. Chief Superintendent (R)	M	68	30	5	'A' Level
7. Sergeant (R)	M	57	30	10	ONC Electrical Eng.
8. Superintendent (R)	M	63	30	6	'A' Level
9. Chief Superintendent (R)	M	56	30	3	Dip. Management
10. Sergeant (R)	M	65	30	12	City & Guilds 7407

Figure 5.4 – Student Officers

Rank	Gender	Age	Years Service	Years in Rank	Education
1. Police Constable	F	23	2	2	'A' Level
2. Police Constable	M	31	2	2	B Ed.
3. Police Constable	F	28	2	2	NVQ Level 4
4. Police Constable	M	34	2	2	BA
5. Police Constable	F	27	2	2	BA Hons Comb. LLB/German
6. Police Constable	F	22	2	2	'A' Level
7. Police Constable	F	23	2	2	LLB
8. Police Constable	M	28	2	2	MA
9. Police Constable	M	29	2	2	NVQ Level 4
10. Police Constable	M	27	2	2	HND

It is immediately apparent that there is serious under-representation of both women and ethnic minorities included in the ACPO officers represented here. Indeed it is of no little historical significance that the selection reflects the overall composition of Chief Officers in England and Wales at this time. It

is even more striking that there was an even smaller percentage of female and ethnic minority Chief Constables, who, despite serious effort by the researcher, were either unwilling or could not spare the time to be interviewed[10]. The response to the request gave rise to the impression that, to them, a form of 'tokenism' was being engaged in. This situation had already been encountered earlier in the research when a number of requests to interview both Black British and British Asian officers produced the rather unedifying response that there was targeted and deliberate selection taking place in order to ensure a representative sample of a number of 'token' black officers. This was obviously not the intention but despite a number of re-assurances no assent to interview them was gained.

The figures 5.1 to 5.4 also illustrate the educational qualifications across the cohorts which ranges from secondary, now comprehensive education, through to Doctorate level. With regard to the Chief Constables each one interviewed has a first degree and five (47%) also obtained a postgraduate (Masters) degree. This is in contrast to Reiner's 1991 findings which revealed that among all the Chief Constables in England and Wales (43 in total) only ten had a first degree.

The Interviews

In total forty interviews were conducted during the initial data collection exercise with the longest being three and a half hours. The decision to carry out supplementary interviews with four of the Chief Constables (see also Chapter 7) was taken in light of some of the disturbing occurrences involving the policing of public demonstrations as well as intense public disquiet and

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[10]   In 2008, during the time the interviews took place there were 29 female ACPO Officers, 2 of whom were Chief Constables, and 7 ethnic minority ACPO Officers, only one of whom was a Chief Constable

media criticism that the Metropolitan Police Service were apparently misusing their powers under the Prevention of Terrorism Act of 2000[11] to carry out stop and search exercises. It is critical to note that this particular power is not bound by the rules and strictures that apply to PACE conducted stop and search procedures.

It was reported that in 2010 a total of 45,932 stops and searches were made in Great Britain under Section 44 of the Terrorism Act 2000. And the MPS (see Glossary) together with the British Transport Police accounted for 94% of these searches with 19% being Asian or British Asian and 10% Black or Black British. Also in 2010 a total of 898 persons were stopped and searched by the MPS under Section 43 of the same act.

In the same year there were 249 arrests resulting from Section 44 stops and searches in Great Britain, an arrest rate of 0.5 %. Only two of these arrests were identified as terrorism related but details of convictions, if any, were not given. A further 30 arrests were made by the Metropolitan Police following stops and searches under Section 43 of the Terrorism Act 2000.

In 2011 information published by the Home Office showed that of the 101,248 stops and searches carried out under the auspices of Section 44 of the Terrorism Act, 2000 not one person was arrested for terrorism-related offences**.**

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[11]   Permission to carry out 'stop and search' under the auspices of this act require renewing on a 28 day basis. It is interesting to note that the MPS has 'renewed' this provision since the inception of the act and continues to do so to this day. It is also recognised that this particular course of action diminishes the need for accountability.

The additional interviews differ from the main body of interviews insofar as they are not semi-structured but free flowing. The Chief Constables selected were simply asked whether their views on consent, in light of the aforementioned occurrences as well as the information revealed in the Home Office data shown on the previous page, had changed. It is intended that the data not connected with the main themes (autonomy, accountability and consent), will be utilised to facilitate further post doctoral research that will compare and contrast the current views of the chief constables role with those expressed in Reiner's book on chief constables published in 1991. Additionally the data from the supplementary interviews will, as well as establishing any changes in their views, will also form the basis of a post-doctoral research project employing conversational analysis. An explanation of the generic question areas can be found in Appendix 'C'.

The questions to each of the four cohorts on autonomy, accountability and consent, were precisely the same. However some of the questions in other areas had to be different because of both the rank structure and, in the case of my peer group, to take cognisance of the fact that they were no longer serving all of which had a bearing on the data collection.

Their responses to these questions were analysed to identify and retrieve further perceptions of autonomy, accountability and consent. The data was further analysed in order to reveal content specific rhetoric if any was used, and to adduce evidence which would either support or negate Mills 'vocabularies of motive' hypothesis.

Each of the cohorts was also asked to recall their personal and professional experiences resulting from the introduction and implementation of specific pieces of legislation including the PACE Act 1984, the Human Rights Act (HRA) 1998 and the Regulation of Investigatory Powers (RIPA) Act 2000. The main purposes of these notable pieces of legislation were to provide strict governance of police practice during the arrest and interrogation of suspects (PACE) and the use of intrusive surveillance (RIPA). The PACE act was principally introduced in order to curb the less than esoteric practices that had evolved under the auspices of the Judges Rules, the largely unwritten but nevertheless binding set of conventions which were developed over the years by the judiciary in an effort to codify, standardise and contain police practices in this particularly contention area. It can be convincingly argued that the aforementioned legislation undoubtedly had a fundamental impact on the conduct of the police.

Data Collection and Analysis

The data collection took place between November 2007 and December 2008 during a series of semi-structured interviews (Denscombe 1998) which normally took place within the interviewee's working day. The vast majority of the data was collected within that time frame. From the outset, as previously highlighted, a number of carefully selected, purposive and highly structured cohorts were drawn from across the police continuum. This was done in order to appreciate the differing views of consent through that range of survey subjects who, in essence, could be said to give an indication of how, organisationally, the 'doctrine of consent' is both arrived at and applied.

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Using QSR N-Vivo® individual cases were created for each interview subject defined by the following attributes: rank, force served in, gender, education, including schools attended and their highest educational achievement, ethnicity, years of service within their current or final (in the case of retired officers) rank and the total number of years of service within the police organisation. Free nodes were then created within N-Vivo® utilising both my question headings and an analysis of the transcripts to identify both explicit and implicit references to my core themes. They were as follows:-

Question Headings

Answerable to the law. This was the introductory question on consent designed to gain an insight into whether they felt answerable to the law and, as such, was an important springboard into the remaining questions on consent.

Consent – whose. To discover whom they felt gave them the consent, either express or implied, to carry out the policing role.

Consent A – implied. Dealing with perceptions of consent that were contained in other responses.

Consent B – not implied. Similar to the previous node but looking for occasions where a loss of consent was implied.

Consent of the majority. Do the majority of the people consent to being policed?

Consent – when it was lost. The counterbalance to the 'unstated' consent that is usually present in the day-to-day contact between police and public; indeed it facilitates those interactions. More importantly, by asking them to describe any occasions when they felt that consent was lost, would act as a counter argument against Mills's 'vocabularies of motive hypothesis. In other words they would not be producing a reply in today's words, nor producing talk that they might think the interviewer, wanted to hear.

Consent – PACE. To identify their thoughts on the requirement under section 106 of the PACE Act 1984 to hold public consultation meetings.

Consent – Surveillance. In view of the proliferation of CCTV monitoring and the introduction of the RIPA (see glossary) Act 2000 I wanted to garner their views on this piece of legislation which has been used, in some cases, by local authorities to monitor dog fouling.

Accountability – linked to rank. This question simply asked them to define what accountability, and to whom, was a feature of their particular rank.

Accountability – perceptions. This node was used to record areas in other answers which also contained elements of accountability without the actual use of the expression.

Choices in what you police. In other words the practice of discretion including situations where the officer concerned decided either to act

or to 'turn a blind eye' (Chans 'recipe knowledge') to minor infringements of the law. This question was particularly targeted at the more junior ranks who, according to most researchers, have the greatest opportunity to practice discretion. It is indeed a powerful tool in the hands of those same officers.

Discretion – lack or loss. This question was simply a counterbalance to the practice of discretion. It was designed to reveal situations where the opportunity to practice discretion was either lost or unavailable due to the strictures of a particular policing initiative.

The remainder of the questions that follow were not concerned with the major themes but were asked in line with Reiner's 1992 questions in order that post-doctoral work could be carried out to identify any differences in both policing and indeed police officer attitudes since they were first posed.

Bigger social issues. This node dealt with areas which go beyond the boundaries of day-to-day policing and sought to identify officer perceptions on policing but not just simply as a means of maintaining law and order. It was designed to encourage them to look beyond that simple but not simplistic view and to examine policing as a means of social control, particularly as an arm of the state, to be directed at the behest of government into areas that would tend to remove the independence and autonomy practised by chief constables. The miners strike in the 1980s is a clear example of the politicisation of the police.

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The buck stops here. Based simply on rank, what situations that they dealt with remained totally within in their own autonomous control.

Bureaucratic barriers. Simply a means of identifying the rules and procedures which often seem to conspire to make the role of policing harder.

Core versus community. Designed to garner first hand impression of the differences in policing namely between Core Policing (the 24 hour shifts that respond to calls for assistance) and Community policing which has morphed from neighbourhood policing and was a major Home Office initiative in 1994.

Love the job. A simple question designed to establish whether my own and many of my other colleagues views on whether serving in the police was a 'vocation' rather than just a job.

Transcription

All of the conversations and interviews were transcribed, and as Kvale & Brinkmann recommended in 2009, you must '....state explicitly in the report how the transcriptions were made.' (Kvale & Brinkmann; 2009: p.180). Some of the transcriptions were carried out by a number of police staff colleagues, all of whom are employed as tape transcription officers, within the criminal justice system. Their main work involves the verbatim transcription of police interviews with suspects as well as the statements of witnesses which form part of case file preparation work. The complete files are then employed as files of evidence for the prosecution of offences in both Magistrates and Crown Courts.

Each of the transcribers was supplied with a copy of the 'Olympus®' digital software, a foot-pedal and earphones. A sample transcription format was also supplied to facilitate an easy transition into the N-Vivo® software. Written instructions were also given to ensure that the format was adhered to and that they understood the necessity for verbatim transcription. Prior to the commencement of the transcription work a number of face-to-face meetings with them to ensure that they were absolutely clear on the requirements of the verbatim transcription; however, because of their role within the police service, it was felt that there was no necessity for the introduction of a written confidentiality agreement. Nevertheless the confidential nature of the work was made abundantly clear to all of them. Two of the original transcribing team 'dropped out' pleading pressures at both work and home and, following considerable personal difficulties experienced by the one remaining colleague transcriber, which incidentally held up the work for a considerable length of time, also 'dropped out, The outstanding transcription work was completed by a commercial company, UK Transcriptions, who have a standard confidentiality agreement.

Once the transcriptions were completed the analysis was commenced, utilising N-Vivo®, to deconstruct them into a series of discourses. In this context particular themes within the text were identified and given a title or heading and a fuller explanation of the discourses is given later in this chapter. They also included an appreciation of some wider social issues which impinge upon modern policing as well as relating to identities, for example a statement that reiterates a view or claim that men are superior drivers in comparison to women, highlight gender categories in discourse,

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especially when comparing the views of male and female interview subjects across the continuum of survey populations. It is interesting to note however that, within the data, there did not appear to be any differences in interpretation which could be identified as gender specific.

The transcriptions were further analysed to identify codes that were associated with how the respondents addressed the key concerns and also within the text to identify commonly shared discursive resources (shared patterns of talking). This, in turn, facilitated the answering of questions, demonstrating for example, how the discourse helps us understand the issue under study and how people construct their own version of an event. It also provides a direct link with the 'situated actions' and 'vocabularies of motive' contained in Mills's 1940 hypothesis. In addition it serves to highlight how people use discourse to either construct or maintain their own professional identity.

Additionally questions were asked on particularly stressful public interactions which, whilst provoking a response that might be viewed as conventional professional rhetoric, perhaps might reveal an altogether different, underlying theme or motivation that could well negate the rhetorical element and present a version of events that will, in many respects, be nearer to their own experiences rather than the rhetoric.

It is against this background that the interviews were conducted and in the following chapters 5, 6 and 7 the data will be presented as a series of extracts which represent the views of the interview cohorts on the key themes of the work. Throughout these chapters the data will be analysed in order to

identify Chans four factor model of police culture, and both Reiner's and Holdaways findings to demonstrate how the various facets of those cultures, either unknowingly or implicitly, have impinged upon the actions that have been, or indeed, have not been taken. In order to ensure that the reader keeps the models of culture to the forefront, Figure 6, on page 143 highlights the models drawn on together with their key features. The model also highlights the passive versus the active dichotomy that is present in its diverse elements and it serves to indicate the aim of the data interpretation; are officers' simply reproducing knowledge and habits they have been taught or that have been culturally absorbed or are they revealing some originality of thought and reflexivity based upon their own, very real experiences. The reader should keep these problems in mind, particularly when reading the data analysis.

The analysis will also seek to either support or disprove Mills's hypotheses as well as endeavouring to establish whether there is a common perception, or perhaps even a discourse, of policing by consent. Conversely it may be revealed that policing by consent is a societal shibboleth or socio-anthropological 'sound-bite' which has been developed and promoted in order to justify some of the less than esoteric practices, or indeed cultural morés that have always been present in policing, particularly in western democratic countries.

Key Concepts of Police Culture
Fig. 6

Author	Concept	Essential Characteristics	Sub Characteristics
Reiner	Cop Culture	Opposition to official policies and rhetoric	Sub-division of the main groups of people dealt with in policing
Chan	Police Culture	A cognitive model of culture utilising Bourdieu's 'field' and 'habitus' See Figs. 3 & 4 (Pages 91, 92)	4 'Knowledge Types' Axiomatic Dictionary Directory Recipe See pages
Holdaway	Occupational Culture	Folk Narratives Team discipline Roles and Rank Action (at incidents dealt with)	Humour (sending up recruits) Delight in 'fooling' supervisors

Chapter 5: Autonomy/Discretion
Interview Data and Analysis

> '....I've got a certain amount of operational independence and can pretty much tell my guys to police how I want them to….I do instil in them a philosophy of….discretion....maximum accountability, minimum force....(**policing with the community, not to them, or at them (added emphasis))**[12]. They recognise that.' (CC (1) M/51/24/2).

It is important to note at this stage that this work is not intended to examine how the police service as a whole is perceived to control, or exercise power, especially in the Foucauldian sense, over the public; nor indeed how the government, the judiciary and the legislature exercise control over the police as a body. The research, as already stated, is designed to reveal the autonomy that individual officers *feel* they have over the situations they deal with on a daily basis; are they always in control, are they able to dictate the outcome of each and every encounter, or are they in a sense, bound by the dictates of those Foucauldian discourses concerned with the exercise of power and, to an extent, domination? According to Layder '....it is a **person's ability** (added emphasis) to employ the particular discourse of the law that allows it to become....the medium through which a form of control is exerted and made possible in the first place' (Layder, 1994: p.97). Surely then the ability to employ a particular discourse of the law will inevitably facilitate the means to control.

Support for this view can be found in Bachrach and Baratz (2005) who posited that it is the exercise of control by individual police officers over the

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[12]   It is interesting to note that the chief's emphasis on not policing 'at them' is also revealed in Chapter seven when he expresses a genuine regret that he was indeed 'policing at' the youth in his particular force area.

people that they deal with when seeking their compliance, involving as it does '....coercion, influence, authority, force and manipulation' (Bachrach and Baratz in Lukes, 2005: p.p. 21-22)., which, they argue, assists in securing compliance. This immediately highlights yet another contradiction; this form of enforced compliance cannot, and never will be, consent. There have however been a number of attempts to 'legitimate' the source of power and authority, most notably by Weber who recognised that although the motivation to obey commands may well coincide with an individual's self interest, he argued that a further element of motivation was the belief in the legitimacy of the source of authority, one of his three pure types of authority which legitimate that self-same domination. Within this context it is contended that the majority of police officers in England and Wales do have a genuine belief in the legitimacy of the sources which ultimately drive their actions i.e. the government and the legislature. It also stands to reason that having conceded authority to the same sources the general public have, in effect delegated their legitimate rights of authorities to the police. Conversely, Giddens argued that subordinate groups are not always subjugated by the exercise of power and forces beyond their control and that his 'dialectic of control' could facilitate alteration of the balance of power by protest and action.

These important considerations provide both a philosophical locus and a means of allowing the interviewees to juridically contextualise the next range of questions. They are concerned with the way individual officers apply discretion, and more importantly, their views on how that same practice of discretion also, in turn, can facilitate a paradigm which will support the doctrine of 'policing by consent'. It cannot be denied that, in many respects,

the practice of discretion is both fundamental and essential to the acceptance of policing; indeed, in many respects, day-to-day policing could not function without its being practised; however, we need to ensure that the application of discretion is inextricably linked to an element of trust in the officers who are practising it.

A number of writers, including Reiner and Weinberger, have identified that, across the police service, the greatest exercise of discretion is practised by its most junior ranking officers (see also Chapter 2). However as officers progress in seniority, their ability to exercise discretion reduces incrementally through the rank structure. This feature emerges quite strikingly from the data gathered from all of the sample groups. It is of course incumbent upon me to examine the other side of this question and to ask them if they felt they were always in control of what they were doing, i.e. were able to practise discretion, or were there situations where they felt that control had been taken out of their hands. There are, of course, times when there is no facility to practise discretion, when, for example, officers are forming part of a PSU (see Glossary) in a public order[13] scenario; in these situations an immediate and correct response to orders given is required in order to prevent disorder escalating out of control.

Given that chief officers would appear to be in an optimum position to maintain control, or perhaps achieve a higher degree of autonomy over their subordinate ranks they are, in turn themselves subject to a measure of control which is in incumbent in the tri-partite agreement, that means of controlling the police service which arose out of the 1964 Royal Commission on Policing

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[13]   It is that strange use of the English language that police officers often indulge in whereby 'public order' actually means public disorder which can escalate to a riot situation if not controlled.

and which has been identified by many commentators as being, at best, a compromise. Notwithstanding this particular tri-partite agreement one Chief Constable indicated that he is 'accountable' to at least thirty three separate bodies corporate or institutions such as the Home Office (see Chapter 6, Accountability, page 180); can he therefore be said to be, in the strictest sense of the word, in control? Where does one power discourse end and another begin and who, rhetorically speaking, is ultimately in control? According to Layder, Foucault himself was '....unable to say whether any forms and centres (institutional or sub-cultural sites) of power and domination are more important than others. If they were, we could ask interesting questions about how and why they are related to each other'. (Layder, 1994: p.107). Importantly Foucault appears never to have analysed power and domination except to state that '....it is ubiquitous and circulates at all levels of society' (Layder, 1994: p. 107). In effect Foucault's failure to define power appears to be a device employed by him to stop him from sitting on the one hand with the existentialists or on the other with the structuralists, with whom at one time he was associated. Layder summed up Foucault's notion of power by stating that '....it makes us more analytically sensitive to the variegated nature of power and its effects'....but conversely 'Foucault is little concerned with the exercise of power'. (Layder, 1994: p. 109). However in order to gain a standpoint which may facilitate an empirical view of the discourse theory in relation to power and the exercise of it I have turned to Jones (2003) who stated that as a Foucauldian '....if you want to understand human behaviour in a particular place and time, find out the discourses that that dominate there' and that in order to trace the root of a particular way of knowing or discourse

you need to deconstruct and examine '....the foundations on which its rise to power rested'. (Jones, 2003: pp. 125 – 126).

Within the interview data that follows the model, Fig 6 on page 143 will be employed in order to establish the presence of a particularly dominant culture. However, it must also be recognised that within a highly structured and hierarchical organisation like the police service the reader will need to employ several of the concepts in order to understand the differences between the attitudes of the four cohorts as there will undoubtedly be more than one facet of cultural knowledge revealed within any given response.

Whilst this is accepted, the main or dominant themes will be identified; however it must be accepted that the responses are those of individuals and as such those responses may not fit into any of the many facets of police culture It will also help to identify the extent to which conventional responses may have dominated the replies, to identify any emerging themes and to establish whether the actions of the junior ranks are more or indeed less prone to the effects of police culture.

The question posed here asked 'It has always been recognised that, certainly at the lower levels of policing, individual officers have a great deal of freedom and discretion in how they approach and deal with individual transgressions/transgressors of the law. When do feel you have that discretion and conversely where do feel that there is either no discretion or that it has been eroded?

Cohort 1 – Chief Constables

It becomes immediately apparent that six of the ten responses of the Chief Officers are dominated by the whys and the wherefores of the job, which, given their position within the organisation, is to be expected.

> ....I think young police officers have got discretion....I encourage them to use discretion.... which means I give up some control....that's because I trust them. CC (1) M/51/24/2.

> ...where staff were spending more time running around administering crime than they were preventing or detecting it....madness. Sir Ronny Flanagan's review[14] recommends giving more discretion. CC (4) M/51/32/3.

> ....professional ability to make sure that I use the frameworks I've been given to achieve the end that I want to achieve....I have no doubt the pernicious impact of government targets and performance frameworks is constantly eating away at that control. CC (5) M/52/31/3

> ....at a macro-level, minimal....at a micro-level, the public, the body of law that the police enforces remain broadly unchanged ....The huge welter of laws requiring the police to....enforce them are largely ignored by police officers. CC (8) M/52/29/4.

A very telling response here by CC (8) 'The huge welter of laws requiring the police to enforce them are largely ignored by police officers....we'll ignore them....as we have ignored all the others'. This response appears to contain more than an element of truth and perhaps a true exercise of discretion as well as a broadside aimed at the legislature. I do not doubt the either the veracity or the sincerity with which this particular comment was made which once again highlights this particular chief as being particularly forthright. It

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[14]   Sir Ronnie Flanagan, then HMCIC, conducted a year long review of policing which was published in February 2008.

also highlights Reiner's debate on cop culture demonstrating, as it does, the cynicism regarding the official purpose of the police.

> I've got control over policing most of the time…. I think the operational independence of chief constables is extremely important, it's some times used as a shield by chief constables to stop people from interfering and asking why we do things. CC (9) M/56/36/5.

> I think ultimately we are still unique as an organisation. The people that have the most discretion, i.e. the operational constable out on patrol is probably the furthest away from the centre….I get to agree once a year…. to things like policing plans….with the police authority and de facto the communities of (Location omitted)….that's the framework under which I agree….what we're going to do and the direction over the next 12 months. CC (10) M/48/27/1.

> Most of the time, although you know as a Chief, you'd like to do things….you have to work within....the tripartite arrangement.... I think discretion is being misused as an emotional argument at the moment. CC (2) M/54/31/3.

There is certainly a common theme to these first comments on the control of their own practice i.e. autonomy, that officers are able to exercise. There is also recognition that, if discretion were not exercised, then the whole apparatus of daily law enforcement would grind to halt under the sheer weight of bureaucracy needed to administer that self-same application and enforcement against all breaches of the law that any officer encounters in their daily routine.

It appears that because of their seniority, both in service and in rank, seven of the replies from this particular cohort appear to be dominated by what Chan described as axiomatic knowledge insofar as their is tacit acknowledgement of the main functions of the police or '….why things are done the way they are in an organisation' Chan, 1997: p. 76).

The remainder of the responses of this cohort, still demonstrate features of the same axiomatic knowledge. However there is an acknowledgement that the greatest of discretion amount of is attributed to and practised by the officers on the ground, who, as already highlighted, have the greatest opportunity to practise that discretion. This would indicate that other cultural factors such as Reiner's sense of mission are also present.

> I think the Chief Constable has less discretion than the officer on the beat. The officer on the beat has total discretion on what he treats as a priority and what he deals with …. For a Chief Constable….it's got to have some underpinnings….justified by…. national or local requirements. CC (6) M/52/30/8.

> I'm a strong advocate ....of....discretion and that can be uncomfortable at some times....at three o'clock in the morning if there's a Sergeant and two PCs on you've got to be fairly pragmatic....discretion is the wider part of valour.....there are times when I wish my officers would use a greater degree of discretion and proportionality. CC (7) M/54/31/3.

> I....direct officers to certain sorts of activity....They maintain their discretion within ....parameters that are set….motoring, that's where most of the discretion seems to come in….. just because you've got a power doesn't mean you have to use it. CC (3) M/53/29/4.

Cohort 2 – Senior/Middle Management

Once again, given the seniority in both rank and service of the next cohort they are, as were the previous cohort, more concerned with '….the fundamental assumptions about why things are done the way they are in an organisation. The police traditionally see their work in terms of waging a *war against crime,* maintaining order and protecting people's lives and property' (Chan, 1997: p. 76). Both the Chief Officer and Senior Officer cohorts both appear concerned about the actions of management in respect of ensuring

that the official policies are carried out within the budgetary constraints of the fixed level of financial resources they are granted in order to enable them to direct the overall functionality of the police service.

> I am of the opinion that driven through statistics, target managements and Government policies, the individual police officer and I take this directly from experience within our own county, virtually has no discretion whatsoever anymore. Sgt (2) M/49/29/6.

> I usually feel in full control, because I know the options available to me. I know the resources available to me, and I make the decisions. CI (4) M/53/23/8.

> I think generally, we have controls in place across all of the range of policing activities….we do have a number of checks and balances in place to ensure that they carry out their duties lawfully, proportionately and professionally…. CS (5) F/42/15/1.

> discretion....has been eroded to some degree because of the performance culture that has been imposed from the centre ....the control over what we do and do not police comes....from our better use of intelligence….because it allows us to focus resources to tackle....the key problems. DCC (9) M/57/30/4.

> I think my position as a senior manager I have a lot less control now than when I was a constable. Having said that, I feel that constables now are losing their powers of discretion, they do not see that as an option, they are looking at increased crime figures. If they can get five detected crimes out of an offence, that's the way and they are pushed. I (6) M/42/23/5.

> ….within the boundaries of the law I've probably got an enormous amount of control. What you tend to do is define along standard practices of policing. CS (10) M/40/20/1.

> ....in my role I think I've got a lot of control over what I do…. many officers would say that they don't have a lot of control, they don't have a lot of discretion…. they're looking for us to be clearer about the parameters within which they can operate. DCC (3) M/47/21/1.

> ….in relation to the tasking, briefing and the deployment of the resources in this area command I am in control all of the time. CS (8) M/50/31/3.

....in my role I have an awful lot of control over what I do.... an operational person that's interfacing with the public....they can have an awful lot of control that's without discretion ....the easiest thing in the world is just to deal with things by the book isn't it....you have to be prepared to justify the action you've taken. But that erodes discretion.... I (1) F/48/27/10.

I don't think that police officers have that much discretion now....it isn't right for a police officer to come across something in the course of their duty and not deal with it appropriately....it can and does lead to problems....I question whether it actually ever was a real part of policing....if you're speaking to somebody and during that the course of that conversation evidence presents itself of an offence, then you take the appropriate action for that offence....as opposed to ignoring it and running the risk of criticism for not doing your job. CS (7) M/44/25/1.

In common with the Chief Constables, there is a recognition that an element of discretion is sometimes necessary in order to ensure that the system keeps functioning. This, once again, demonstrates that there are cultural forces at play here indicating, as Reiner proposed, that the sub-culture often runs, or appears to run, contrary to the official police function. Evidence of Chan's axiomatic knowledge in respect of the traditional views of police work '....in terms of waging a *war against crime,* maintaining order and protecting people's live and property' (Chan,1997: p.76), or to put it a little more simply, the whys and wherefores of how the job is carried out has a tendency to dominate the replies. However, and more importantly, there is also recognition that there is a continual erosion of the discretion that officers can apply to their daily routines There is also an interesting comment by I (1) on page 151 vis;

....the easiest thing in the world is just to deal with things by the book isn't it....you have to be prepared to justify

> the action you've taken. But that erodes discretion…. I
> (1) F/48/27/10.

Here the Inspector is seen to be advocating that everything should be dealt with *by the book* in order to justify the action taken, but, in a cultural sense, she immediately undermines that particular suggestion with the statement that it erodes the practice of discretion, thereby demonstrating something akin to regret that the 'official' way is not always the best.

Cohort 3 – Peer Group

Within this next cohort it is important for the reader to distinguish the rank and seniority of each of its interviewees (using the nomenclature provided). It is apparent from the responses given that certain aspects of police culture that are revealed appear to be directly linked to their position within the organisation.

> ….there was a lot of pressure….you know they have five shifts competing….but we had exercised discretion. I (5)M57/30/10R.

> No, I always felt as if I had control over what my officers did....I thought that I was being controlled…. so I think that answers itself....In our day I think the police officer was more in control. Sgt (7) M/57/30/10 R.

> I was in particular circumstances with an ethnic population and the directions from the command…. so I had to do certain things….take some flack….had to put resources into certain things….I think that was totally wrong. S (8) M/63/30/6 R

This particular reference, according to Reiner, that by 'taking some flack' this officer appears to be using his 'cultural knowledge' in a way that is at variance with the official policing purpose i.e. those directions from the command.

No….the difficulty was it goes back to resources. I felt that I didn't have control….it was all to do with targets Police Authority targets Home Secretary's targets and I had my targets. CS (9) M/56/30/3R.

Within these four responses, keeping in mind rank and seniority, there are aspects of Chan's axiomatic knowledge which, once again, appears to have a bearing on the way they carried out the job with particular regard to the effects of the pressures placed on them from both local and national perspectives. In many respects, in their opinion, these pressures had a detrimental effect on day-to-day policing, which also demonstrates that it is not just the junior ranks who, according to Reiner, have misgivings about the official views and orders.

….the national intelligence model is a good example; it creates a lot of intelligence driven tasks. You have little control over what patrolling officers happen upon? ….so I could certainly control the resources I might allocate to something. I (1) M/52/30/6/R.

….you had a degree of control in what you did. That degree of control came with responsibility….to use discretion effectively, properly and not to discriminate against any particular group. PC (2) M/58/30/30R.

....there's less control....police officers were often more robust in the past in the way they dealt with issues….it was less likely to come to any kind of enquiry…. I'm not saying that anything that happens dishonestly or violently is acceptable, its not….It's about dealing with people honestly and if you say to me as a police officer, 'did you transgress the rules last night when you were at work'. I would say 'no I didn't' and you can look at anything you like, because I behaved professionally'. CI (4) M/64/30/8(R).

No. I didn't have the resources, and I think the control, you know. That was my Achilles heel. CS (3) M/67/30/4R.

Control over what I did, yes….when you were running people it was difficult sometimes, unless you were really there and pushing them….because otherwise officers, because they have this use of initiative they could go and do certain things and you've got this imbalance. CS (6) M/68/30/5R.

Community Policing….I had restricted control. When there were no other ….I was allowed to get on with my own policing, build my bridges with the community and it worked very well….but that control was soon taken away if the resources were needed elsewhere. Sgt (10) M/67/30/12 R.

There is quite a varied reaction in this section where, within a number of replies, targets and initiatives had a tendency to lock out the ability to practice discretion. Once again we are presented with a contradiction; their views are obviously those of the official purposes of the police i.e. the local and national policing initiatives and targeted responses identified in Chan's axiomatic knowledge or the 'whys and wherefores' of the job. However, on the other side of the contradiction, there is the regret at the inability to practise discretion, which, as Reiner identified, almost appears to be in opposition to the official purpose of the police. This, it is felt, is more indicative of the way policing was practised in the era when this particular cohort was serving. However, it must be underlined that I am part of that peer group in that I served at the same time as the majority; the reader needs to be mindful that I am not indulging in sentimentality for an era long gone, I am merely interpreting what they are saying.

In this next series of responses, given by the Student officers, it is obvious they are aware of their position within the organisation and that that positioning provides the greatest opportunity to practise discretion. However the caveat to that practice of discretion is the realisation that both the

unhindered and unfettered practice of discretion can lead to a number of difficulties.

Cohort 4 – Student Officers

> I think individual officers have….a lot of discretion as to how they speak to members of the public…. I would always act according to my training….I have quite a lot of control in what I do on a day-to-day basis. PC (7) F/23/2/2.

> Most of the time it's my decisions, I'm accountable for them. If I mess it up it's my fault and I am in control of every decision that I make, unless I'm other wise directed by a supervisor, unless they tell me other wise, then I will do what I thought. PC (1) F/23/2/2.

> Some things go out of your control….if it's a high-scale offence….if a robbery came in [was reported] it completely goes out of your control. PC (3) F/28/2/2.

This officer was indicating that, as is common in most forces, the seriousness of the crime indicates the level of response that it will receive, and that 'loss of control' that she was referring to is simply the fact that once the initial response PC has established the seriousness of the offence the subsequent investigation will be handled by more experienced officers, usually with CID involvement

> When the job hasn't been rung in[15] you....have full control about what you're going to do, you've got lots of options....words of advice , ticket, report for summons, arrest....to be honest it's when a log's been created that your discretion's gone. PC (4) M/34/2/2.

> I suppose....you are making decisions all the time and you've got control....ultimately you're reporting back to your supervision….they're reporting back to national standards of NCRS or your force policies for what ever it may be, but you do have control of just small things,

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[15]   The officer simply means that the complainant has not actually telephoned the police so an official 'log' has not been created.

> taking the choice in the first place but I think you're always answerable to somebody else. PC (5) F/27/2/2.

Herein lies the essence of the contradiction insofar as this officer, whilst stating that she has control over her decisions, she recognises there is an ultimate requirement to 'report back'. The most telling part of this comment whilst she stated that 'you have control of just small things' is that the officer also recognises that she is always 'answerable to someone else'. This is the very situation that Foucault explored within his 'discourses of power' that we are subjected to and subjugated by without the means of escaping them. Conversely however as Giddens stated 'there are always some resources available….to countervail social pressure' (Layder, 2006: p.171). Perhaps, in this instance those 'resources' are contained within the words 'taking the choice in the first place' and may result in a small measure of relaxation of the Foucauldian strictures.

> Pretty much so, based on what, who ever you're dealing with what's doing, I think you've pretty much got....control. PC (6)/F/22/2/2.

> I feel in control all the time to be honest with you. PC (9) M/29/2/2.

> ….ultimately I can decide whether someone's arrested or not so to that extent I have control. PC (10) M/27/2/2.

> ....in every situation that I've gone into....you can establish what level of discretion you're gonna use.... someone parked on a double yellow line, dropping some body off….there's no benefit for the Police....saying, 'oh, £30 obstruction ticket'....But the reality is....it's not gonna improve the consent of the police force you may well look at someone driving....in an anti-social manner....addressing that in terms of a stern

warning....in terms of a Section 59 notice[16] and giving that person the opportunity to change their ways, has a positive effect in terms of the public's perception of the Police force.....I've had a fair amount of discretion in how I've been able to apply the powers that I've got....and ensuring that discretion....doesn't have an impact on a victim….You can still give warnings….but you've got PACE that you've got to adhere to…. Most of the time, although you know as a Chief, you'd like to do things….you have to work within....the tripartite arrangement....PC (2) M/31/2/2.

The views on the question of discretion and its continued practice indicate that it is still 'alive and well', especially in the junior ranks. It starts, as Pepinsky proposed '….from the premises that discretion is a desirable part of policing. It proposes a system of accountability designed to generate discretion in a way that reduces the injustice of selective law enforcement' (Pepinsky, 1984: p. 249).

By its very nature the practice of discretion is quite heavily influenced by what Chan identified as both dictionary and directory knowledge, However, as Reiner identified, the need to 'get the job done', often without recourse to the letter of the law or any local initiatives taking place, was often seen as running counter-culturally to the official policing purpose. It also reinforces the fact that discretion is, or appears to be, in the main, practised by the officers on the ground who deal with the public on a daily basis. It is also important to recognise that these same officers could, by being overly officious about minor traffic law transgressions, such as the ignoring of double yellow lines, quite easily alienate people. In these situations a certain amount of leeway

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[16]   Refers to S.59 of the Police Reform Act 2002 (where a vehicle is driven carelessly) an officer can give an initial written warning, valid for 12 months, and on any subsequent infringement can seize and destroy the vehicle.

and mutual understanding indicates, that in many respects consent could almost be said to have been negotiated or at least tacitly acknowledged.

Chapter 5.2.

The next question on control asked in what areas the subjects felt they had no discretion or where they felt that discretion had been gradually eroded into an environment where there was ever-increasing control.

Cohort 1 – Chief Constables

The dominant feature once again within this particular group is the close resemblance to Chan's definition of axiomatic knowledge. The loss of control that Chief Officers feel can readily be attributed to the plethora of policing 'initiatives', performance indicators, both local and national and the national policy of 'sanctioned detections' (see footnote page 162). However, there are also signs of a fairly healthy scepticism regarding the official views and guidelines which, once again appears to run in opposition to the official rhetoric and, indeed, these emerging patterns demonstrate there is also quite a healthy cynicism regarding that same official rhetoric, which according to Reiner may even have been against the official purpose of the police. These trends seem to be a particular construct of the Chief Officer and Senior/Middle Management cohorts and can be attributed to both rank and seniority.

> I can't think of any real change where I've got less or no discretion, we get measured on a massive portfolio of performance indicators....it does remove my discretion because frankly some of them are meaningless....and all they do is....confuse cops. Now we've got about a hundred and twenty PI's for operational policing. you don't have to ....run around....doing everything the HMIC says, because we can't do everything and we

sometimes have to tell them that we can't do everything. CC (1) M/51/24/2.

….it's being eroded by the inappropriateness of the basket of targets we're given….they're....the wrong incentives....there are some rules....around what I can and can't do, but I think they're….a disincentive....Recently....we reviewed our.... capability to deal with....the eight or nine....predictors of serious events. Now a force of my size....spent an awful amount of time, energy and effort building those protective services up and we achieve the standard required. I could have spent half as much or twice as much, I'd have got the same outcome.... CC (2) M/54/31/3.

....were I to decide in key performance areas, to exercise that discretion and putting the resources in the Home Office would… …react pretty sharply and rap me and the authority over the knuckles and find some way of seeking to enforce compliance....whilst individual officers have discretion, I probably have less discretion than they have. CC (3) M/53/29/4.

At this juncture, because of the way the answer was developing, it was appropriate to ask a supplementary question, (one of the benefits of the semi-structured interview), based on the very strong probability that the use of discretion, or the application of discretion or the ability to apply discretion, proportionately diminishes as the seniority of rank increases. I asked the Chief what he would link that to in operational terms.

....if I decided I didn't want speed cameras, I could have them all taken out....but I doubt if I would….its....about where I put my resources rather than deciding whether I prosecute or not....the outcome of me not putting resources in....the prosecutions won't happen because there isn't anybody there to do them. CC (3) M/53/29/4.

The next and subsequent replies return to the main theme of this question.

….we're moving into enforcement when we should be into some sort of treatment or rehabilitation....what you

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can't do is give police officers carte blanche....no, we can't do that, but actually we've taken away too much discretion and we need to give it back. CC (4) M/51/32/3.

....it is in the public's lack of tolerance of risk that, you know, they rail against the surveillance society but want us to counter every risk that is out there....I think that...power of hindsight when looking at risk is again taking discretion too far. CC (5) M/52/31/3.

....ring fence funding is a removal of discretion and externally set targets....It actually creates the need to do certain things and therefore takes away the discretion. CC (6) M/52/30/8.

....where your professional confidence is under challenge....then obviously you feel discretion's been squeezed out of you.... sanctioned detections[17], it was quite clear from HMIC.... and the Home Office....it becomes....a political issue....your room for manoeuvre and level of discretion can be squeezed out very quickly and you can end up having to ....do things which intuitively, professionally you wouldn't choose to do but you have to....we are public servants and it would be arrogant of us to turn round and say you are wrong. We ain't going to do it, it's not do-able. CC (7)/ M/54/31/3.

Yes, absolutely, I do. If you ask my subordinates, further down the food chain, they might feel the answer's different. But I think if you don't feel you have control over what you do, that's a failure in yourself, not a system error. CC (8) M/52/29/4

I've got control over policing most of the time....I think the operational independence of chief constables is extremely important, it's some times used as a shield by chief constables to stop people from interfering and asking why we do things. I am more relaxed about that, but I do not feel as though I am constrained to investigate criminal activity and if I thought I was, I'd be the first to say. CC (9) M/56/36/5.

....I think in terms of an increasing focus around inspection and audit where we have crept into what I

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[17]   A sanctioned detection occurs when (1) a notifiable offence (crime) has been committed and recorded; (2) a suspect has been identified and is aware of the detection; (3) the CPS evidential test is satisfied; (4) the victim has been informed that the offence has been detected, and; (5) the suspect has been charged, reported for summons, or cautioned, **been issued with a penalty notice for disorder** (my emphasis) or the offence has been taken into consideration when an offender is sentenced. **NB** The practice of issuing fixed penalty notices for relatively minor offences was viewed in some quarters as a 'quick fix' to enhance the crime detection rates.

would almost call a painting by numbers approach to policing which I don't think is healthy….I think it's where I would argue we need a stronger and better resource inspectorate….quite unusual to have a chief saying, "You need stronger and better inspectorate resources.". CC (10) M/48/27/1.

Once again, as in the responses to previous questions, Chan's axiomatic knowledge dominates this cohort's responses. As already premised it appears obvious that Chief Officers are more concerned with why and the wherefore of the way actions are carried out within the organisation. This can either be at their own behest, or, more commonly, as a result of initiatives set by the Home Office.

Cohort 2 – Senior/Middle Management

….operationally discretion is much less…. it's easier to just go by the book than to have to answer the questions ….as to why you didn't. I (1) F/48/27/10

….you're tied in as a constable to a very strict system of rules, regulations and guidelines….the discretion of the constable….at an individual level, and I don't think the public are aware of this,….has virtually completely gone. Sgt (2) M/49/29/6.

It is not necessarily a bad thing to lose discretion if the options are reduced for very good reasons….I think the consistency for the public, and also a structure for us internally, are both very useful facets. CI (4) M/53/23/8.

I think in terms of targets that are set nationally, expectations from government about what we deliver for the policing budget....does have a limiting effect or impacts upon the type of policing....where we focus our activities. CS (5) F/42/15/1.

....I am very concerned with some of the targets set by Government which do remove an element of discretion from front line officers because we have to achieve results....the better discretion is about how you police a situation.... enforcement does not always remedy a situation....the balance that has to be struck is....about

serving the needs of the community against those who are in a community who may be disaffected and may adversely react to any police input. DCC (9) M/57/30/4.

….in terms of discretion….by not taking action a police officer can find themselves at the wrong end of a complaint….so I think that discretion is going, and police officers are so accountable now that that has an impact on discretion. CS (7) M/44/25/1.

….the Chief gives me x amount of resources to deal with as I see fit….tomorrow….he could take away half of those resources….that is when my discretion has been affected....all I can do is respond to emergency calls….this is all I am providing. CS (8) M/50/31/3.

If we police to the letter of the law, we would have every one against us. I think there has to be the discretion and if we ever lost that discretion, it would be a very sad day and that's not a case of picking on certain members of the community I'm a firm believer you treat as you find. If that discretion was taken away, we might as well just become a dictatorship. I (6) M/42/23/5.

....as a senior manager I have....less control....than when I was a constable and used discretion....I feel that constables....are losing their powers of discretion, they do not see....an option, they are looking at increased crime figures. If they can get five detected crimes out of an offence, that's the way....they are pushed....somebody steals a packet of crisps and offers each of their friends a crisp.....you're looking at getting one detected theft of the crisps and four handling stolen goods....really criminalising those young people…. the majority don't want to be doing that....the public would certainly not want us doing that, because that is bringing them into the criminal justice system for the benefit of detecting crimes....very difficult, but discretion is one of the best things about the police service. But we are gradually losing it. CS (10) M/40/20/1.

...the national crime recording standard was absolutely needed.....but that meant we went to absurd lengths where a couple of kids would fight in the playground....you've got two assaults on your crime books....the cop who goes....will deliver two cautions and....then and we've got sanctioned detections….a woman....reported finding....cannabis in her son's pocket.....she wants the cop to tell this son off....He

> arrests this kid.... he crimes it, takes the kid to the police
> station and because the mum reported it, she can't be
> the appropriate adult, social services have to get
> involved. It just is a nightmare scenario of somebody
> who actually phoned the police to give her son a telling
> off DCC (3) M/47/21/1.

It is important to note that there are a number of fundamental assumptions about the 'whys and the wherefores', as identified and labelled by Chan as axiomatic knowledge, of the job particularly with the current situation; however, this presents the reader with a dilemma. It may appear from the replies, particularly with regard to that knowledge, that the traditional role of the police is being eroded by targets and initiatives, both local and national. There is regret in what is seen as interference which displays a collective sense of cynicism about the official rhetoric but there also appears to be an undercurrent of self-reflective and professional thinking.

Whether these replies reflect the influences of police culture per se in an effort to boost both the image and the traditional roles of the police or whether they are genuine and relatively truthful responses about the way the service is being directed needs careful consideration. There is also the apparent emergence of a further *cultural pattern* which is appears to be based mainly on rank and seniority, as in the responses of the previous cohort. That is not to say however that it is a culture pattern that is restricted to any particular cohort.

Cohort 3 – Peer Group

> I want to open those police stations….he [the CC] said "Go ahead and do it."….they gave us the money….I think I had enormous discretion. I was very happy to have the discretion that I did. CS (3) M/67/30/4 R.

> You've got almost no discretion in issues of serious public disorder, in issues of pre-planned events....in those areas, you're very much controlled either by local briefing or by policy....CI (4) M/64/30/8R.

> legislation….for example drink-driving, you'd blow in it and you were over the line. That's it. ….no discretion….you go to court and it's….one year's ban….So all discretion, even for the courts, went out. ….certain legislation came in and stopped discretion. CS (6) M/68/30/5 R.

> If PCs….are given discretion and they don't ….get the results the commander wants to put him at the top of all the other area commands then it rolls down hill. The Chief Inspector gets it, then the Inspector gets it and the Sergeant gets it ….I would suggest zero. I (5) M/57/30/10R.

> Discretion ….had been eroded and therefore it made you twice about….things….It's….accountability to the nth degree where you really started to strangle initiative and actually strangle….the objective you're trying to achieve. CS (9) M/56/30/3 R.

> I have never felt constrained and blocked in what I have done. I have just felt frustrated….in what I couldn't achieve…. through not having the resources. I (1) M/52/30/6 R.

> ....I was working on a residential beat, you'd walk round, you'd see some body with a tax disc out....and you would go to the person and say....get it shifted or else, then in the CID the priorities changed and the control changed. PC (2) M/58/30/30 R.

This comment is totally at variance with most of the other officers in this and the other cohorts and judging by the tone of voice on the recording it was a genuine comment not just a piece of conventional professional rhetoric.

Operating at this level he was extremely content with the freedom (within budgetary boundaries) that he was given by the chief. The question produced this genuine reaction which is appears to be a direct refutation of Mills's 'vocabularies of motive'.

> ….where people had been, once they'd got to these higher ranks….,they suddenly were trying to close doors on things that I may have been doing which they considered unacceptable. Because they did them, and they knew what people were doing in order to circumvent things. Sgt (10) M/67/30/12 R.

> I think officers had some discretion when I was on the job, I don't think they have that much discretion now. …if you believe everything you read it's all to do with targets….I can only speak of what I read in the newspapers. S (8) M/63/30/6 R.

> I thought police officers on the street showed a great deal of discretion in the manner in which they dealt with the public....they made certain decisions. I think those decisions have been taken away from them now....minor crimes like theft....they're dealt with over the telephone and you don't see anyone....I think the level of discretion's been taken away from the officer on the beat.... in our time if we....couldn't make a decision, they would always go to up the chain of command....Now I think they pass it up the chain of command straight away. Sgt (7) M/57/30/10R.

In many instances the ability to practice discretion at street level has certainly been eroded both by changes in legislation, (like driving with excess alcohol) and by changes in police procedures which appear more to be driven by performance targets and the 'tick-box' syndrome which is becoming endemic in most public services. This series of replies from the peer group also alludes to the situation when they policed and when there certainly was a greater 'freedom' granted to those at street level who policed in what were relatively easier times. Easier insofar as the serious erosion of public trust that

has occurred in the recent past had not yet taken place and the legitimacy of the police was at a much higher level than it is at present.

Within this cohort, the more notable 'cultural' factors identified fall within the ambit of Chan's model namely in the areas of both dictionary and directory knowledge, or, to put it more simply the ways and means of getting the job done, which in turn once again as Reiner proposed, often appear to run in opposition to the official view. There are also indications of some of the more subtle nuances between the ranks within the structure that are also important components of the overarching police culture.

Cohort 4 – Student Officers

> ....on the core[18]....you've got a little bit more discretion, but so often the police have just got to be seen to doing a certain thing, rather than it being the right thing....I had a....racially based hate incident....reported by a third party....I spoke to the complainant who was not offended by any of it....because of the guidelines of dealing with a hate incident, I spent longer on that incident than anything else....the complainant was so disillusioned with the police....(he said) 'I've said to you right from the start....I wasn't offended by it, I don't want to strain community relations any further....it was just an off-the-cuff remark'....it was reported by his management cos his management thought that they should....the crime went twice to a hate panel who had to decide whether enough had been done. I can understand why that needs to be done in....other cases, but you have to have an element of discretion....it's just, my personal opinion it would have been better to speak to the complainant....speak to the guy who said it, make sure he realises it could have been offensive and that could have been the end of it. ....but it went on for months. PC (5) F/27/2/2.

There is no opportunity for the officer to practise discretion in this case; there are a set of procedures that she was duty-bound to follow despite the

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[18]   Normal (not Community beat officer) uniformed patrol also known as 'response' policing

obvious concern and upset of the complainant. This is undoubtedly one of those situations, where, according to Bradford and Jackson, police legitimacy '....is open to challenge and debate triggered by poor experiences'....and although the effects are relatively ephemeral....cumulated experiences may result in a more permanent change.' (Bradford and Jackson, 2009: p. 9). Indeed the disillusionment of the complainant was clear to see and may well have led to a withdrawal of trust, which according to Luhmann, in 1979, occurred '....once a specific boundary had been crossed'. (Luhmann,1979: p.29) The boundary had indeed been crossed and the whole situation is permeated with a series of 'back-watching' vignettes which did particular disservice to all concerned as well as presenting a challenge, however insignificant, to police legitimacy.

Once again, in a cultural sense, there is a contradiction between Chan's model, particularly in the area of the 'whys and wherefores' of the job and the organisational role of the police whether they are carried out either individually, or as previously highlighted, under the auspices of legislation. It could be reasonably argued that as the officer suggested;

> ....it's just, my personal opinion it would have been better to speak to the complainant....speak to the guy who said it, make sure he realises it could have been offensive and that could have been the end of it. ....but it went on for months. PC (5) F/27/2/2.

Whilst this course of action is in direct in opposition to the official rhetoric, and indeed the national standard for dealing with hate crime, perhaps Reiner's debate on whether these informal cultures are for or against the official purposes of the police could inform what appears to be the most sensible course of action.

> I think I have a lot lower tolerance of people than I would normally....it's.... just to do with the sheer amount of what you get....some times people do need taking off the streets, because.... they are seriously going to hurt some body....I just think that....you need a bit of a military response, cos then you....back each other up and once one person goes to arrest somebody....you don't obviously question what they're doing. PC (1) F/23/2/2.

This response supports Holdaway's 1984 findings and indicates that both back-up and support, either by action or inaction, of an officer's colleagues, is expected and is almost automatically given in this type of situation.

> I'm comfortable….where I can give discretion….minor crimes, the incidents….maybe where a public order offence has occurred….you've got control there to….give somebody a chance…. but if they overstep the mark you've got to act. PC (2) M/31/2/2.

> I think we do have quite a lot of discretion because we are at the forefront. If I didn't feel like I had that, then I would probably confide in a Sergeant…. we don't have a lot of discretion when it comes to missing people. PC (3) F/28/2/2.

> I use discretion on a daily basis....you can get called to a school where two eleven year olds have been fighting. I'm not there to give an eleven year old whose been scrapping in the playground a criminal record....that's not to me what policing's about....but we're talking about ethical recording of crime and obviously when that job's come there's a log created...you know so you've got to be careful there....so I think in some respects your discretion has gone but in other respects you....can still have your discretion….to be honest it's when a log's been created that your discretion's gone....you have to fill your pink....which records all your statistics for the Home Office. Which should give you ethical crime recording but doesn't because of what I've said....I think in those circumstances you've got no discretion. PC (4) M/34/2/2.

The whole tenure of this particular reply is concerned with 'getting the job done' identified in reference to Chan's model where what she identifies as

recipe knowledge '....suggests what should or should not be done in specific situations....as well as providing recommendations and strategies for coping with police work' (Chan, 1997: p. 79). However, it is against a background of the fact that if a log record has been created (the official purpose of the police once more highlighted) then the officer is duty bound to take the necessary action which will include an arrest and the creation of a sanctioned detection. In the past the officer would have practised discretion by speaking the parents of both the children involved and achieved what all parties would have viewed as a satisfactory conclusion. This again informs the healthy cynicism that is part of Reiner's cultural model, arguing, as it does, against the official views and rhetoric of the organisation.

> ....domestic situations....you've got to....deal with something positively....sometimes you don't have a choice....you could probably....just leave the two people in the house....because they've had an argument doesn't mean that ....one of them's got to leave for the night….but that's drilled into you that....one of them needs to leave that night, just to prevent anything further from happening....incidents like that, I don't think you've got much discretion any more. PC (6) F/22/2/2.

This particular 'positive action' route was introduced following many complaints of police officers dealing unsatisfactorily with what were termed 'domestic incidents'. The route delineated a series of procedures which had, and indeed still have, to be adhered to. They involved a finalisation with a positive action which could simply mean the removal of one of the protagonists from the premises to the ultimate sanction of arrest, followed by a thorough investigation by a specialist 'Domestic Violence Unit' staffed by specially trained officers.

> I can't think of any situation where I don't have any discretion. PC 7 F/23/2/2.

> you have to ask yourself.... about the victim....you've got a duty to investigate....and deal with it accordingly. I think where you've got an issue in terms of having some level of discretion is firstly who is the victim, if it's a member of the public I think .... you're duty bound to, to investigate. PC (8) M/28/2/2.

> If there is a positive action [force domestic violence policy] Then you haven't got any discretion have you, you have got to arrest. PC (9) M/29/2/2

> ....you don't have much now....I don't think I've ever really had it....when....jobs come about now with the police, everything is logged. There's an incident number for everything, so there is a paper trail for everything. PC (10) M/27/2/2.

According to Bradford and Jackson '....the best way to improve public trust is the demonstration and application of fair procedure....' (Bradford and Jackson, 2009: p. 9). This is almost akin to Weber's concept of bureaucracy, whereby everyone is treated in accordance with a fixed and routine procedure thereby guaranteeing equal treatment; however, this would appear to rule out the practice of discretion, which, by its very nature, runs contrary to fairness. A similar view can be found in Weber's model of bureaucracy and legitimacy where one aspect states that there should be no discretionary activities by the administrators who have to follow a rule book to ensure everyone is treated the same. Discretion for Weber indicates a structure of personal favours and unequal treatment. Thus control over discretion is, he says, fundamental to equal treatment.

However, in 1984, in opposition to the enlightenment (Weber's) view, Pepinsky proposed that accountability actually **requires** (added emphasis) discretion, stating that:

> If society aims to use regulation to make the police accountable, to the citizens they serve, society's rules must not only channel accountability, but must create discretion….to reduce the level of class bias in law enforcement through accountability, discretionary rules must be designed to offer an incentive for the police to engage in aggressive non-enforcement. Pepinsky (1984: p 249)

This neatly sums up the conundrum and perhaps points to an area where discretion can be practised, as we have already highlighted, by most of the lower ranks of the police service. It is a necessity to enable the day to day routine tasks to be accomplished in a purely practical manner; if every offence, from minor to major were pursued to prosecution, the resulting bureaucratic nightmare could undoubtedly result in the whole judicial process grinding to a halt. As Pepinsky observed it '….would necessitate that just about all Americans of legal age, including officials, be jailed or imprisoned periodically.' (Pepinsky, 1984: pp. 265 – 266); it is quite obvious to the reader that this situation is readily transferable to any western democratic country including England and Wales.

How do we ask our police officers to differentiate? Can we be satisfied that something as apparently dangerous as this can be left in the hands of its practitioners. Perhaps Pepinsky's 'aggressive non-enforcement', which social work theory called 'radical non-interventionism' in the 1970s, could become part of the proposed 'jurisprudence of consent'. This will be explored further when I present my conclusions. It is often found that there are elements of both consent and answerability where the questions of accountability and answerability are posed.

In this set of responses the cultural differences displayed, particularly between cohorts 1 and 2 and 3 which represent senior officers both by rank and age and cohort 4, the junior ranks in both age and service are quite striking. The senior officers are obviously, because of their position in the organisation, bound by the need to comply with a basket of initiatives, both local and national. Similarly the student officers are also bound by a number of 'positive action' initiatives, including the domestic dispute scenario, as highlighted by both PCs (8) and (9) on page 170. Nevertheless there are occasions where, in that unique position that they occupy, they are also able to practise discretion, as highlighted by Chan, through a series of work-place 'models', based on the knowledge factors, including both axiomatic and directory knowledge, that she demonstrated. This knowledge will have been acquired through previous similar incidents that they have dealt with, or indeed may have been taught by more senior constables. In turn, this then provides them with a number of workable solutions or behaviours, which experience has demonstrated, can often be a way of getting the job dealt with in a more practical sense.

The next chapter, Chapter 6, will examine all aspects of accountability, both personal and those appertaining to a particular rank, that apply to police officers throughout the rank structure.

Chapter 6: Accountability

Interview Data and Analysis

This chapter will examine the overall accountability that all police officers bear towards their colleagues, their supervisors, at whatever position they occupy within the police hierarchy, and ultimately to the legislature. In order to gain an empirical view of police accountability it is necessary to outline how the structure, briefly alluded to in the previous chapters, and which was designed to ensure good management and balanced control, came into being.

Currently, the forty three police forces of England and Wales are governed by a '.... tripartite structure of police accountability established by the Police Act 1964 following the deliberations of the 1962 Royal Commission on the Police'. (Mawby and Wright, 2005: p. 3). The essence of the paradigm is to facilitate evenly distributed governance of the police by a sharing of responsibilities between the Home Office, the local Police Authority and the chief constables of each of the forty three forces in England and Wales.

Legislation enacted since 1964, including the Police and Magistrates Courts Act of 1994, the Police Act 1996 and the Police Reform Act of 2002 has effectively endorsed this tripartite structure. Further to this the Police Reform and Social Responsibility Act of 2011, recommended the introduction of Elected Police Commissioners[19] to replace local police authorities for each police area in England and Wales (See glossary for a brief summation of their place in the power hierarchy and their role). One of the key aspects of the

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[19]   At the time of writing the first elections for Elected Commissioners were planned to take place in November 2012. The elections were subsequently held and the post of Police and Crime Commissioner was created for each force in England and Wales with the exception of the MPS.

legislation was that it would help to strengthen and add value to the tri-partite agreement.

Whilst due cognisance has been taken of the aforementioned structure this research is more focussed on the accountability of individual officers, not only, in the case of chief constables via it's (the tripartite agreement) auspices, but on their accountability to the officers and staff within the organisation, and perhaps of paramount importance, every individual officer's accountability, whatever rank he or she may be, to the public. Having already examined the Foucauldian 'discourse theory' in respect of control it is immediately apparent that, within the area of accountability, there are a number of separate but similar 'discourses' or ways of knowing, that are connected to, and, in a number of instances, directly linked to those on control.

Foucault, whilst examining the 'truth' surrounding discourses, was of the opinion that specific roles

> '....must become more and more important in proportion to the political responsibilities which he is obliged, willy-nilly, to accept'....it would be a dangerous error to discount him politically in his specific relation to a local form of power, either on the grounds that this is a specialist matter which doesn't concern the masses (the public – my addition), which is doubly wrong: they are already aware of it, and in any case implicated in it' or that he '....serves the interest of the state or capital which is true but at the same time shows the strategic position he occupies....'(Foucault in Rabinow, 1984: p72).

It requires no great leap of faith to place Chief Constables under this aegis and the political responsibilities referred to are amply demonstrated in the data which follows. The analysis of this particular data set also demonstrates the inextricable links that exist between the accountability process and the

exercise of discretion, or indeed, the lack of the ability to practise discretion, particularly as progress is made through the rank structure.

Whilst day to day or 'low-level' policing is strictly governed by a series of both internal and, where necessary, external procedures and accountability processes, which in essence, decrease both the potential for and the practice of individual malfeasance, concern has been expressed that 'high-level' policing, such as intelligence gathering by state agencies such as MI5 is not bound by the same strictures which, as a consequence, '....has the potential to undermine the foundations of democratic policing.' (Wakefield and Fleming, 2009: p.3)

It is important at this stage to briefly examine Weber's seminal work on power and authority. Weber sought to define legitimacy which he stated was '….the probability that certain specific commands (or all commands) from a given source will be obeyed by a certain group of persons' (Weber, 1968: p. 212). He recognised that although the motivation to obey commands may well coincide with an individual's self interest, he argued that a further element [of motivation] was the belief in the legitimacy of the source authority. He also identified what he termed as three 'pure' types of legitimate authority: traditional, legal-rational and charismatic.

He argued that legal-rational authority required professionalism, and professional bureaucratization to be effective in delivering an equal service to everybody. Commitment to the rule book is thus a commitment to do a professional job and one that treats people equally (this affects businesses as well as state organizations), and provides the personal link with the organizational. Bureaucracy, therefore, is fundamental to democratic equality.

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The rules are transparent to both professional and their clients, not whimsical, personal or secret!

Given the numerous daily interactions between police and public the parallels to Weber's legal-rational authority can be readily identified in the every day compliance by citizens to 'requests' , both legal and 'illegal', from the police. If then, there is a belief in the legitimacy of the authority that the police wield, then surely that, in turn, provides a sound footing for a concept of a well informed consent to being policed.

Further to that, if diversity is taken into account, it would suggest the need for discretion or, at least, caution in enforcing all laws everywhere in an identical fashion. But therein lies a different problem, one of uneven enforcement of the law, and for Weber, this was the problem of what he contemptuously called the 'khadi[20] justice' (Weber, 1946: p.p. 219 – 221) of England, the amateur untrained judges (JPs), and the unwritten laws of the common law system. As a good German theorist, he wanted a systematic law code and heavily bureaucratized enforcement so that the law would fall equally on everyone!'

The question of the overt arming of the British police service doubtless falls within the ambit of Weber's legitimacy theory and it will be interesting to see whether that basis for legitimacy is subjugated by the use of, or at least the high visibility bearing of semi-automatic weapons that are seen being carried by police officers when the governmental 'Security Alert' state moves out of the 'standard' and into the 'raised' (in response to a general threat) or into the

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[20]   The 'khadi', for him, was the local Islamic ruler, producing unsystematic decisions without consistent principles

'high' (in response to a specific threat) states. The current climate of heightened threat from international terrorism continues to raise the spectre of a totally armed police service in this country; when this happens, and I tend to believe, pessimistically, that it is almost inevitable, then the Weberian view of legitimacy may well be subject to a process of radicalisation.

With this in mind and given that there are accountability processes through all levels of policing which include a formal discipline code, applicable to all ranks, it was necessary to establish the degree of accountability uniquely attributed to each rank across the cohorts by simply asking them 'At your present rank, who are you accountable to?'. Their responses were recorded and analysed and following this, further analysis was carried out on the interview data in order to reveal if there were any different perceptions of accountability which might emerge in their responses to other questions. This it was hoped would prove to be more insightful and would, in turn, reveal a more valid response which would go beyond the 'content specific rhetoric' stage and either support or discount Mills's 'vocabularies of motive hypothesis.

Cohort 1 – Chief Constables

> ….the police authority, Home Secretary, Prime Minister, local community and local authority councillors....I don't mind being held to account by my workforce. I'm not bullshitting you Adam, people knock on my door and say 'boss....'we're not happy about this'. 'Come in, yeah, no problem, let's have a look at it'. CC (1) M/51/24/2.

> ....to the police authority....the Home Office....and to the public through them....I see my accountability as being to the public, but there are two agencies....the police authority and....the Home Office....as we saw with Mr Blunkett and the Cambridgeshire[21] homicide issue, they

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[21]   See also Chapter 1 page 13. The Soaham murder case involved the abduction and murder of two girls by a known paedophile who was a school caretaker. The Chief Constable of Humberside was eventually forced to

can exert a significant influence. I think it's probably thirty seven now, not thirty three....I'm prosecutable now for manslaughter through negligence....The prospect of gripping the rail[22] is far more fearsome than falling out with the police authority....I am very comfortable with other organisations....that's where accountability actually kicks in. So.... if we say that we want extended powers, I would fully expect to justify those and argue them against somebody who doesn't want us to have them. ....that's accountability….CC (2) M/56/31/3.

It is interesting to note that, in common with his Chief Officer colleagues this Chief Constable acknowledges the high levels of accountability that he has to the diverse bodies mentioned in his response. However, his remark about '….gripping the rail' is appears to be a piece of gallows humour that he is employing, as Holdaway noted to '….preserve the traditions of the occupational culture.' (Holdaway, 1984: p.138). Whilst Holdaway's research was conducted with the more junior (in rank) officers it nevertheless does not render senior officer immune from the effects of police culture.

I'm accountable to the public, I'm accountable to the police authority and I'm accountable to the Home Office. but I also feel that I'm accountable to my officers and staff, as much as my officers. They certainly....do hold me to account. CC (3) M/53/29/4.

I'm accountable....to the Queen, a crown agent as I am, ...my police authority who conduct, with HMIC, my PDR.... key stakeholders....who have a view on how the chief constable is performing, on some of the decisions I take.... MPs, who I regularly speak to....   the Home Office....government, who will exert a certain degree of influence over chief constables, but actually, **constitutionally, we're in an interesting position because we don't have a boss.** (added emphasis) CC (4) M/51/32/3.

'resign' by David Blunkett (Home Secretary) over his forces failure to communicate intelligence on the perpetrator Ian Huntley to the Cambridgeshire force.
[22]   In earlier times the prisoners dock in most courts was surrounded by a spiked railing and the analogy is obvious.

This answer acknowledges the high level of accountability, particularly in respect of Chief Constables, but the most interesting section of this answer lies within the emphasis; is this an attempt to break the constrictions of the Foucauldian discourse of accountability?; is it an implied wish to rid himself of all the 'controls' he is already subject to or was it simply a piece of 'conventional professional rhetoric[23]'

> fundamentally to the police authority because they can sack me…. one of the benefits of being a "high profile chief constable" is that I'm, I'm a well-known figure (town omitted]….I cannot go anywhere in this county without being stopped, and told by people what they think…. and asked difficult questions as well. CC (5) M/51/32/3.

> To the police authority at the local or regional level, depending on the size, demographic, and geographic profile of the force and, ultimately, to the Home Office and Government. CC (6) M/52/30/8.

> ....to the Police Authority ....I'm responsible because....I get sued as a Chief because things are done vicariously ....I'm formally accountable ....to the Home Office....I hold myself personally accountable to my own workforce....I have a degree of accountability to the public, and that's articulated through the press....through personal letters....I see no compromise by my being accountable....and answerable to the whole Council....it's all about communication….because the more we can get people to understand the challenges that confront us....then I think the more support and better understanding we can generate. CC (7) M/54/31/3.

> I'm accountable to the police authority primarily. I'm accountable under law to the Home Secretary, but I also, I believe I have the right, if not the authority, to challenge demands placed upon me for accountability. But, ultimately, I'm accountable to the public through my local police authority and that's more important than any thing else. CC (8) /M/52/29/4.

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[23]   See page 120

Whilst not, strictly speaking, being an 'outlier' this reply once again displays a willingness to challenge the boundaries of this particular discourse, but, at the same time, it also contains a recognition of the ultimate accountability that he holds; that to the public via the auspices of his police authority.

> We are accountable to the government and the people. We must establish whether local accountability is to stay vested in police authorities or whatever they may become. The uncertainty must be resolved[24]. CC (9) M/56/36/5.

> I'm accountable to the courts, in terms of judgements….I'm accountable to the Police Authority and the communities of (Location omitted)….indirectly, although I'm less comfortable with this….I'm probably accountable to the Home Office…. through the inspectorate line. CC (10) M/48/27/1.

The *'powerless powerful'* have already been mentioned and it is once again highlighted here. It demonstrates recognition, in relatively simple terms, of the strictures of working within the tri-partite agreement. Indeed it is almost a Benthamite Panopticon where the chief constables are literally 'trapped' by the high office they hold. Undoubtedly in their day-to-day office Chief Constables wield a great deal of power, but concomitant with that power there is an awareness of the total accountability that accompanies the post. As CC10 so succinctly put it, accountability renders him open to the ultimate sanction, that of being removed from his post; so, rhetorically speaking, is accountability yet another discourse from which there is no escape?

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[24] During this particular interview an urgent and extra-ordinary meeting of the police authority which required the presence of the chief was called at extremely short notice. This reply, in all of its brevity, was supplied in written format after the interview and, in many respects, is highly indicative of something which was 'prepared' as a response and something which I feel is indeed that 'content specific rhetoric' described. The question he poses about the uncertainty may well be answered by the Elected Police Commissioner.

It is important to bear in mind that, when the interviews were conducted Police Authorities were still in place, they have now been replaced by Police and Crime Commissioners. Once again the Chief Officer responses rely heavily on '….the fundamental assumptions about why things are done the way they are in an organisation' (Chan, 1997: p.76). As in the previous chapter these fundamental assumptions have clearly emerged as a dominant theme within the replies of this cohort. This is to be expected given their rank, seniority and position within the organisation they obviously acknowledge that the whys and the wherefores of the organisation is dominant in their working lives. It is also interesting to note that only three of the ten mentioned accountability to their workforce vis CC (1) on page 177, CC (3) on page 178 and CC (7) on page 179. Whether this was a conscious omission is open to some doubt given that the over-riding pressures on Chief Constables come from above.

Cohort 2 – Senior/Middle Management

> I'm accountable to the head of my department….I'm going to stop there because in my role I'm not accountable to anybody outside of the organisation. I (1) F/48/27/10.

> I'm accountable to Headquarters ….the training manager who I'm also accountable to…. the Head of Training who's the Chief Superintendent. I have a very clear structure of who….I'm accountable to. Sgt (2) M/49/29/6.

> ….I consider myself accountable to the Chief Constable and the police authority. But....I'm really clear that chief officers, senior officers and the staff of the constabulary are accountable to the public of [County omitted]. DCC (3) M/47/21/1.

> The head of this department. CI (4) M/53/23/8.

In the first instance, to the BCU commander, who's my direct line manager, but I think more generally, to the force executive, to the police authority and to the local community and there are a number of mechanisms in place to hold me to account in terms of operational delivery. CS (5) F/42/15/1.

....we are a people organisation, part of the manager's role is to deal with people, that, to me, shouldn't be perceived as a problem....the problem is the bureaucracy, it can be numbers, and figures that you have to produce, and what they seem to forget is that....we're an organisation of people for people....I don't see those as a problem at all. I (6) M/42/23/5.

I am accountable to the public of [Location omitted] for my performance....to my chief officers. I'm also accountable to the chief executive of the local authority in terms of delivering my partnership agreement, CS (7) M/44/25/1.

The Chief Constable gives me strategic direction; gives me the resources to provide a policing service in (Location omitted). I am accountable on a daily basis to the partners and to the public of (Location omitted) ....I am answerable to the Chief Constable. CS (8) M/50/31/3.

….directly accountable to the Chief Constable ....I have a greater interface with the authority...I represent the force on the Local Criminal Justice Board....there's an accountability….to deliver in the partnership arena. I have....in place systems which will allow me to get the message back to...ordinary cops.... that's a sharp focus and it's what we were discussing earlier about the political nature of the job....you mustn't forget your people and those structures of accountability. DCC (9) M/57/30/4.

I'm accountable to my head of department and to the executive, but ....I'm accountable to....the public. I think I've got to be seen that I'm accountable to them and I've got to put that out as a culture to the rest of the staff….that's ....as I would believe it. CI (10) M/46/26/3.

It is interesting to note that the foremost 'level' of accountability that most of

this cohort acknowledge is their responsibility within the hierarchical structure

that has been, since its inception, an intrinsic part of the police service. The discourse revealed here is that of being bound within that structure; there is always a duty to report 'upwards' and it would appear to be a discourse from which there is no breaking free without the sanction of the discipline code being invoked for those who do not keep within the boundaries.

Once again the dominant cultural theme is concerned with accountability to those bodies that oversee the police, it is part of what Chan described as the 'police mandate' and which she termed axiomatic knowledge. Given the subject of the question, that of accountability, it stands to reason that this would be that case, and, additionally, there does not appear to be any counter- cultural forces at work in these particular replies.

Cohort 3 – Peer Group

> I was directly accountable to the Home Office, because I was working on national training….at that particular point I was directly accountable for both financial and management issues. I (1) 52/30/6 R.

> Top to bottom. PC (2) M/58/30/30 R.

> I was very accountable to (CC Name omitted) And I think I was accountable to the Police Authority ….I think I was accountable to the local authority representatives and all these little panels they had….above all I was very accountable to my staff. CS (3) M/67/30/4 R.

> ....more or less in order, the law, the public, the organisation, the individual. CI (4) M/64/30/8 R.

> Just my Area Commander. I (5) M/57/32/10 R.

> The Chief Constable. CS (6) M/68/30/5 R.

> ....I was one of six Detective Sergeants who were accountable to the Superintendent and that was it…..I was....a Headquarters Officer at an area command, so technically I was also accountable to the area commanders. Sgt (7) M/57/30/10(R).

> ….DCC, through my Chief Superintendent who would usually be bypassed….I was also accountable to the police authority….I was accountable to the HMI because they would ring me up and ask for things to be done without going through command….then you'd have to explain to command why things were happening. S (8) M/63/30/6 R.
>
> I felt more accountable to colleagues and the multi – agency groups. They were really who I was accountable to. If there had been major public disorder then clearly the accountability goes to the Chief Constable. CS (9) M/56/30/3 R.
>
> I'd like to think I was accountable to the public, but that would be a bit naïve of me….my accountability was to the person who had the strongest voice within that district at the time…. Sgt (10) M/67/30/12 R.

Once again the accountability, which exists in the hierarchical structure of the service, exerts its influence over this cohort and their sense of duty, as well as an apparent moral obligation, is strong. Similarly, given the era that the peer group policed in there is a fairly dominant cultural theme based on Chan's model. However there is one notable exception, which indicates that the culture imbued by a particular senior officer appears to run at odds with both local and national initiatives. This can be found in the response above where the comment made by the final interviewee, Sgt. (10), who had previously been a mid-ranking naval officer, seems initially to be out of context with both his previous (naval) role, his role as a serving police officer and his role, at interview, as a police recruit trainer.

In order to enable the reader to appreciate the reasoning behind this response it is both necessary and important to reveal the identity of the senior officer concerned. It was in fact Ray Mallon, a Superintendent in Cleveland police whose high profile 'zero tolerance' policing policy, based on the American model, gained considerable publicity (if very little else) at the time.

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Mallon's subsequent fall from grace then led to another high profile post as elected mayor of Middlesbrough. It is not surprising, given this information, that the interviewee was obviously strongly influenced by this somewhat charismatic character who had, in his words, '....the strongest voice.'

It is interesting to note that Mallon was often at odds with both his senior command and, on occasion, the Home office. Nevertheless his methods seem in many respects, to be a product of the police culture, which Reiner debated whilst frequently being at odds with the official view often did facilitate getting the job done.

Cohort 4 – Student Officers

> I'm....accountable to myself and to my colleagues, obviously I'm part of a working shift and we're busy....it doesn't work if one person's lazy and one works....really hard....it's the management that I'm accountable to in relation to figures KPI's....all that rubbish! PC (1) F/23/2/2.

Once again we see that scepticism and cynicism, identified by both Chan and Reiner, about the official purpose of the police. As far as this officer is concerned she appears to consider herself accountable to management but at the same time denigrates the purpose of KPIs (Key Performance Indicators) by referring to them as '…….. all that rubbish.'

> To my shift Sergeant who is then obviously accountable to the Inspector above. PC (2) M/31/2/2.

> Accountable to your sergeants and your inspectors and higher, you've got to show respect to everyone. PC (3) F/28/2/2.

> Accountable to everybody upstairs, basically my sergeant and my inspector….the public who I deal with …. it's a public service….but other than Sergeant

and Inspector I don't think about anyone else to be honest. PC (4) M/34/2/2.

I'm accountable to the public, but then I suppose I wouldn't be personally held accountable....I'm accountable to all....the management and whether I'm accountable to the public or not....would depend on the incident as to whether the force would take some kind of accountability or responsibility for it or whether it would just be – 'No she's a loose cannon, standing on her own.' PC (5) F/27/2/2.

My sergeant and inspector I think, yeah and then every body else above that. Up to the Chief Constable [Name omitted] PC (6) F/22/2/2.

Yes, everybody….I just respect the Chief Inspector who might not be my area commander….I feel the accountability at that level. PC (7) F/23/2/2.

My Sergeant and everybody above....PCSOs See glossary) and Special Constables - not really, I'm not accountable to them at the moment, I think I'm moving up the ladder, but pretty much everybody. PC (8) M/28/2/2.

Whilst there is an element of humour in this particular reply, which, according to Holdaway, is one of those joking narratives that officers often make about themselves, or indeed their supervisors which help '….to preserve the traditions of the occupational culture, sustaining it against the odds of experience.' (Holdaway, 1984: p.138). The joke here is that the officer has an element of accountability to everyone, including the PCSOs. More importantly however it demonstrates his awareness that he is at the bottom of the pecking order.

Everybody who is above….we are accountable to the public….inside of it we are accountable to our chief. PC (9) M/29/2/2.

Sergeant….Inspector....to some extent the Chief Inspector….but I've not had any dealing with those….

> where I have to account for myself….It's always been
> the Sergeant or the Inspector. PC (10) M/27/2/2.

Once again the structure of the service is revealed in this set of responses and seems to keep the boundaries of the discourses strictly drawn and binding on those who are, as it were, within that discourse. It is also of note that there were only three replies where accountability to the public was acknowledged in the Student Officer population. The reply by PC (5) was unique insofar as she immediately acknowledged that her first responsibility and her accountability were to the public.

Culturally, within these responses, it could be said that the overall recognition and acknowledgement of their position within the organisation, insofar as the way things are done as part of the hierarchical rank structure, indicates, quite counter-culturally given the differences highlighted in previous responses, they appear to much more aware of the whys and wherefores of the job, according to Chan, and how it gets done as part of Reiner's '*police 'mission*. The response by PC (5), on page 185 appears to be at odds with her legal position when she states '….then I suppose I wouldn't be personally held accountable....' which, since the introduction of Human Rights legislation did make officers individually responsible for their own malfeasance. Prior to this legislation Chief Constables were vicariously liable for the actions of their officers.

The following replies are those identified earlier in the chapter and which are more concerned with perceptions of accountability drawn from other areas

of questioning which were not necessarily about accountability but which, nevertheless, highlighted the subject matter.

Further perceptions - All cohorts

> ….the police ultimately have to be nationally accountable. I wouldn't necessarily object to being accountable to local democratically appointed persons, but only on matters which were less strategic…. CI (4) M/64/30/8 R.

> ….people are accountable up to chief constable now and similarly, if politicians transgress, if millionaires transgress….they're much more likely to be punished for it, than they ever were….and rightly so. DCC (3) M/47/21/1.

> I'm very keen on accountability, I think the public have got a right to expect that crime will be reduced and that police should be seen to play our part in that…. However….the myriad of counting rules….is less than helpful. DCC (3) M/47/21/1.

> I am very comfortable with other organisations wanting to constrain us….because….if we say that we want extended powers, I would fully expect to….have to justify those and argue them against somebody who doesn't want us to have them…. CC (2) M/56/31/3.

> ….we've got to have an element of standardisation in the way that we go about things….each force has certain standards….I think…. the only way that that's gonna be uniform is by it being implemented nationally and us being accountable nationally. PC (5) F/27/2/2.

> ….accountability is the absolute epitome of everything. You have got to have accountability….the greater problem that I see in many walks of life, there has not been enough accountability in anything….CS (5) M/68/30/5 R.

> ….an in-depth scrutiny of our use and abuse of the law, we are very much accountable to the….highest courts in the land…. we do make mistakes and….we come a cropper…..there is real transparency in terms of the legal process…. It underpins everything….and we are highly accountable through the courts…. CC (1) M/51/24/2.

This particular reply will immediately strike the reader who will recall that in the previous chapters we have already encountered the situation where there appears to be on many occasions, a marked reluctance on the part of the CPS to prosecute serving police officers; even when prosecutions do take place there have been a number of high profile acquittals. They notably include that of PC Simon Howard who in July 2012 was found not guilty of the murder of Ian Tomlinson in April 2009, during the G20 Summit protests. However Howard was subsequently dismissed in September 2012 for gross misconduct in a public office.

This and other cases appear to have run contrary to the principals of justice. It could, of course, be argued that results like these are one of the salient features of jury trials which, on further examination, seem particularly unedifying, but indicates that the jury alone decide on the facts but, crucially, without the benefit of knowledge of the accused's previous history. Nevertheless I feel that the chief in this instance truly felt that, as a service, the police as a body were, and indeed still are extremely accountable in many respects particularly in the current 'audit culture' climate.

> ....let's have governance and it may well have a National Police service providing a lot of the issues that we talked about before....but ultimately we are accountable to ....the local people. PC (8) M/28/2/2.

> I believe in the balance between local and national, because I do not wish to work in a police state or fascist society. CC (8) M/52/29/4.

> ....cops parking on yellow lines when they shouldn't and going into travel agents....that all ends up in my office for an explanation....I gave evidence at the Victoria Klimbie enquiry, I was the one who said sorry on behalf of the Met and that gets quite interesting in terms of your

digestive system being dealt with by public enquiries....it's real, I've been there and ....it is a very powerful sort of accountability that. CC (2) M/56/31/3.

....you sometimes feel like Janus, looking in a variety of different directions all at the same time. To whom do I feel most accountable?....the police authority. CC (6) M/52/30/8.

....it's that higher degree of accountability which is thrust upon all managers....they do have a very important role of holding us to account and they are people by large in touch with the local communities… because if you look at where the funding comes from, it's got to be an element of both and it has to be the kind of tripartite arrangement…. DCC (9) M/57/30/4.

....we have to be a bit of both and I know that causes confusion, but we have to be accountable to both [locally and nationally] for different functions. CC (3) M/56/31/3.

....in terms of outputs, how I organise the (Name omitted) Police Force to do that, they won't intervene upon the vision I have for the force ….they look really at results.   The authority however, would seek to intervene ….if they felt that my model wasn't interfacing with communities or was in some way impinging upon the relation with local authorities, then they become… a bit more intrusive….mostly they leave you be. CC (3) M/56/31/3.

Here again the desire to be 'left alone' to get on with the job indicates that this officer is expressing a level of scepticism about the 'official position'. He really does appear to have a desire, without official rhetoric or interference, to get on with his job which Reiner identified as part of the *police mission'* and it also has an underlying theme of Chan's axiomatic knowledge.

I had this discussion once with the MP for (Constituency omitted)….no problem at all with a Member of Parliament controlling the budget for the police…. because at the end of the day, if they underfunded us, they'd be out of a job….you can underfund housing, health, education; you underfund policing….and you're

going to see the consequences pretty damn quick. CS (10) M/40/20/1.

….we ought to be held accountable….people in local communities have got a right to know what level of service is being delivered in their area….it's got to meet their needs….answer their questions….about what our local police service is delivering. CC (4) M/51/32/3.

It's accountability….to the nth degree where you really started to strangle initiative and actually strangle….the objective you're trying to achieve. CS (9) M/56/30/3 R.

This particular comment by CS (9) indicates a degree of scepticism about the official orders where, in his opinion, the degree of accountability expected is starting to interfere with the objectives of policing. It also appears to contain an element of self-reflective and professional thinking.

I'm always accountable and I know from personal knowledge and my predecessor knew better than I given his experience with the Home Secretary. There are occasions when you know you need to put in a call to the Home Office to alert a minister that something's happening. CC (7) M/54/31/3.

I had an element of accountability because of my national lead on [subject omitted]. I have a close working relationship with the Home Office and with the government minister who deals with (subject omitted). ….it's rather informal accountability…. I happen to head a committee….I have no executive power but it's part of that broader… political accountability. CC (7) M/54/31/3.

….we've got a very good relationship with the councils, but they want to see their power over the Chief Constable and the accountability of the Chief Constable to the local council. I think that was very important to them. CS (10) M/40/20/1.

….people get shot and if they're injured or if they are actually killed, then it is right and proper that we should be held accountable, but we've got to acknowledge that there is a greater degree of weaponry out on the street and some of it, frighteningly, frighteningly powerful. CC (9) M/56/35/5.

I feel that I am held accountable. I care a lot about what local people think….I can't address all of the concerns that people have….I recognise the real problems that people have about paying more for public services. CC (9) M/56/35/5.

The final question on accountability asked all four cohorts if they felt they were answerable, or accountable, to the law as opposed to just having prosecutions accepted or rejected by the verdicts of a court. Whilst there may be a semantic difference about the usage of answerability as opposed to 'accountability' most of the respondents tended to apply either answerability or accountability in a similar context.

Any common themes, or discourses, which emerge from the answers given, have been identified and although the manner of expressing them may vary it was interesting to note the similarities of expression which would help to identify those common discourses. They remain throughout the entire interview data and were 'untouched' as it were by the associative boundaries of age, rank, gender and ethnicity which already separate the four cohorts.

Cohort 1 – Chief Constables

I think there is a lot of transparency in the legal system.   ....and by people like surveillance commissioners....I think we are highly accountable through the courts. CC (1) M/51/24/2.

…. who were we accountable to…. some of them could actually prosecute me and send me to jail, as well as dismiss me…. So I don't think there's a….a public body that's as accountable as we are. CC (2) M/54/31/3

Yes thankfully I do still feel that we're answerable to the law.... and it's quite right we should be. CC (4) M/53/29/4

I think that you're accountable to the law.... but more importantly we're accountable to the people out

there ….I don't think we've got a major problem with accountability. CC (4) M/51/32/3

Every day of my working life I feel as though I am answerable to the law....there isn't a day goes by that somebody tells me I can or cannot do something….so I feel that I am constrained by the law ….it's an iconic part of the police service that we have to be seen all the time to be compliant with the law. CC (5) M/52/31/3

So I think….it is that greater framework that I'm accountable to rather than success or failure in court. CC (6) M/52/31/8.

....I do feel we're accountable to the law and that's entirely right....the police should never be above the law. CC (7) M/54/31/3

Policing by consent is the single…., sound bite that sums up different aspects of public control and support for policing. ….it's one of those things that's best cherished by being kept woolly[25]. If you try to tie it down….I think you limit its value….it does not exist as an inviolable law of the universe. It is entirely, 'see question one[26]'…. the role….and….control of the police are entirely a matter for the democratic process. CC (8) M/52/29/4

....I feel that I am held accountable. I care a lot about what local people think....I never want to be seen policing without the unanimous....support of the public. CC (9) M/56/36/5

I'm answerable to the law….what's increased….has been the increasing ability of the judiciary and the courts to step into what was….purely operational decision making. Now I feel more of…. the potential to be held to account by the law….that's been quite a major move. What is accountability?....with a number of other chiefs….we talked about the notion of accountability or do we mean answerability? Is my requirement to explain, articulate and provide an answer? Or is to account….if it's to account is the ultimate sanction around accountability to get rid of me? CC (10) M/48/27/1.

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[25]   This, I feel, is probably the clearest, simplest (without being simplistic) summation of what 'policing by consent' is all about.

[26]   There is an old (unofficial) maxim in policing which states Rule 1 – The Chief (or whatever rank is under question) is always right; Rule 2. In the event of the Chief being wrong Rule 1 applies. In this particular instance it is expressed as 'see question 1'.

Whilst the wording used in the question was 'answerable' it is interesting to note that eight of the ten chiefs used the word 'accountable' in their replies, two used 'answerable' and one used neither. The distinction was drawn by CC (10) who queried whether it actually meant answerability rather than accountability. There is a clear recognition that he, and indeed most of his colleagues are answerable to the law. They may even be trapped by their own and others conventional professional rhetoric insofar as that whilst being 'answerable' to the law, they are still accountable to higher management i.e. the Home Office. The cohort obviously gave a lot of thought to their answers and the discussion, prompted by CC (10), produced responses which were, in many respects, unconnected with any of the issues around consent; which of these 'discourses' carries the ultimate sanction; that of dismissal?

We need look no further than two recent incidents. In May 2012, the chief constable of North Yorkshire, Graeme Maxwell, resigned following an internal disciplinary hearing where he was found guilty of gross misconduct in a public office. Whilst he was not dismissed it is clear that he found that to remain in post was untenable; almost a dismissal by default! Later, in October the same year Sean Price, the Chief Constable of Cleveland Constabulary, was found guilty of a similar offence and was dismissed.

Answerability, in both of these cases, has led to both of these officers falling foul of the ultimate sanction, that of dismissal. It is obvious that they have both 'broken free' of this particular discourse. This, in turn would appear to militate against Giddens' proposal where structures are created through personal actions allowing them to break free. That they have broken free is

not in question, one through his own resignation and the other through his dismissal, over which his personal actions would have had little or no effect. Whilst I accept that they have broken free, it is a Pyrrhic victory; they are no longer in charge.

These replies, from the chief constable's cohort, display indicate a striking commonality of expression and recognition of that accountability to the law, which, despite their relatively 'independent' position and freedom of action, they all are cognisant of the fact that as well as being powerful individuals they are also, at the same time 'powerless'; they are subject to the same strictures which bind the majority of citizens and, in turn are subject to the forces contained in Foucault's 'discourses of power' over which, according to Foucault, they have no control. Indeed, according to Foucault, we apply powerful discourses to ourselves, and, as a result the powerful are trapped by them as much as the powerless.

There is, however, a counter to this inability to break the strictures of these discourses which Giddens termed his 'dialectic of control'[27] in which he stated that people are '….never the helpless playthings   of social forces completely beyond their control….' (Layder, 2006: p.170). Therefore by personal actions we reproduce structures, as Giddens proposed, could facilitate a 'breaking free', whilst at the same time allowing them (chief officers) to remain in charge.

There appears to be little or no rhetoric in any of these responses and they display an awareness of their position(s). There is, however, a parallel and separate hidden discourse, almost an undercurrent, which indicates an

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[27]   See Chapter 4, Methodology for a further explanation of the 'dialectic of control'.

acknowledgement of the power, in the sense of the resources they have at their disposal, which they can and indeed often do, wield. The reply from CC8/M/52/29/4 on page 190, whilst not at odds with the concept of answerability, does indicate that the concept of 'policing by consent', at least in his eyes, is neither the simple nor the simplistic shibboleth of policing attributed to Reith in 1953.

The influence(s) of police culture, either hidden or unacknowledged, can undoubtedly be found within all aspects of policing as is clearly the case within these answers, and, once again, the dominant theme is in accordance with Chan's description of axiomatic knowledge. Additionally, in these particular responses, cognisance is taken of accountability which is laid down in both local and national legislation and is subject to regulation. It appears that there is not a great deal of scope, for officers of any rank, to apply the others factors of police culture in this particular area either deliberately, inadvertently or even subliminally.

However the aspects of culture highlighted do not appear to carry negative connotations, or indeed to point to a down or dark side of policing. Rhetorically speaking, perhaps then there may even be place for particular aspects of police culture. It is also worth the reader considering the answerability versus accountability argument proposed by one Chief Officer when analysing the responses.

Cohort 2 – Senior/Middle Management

> ….this country is very strange….every now and then a jury will throw up a decision which will make you think…. we really do have a democracy….and we really can get somewhere." But I would say that….we are under the influence….of the judiciary. Sgt (2) M/49/29/6.

I think that the police are answerable to the law in terms of when things go wrong….We're answerable to public opinion….through the media….and through the police authority….so I think there are legal things in place that….hold us answerable. CI (4) M/53/23/8.

....we have to operate within the confines of the law.... CS (5) F/42/15/1.

From that legal view point, it has to be the people. I (6) M/42/23/5.Ax

I think that the police service is answerable to the law, and that it's entirely appropriate that we are set apart from the judicial process. What happens in a court of law is and should remain….nothing to do with the police. CS (7) M/44/25/1.

….ultimately I am accountable to the law; but I am also accountable to the public….we still have to go to police and community forums….which I think is a little bit outdated….but we still are answerable to the public for our performance…. CS (8) M/50/31/3.

….I do still believe that we're answerable to the law.... there's that separation of powers. DCC (9) M/57/30/4.
....I think we are answerable to the law, as is everybody….I'm much more answerable to the people, to the public, rather than to the law. But yes ….I do feel I am answering to the law. CS (10) M/46/20/3

….you let the law take its course and I think that is ultimately it….any other way is when you start cutting corners and being dishonest to….make the outcome the way you want it to be and not following….proper processes. I (1) F/48/27/10.

....the whole consent issue and....accountability.... are inextricably linked....if we are serious....about consent ....then we need to give people a voice over influencing what happens. DCC (3) M/47/21/1.

Once again in this section, the senior and middle management officers, the difference that was highlighted between accountability and answerability by CC 10 was apparent in their answers. It appears more than a little convincing that, to most of the cohort, police 'accountability' has long had the

appearance and substance of 'conventional professional rhetoric', indeed it is almost a piece of management slang which can be identified across a number of publicly funded bodies. In 2000, Reiner, describing the proliferation of policing institutions and processes, recognised '….how chimerical the pursuit of adequate police accountability has been in the past.' (Reiner, 2000: p. 198). Conversely however there is a clear acceptance of **answerability to the law** (added emphasis) together with a clear delineation from the judicial process, which, they rightly recognise as being quite separate and distinct from the performance of their duties. Once again emphasis is on Chan's axiomatic knowledge which appears to dominate the cultural aspects of this particular set of responses. In this respect it appears to reinforce an almost thematic construct of police culture which, in many respects, is driven along the lines of rank and seniority within the organisation. There is also a collective solidarity of professional people which, in turn, produces a distinctive interpretation of the official line.

Cohort 3 – Peer Group

> I found as an individual I was answerable to the law, but in my early days, I felt driven….because of the culture in the CID, to succeed in prosecutions, rather than a search for the truth….on reflection, I think I actually believe in the search for the truth. I (1) M/52/30/6 R[etired].

> .... I was answerable to the law, whether as an individual or working for an organisation....that executed the law…. PC (2) M/58/30/30/R.

> Very much so….I was answerable to the courts, I was answerable to the local authority. I was answerable to the Chief Constable. I was answerable to my own staff and I was answerable to the public. CS (3) M/67/30/4 R.

Yes, I have always felt that the main cornerstone of my role....is ultimately controlled or decided by the law.... The law is the guiding light. CI (4) M/64/30/8/R.

....the police are certainly always answerable to the law ....the law's very fair in the sense that the police have got to prove....the suspect hasn't got to do anything. He hasn't got to disprove it. I (5) M/57/30/10 R.

I am answerable to the law. I was as a police officer as well. You can't assault someone....and not be accountable to the law just because you're a police officer. People in general....are weak in life. A lot are greedy and selfish....you have to pass laws for the good of people. CS (6) M/68/30/5.

....we should be answerable to the law, not to a political bias....You had to seek the truth in all incidents.... that's the way it's got to be done. Sgt (7) M/57/30/10/R.

I was always answerable to the law....but we're back to this notion that there are people who wish to be policed and those who don't wish to be policed. S (8) M/63/30/6 R.

Absolutely....you know that Superintendents have their own insurance to protect them from the ravages of the law when they make a mistake....very much accountable to the law....Being part of team of other disciplines, other organisations, other public bodies can make the area better.... but the accountability grows. CS (9) M/56/30/3 R.

....where I've lost cases at court....I used to get a bit uptight about it but....I'd moved on....I knew I could probably end up going to pieces over it....I thought, I'm accountable to the law, if I stick with what I can do and what offences I can investigate....we get to court I get a conviction, irrespective of sentence, I've done my job well. Sgt (10) M/67/30/12 R.

The replies from the second and third cohorts, the Senior Management officers and the Peer Group demonstrate a striking similarity with the replies of the previous cohort which indicates the emergence of a common theme or discourse which may well spread across all cohorts revealing a genuine

awareness of the role of the police, and to whom they are accountable, or indeed answerable to within the society of which they are also an integral part.

However it raises a further question insofar as that the 'accountability to the law' may simply be a rhetorical divergence which facilitates a means of avoiding accountability to the public. The history of the modern police service is littered with instances where the law itself has not been applied to the police. Recently, the acquittal of PC Simon Howard (see page 191) on charges of manslaughter raises the issue of whether the CPS was well advised in this particular case. Indeed their application of process against police officers has not been stellar, nor does it appear to instil any confidence in the independence and vigour of the organisation. In addition, and perhaps more worryingly, it also highlights the reluctance of a jury reluctance to convict a police officer, even in the face of seemingly overwhelming evidence; the feeling left is that convictions, in these cases, would destroy the public's belief in what the police service stands for. On the other side of the coin however it also highlights one of the corner stones of the English Legal system, that of the right of trial by a jury of your peers where it is the jury alone who decide on the facts of the case. This situation is a fairly powerful argument in favour of the suggested 'jurisprudence of consent'.

In this set of replies there are two clear examples of the 'inner workings' of police culture; on page 201 I (1) states that '….in my early days, I felt driven….because of the culture in the CID, to succeed in prosecutions, and again on pages 202/203 Sgt (10) acknowledges the influences of those same cultural *mores* whereby he indicated that '….where I've lost cases at court….I used to get a bit uptight about it but….I'd moved on….I knew I could

probably end up going to pieces over it....' There is little doubt that the second example owes a great deal to the cultural expectation at one time prevalent in most departments, but more particularly in the CID, that results were everything. Numerous well publicised and even less well publicised miscarriages of justice are ample testament to its prevalence in that particular era of policing.

Cohort 4 – Student Officers

> ....I think we are.... if you break the law....you're just the same as everybody else and you can still be prosecuted....I'm not untouchable. PC (1) F/23/2/2

> I am governed by my supervisors who are governed by their supervisors and a lot of politics comes into it. My belief is ultimately, you know, I am working for....the force and for the Queen. PC (2) M/31/2/2

> The law....I know you've got to answer to your supervisors and the Chief Constable....but you are answerable to the law. PC (3) F/28/2/2.

> I would like to think that what I do....was answerable to the law but we talked earlier about statistics etcetera, the laws are there....but it's not always used. PC (4) M/34/2/2.

> Personally I do, yeah, I think that the positive aspect of the police being a separate entity to the courts....our main issue being the implementation of the law rather than procedural aspects in terms of convictions. PC (5) F/27/2/2

This officer demonstrates that she is well aware of the absolute necessity to remove the 'desire to convict' from the impartial implementation of the law and she draws the absolute distinction, which is not always clear in other aspects, that the two should always remain as separate entities. It is evident from the interview recording that this is undoubted a strongly held view. It would also appear to indicate, in many ways, that the service may well have moved on from the 'convict at any cost' culture so vividly highlighted on

pages 201 and 202/203 in the replies from the peer group cohort. Having said that the reply by PC (8) later on the next page appears to return this particular aspect of culture back to where it was; however his reply is leavened by the final part of answer where he states that 'I'm not sure….that I've got enough experience in the service to be able to give that a proper reflective answer. Perhaps this indicates the beginnings of a more self-reflective culture developing within the service which will be discussed at a later stage in the work.

> I think we're all answerable to the law….it's important to remember that we all should just abide by the law. PC (6) F/22/2/2.

> ….do I feel I'm answerable to the law? Yes, definitely. PC (7) F/23/2/2.

> ….the frustration I have is the work effort that we put into a prosecution…..finding that person guilty and then the trivial sentence….was it really worth it? It's difficult to divorce yourself from the end result….I'm not sure….that I've got enough experience in the service to be able to give that a proper reflective answer. PC (8) M/28/2/2.

> I don't feel I am above the law….if I was to do something unlawful….action would be take against me….I don't feel I am above the law….I think the public may think that we are because you get the odd comment. "….coppers would get away with it….the public may think we are above the law, but I personally don't think so, far from it. PC (9) M/29/2/2.

> I know I'm definitely accountable.. in a sense, yes.... I don't see it as being accountable to the law….but accountable to the system, to my supervisors…. obviously I have to be accountable for my actions….so whatever I decide is the right option, I have to be able to justify that. PC (10) M/27/2/2.

So does the 'system' over-ride the 'rule of law'? Is this a case of two irreconcilable discourses meeting in an 'immovable object/irresistible force

dichotomy or is it simply an officer who has a very finely attuned regard for his overall accountability. It was in many respects, a genuine comment by a student officer who, whilst he recognises his accountability to the system, may not be as aware of his over-riding responsibility but, simultaneously recognises his accountability for his actions. Again this type of response indicates an increasing support for that 'jurisprudence of consent'.

Overall, the majority replies from the student officer cohort display the same awareness of a position and a role within society, part of which is inculcated in their initial training, particularly since the introduction of the IPLDP. It is worthy of note that one of the major changes, and indeed a new concept to initial police training, was to place newly recruited officers, who were at the very beginning of their training programme, into some of the harder-to-reach, harder to police groups within the communities that they would eventually be serving. This particular facet of training was designed to enable them to experience the difficulties that such groups faced without the influence of the police mind-set, sometimes referred to as the 'canteen culture' that they would be exposed to once they had been posted to the area that they would police. The decision as to whether they would be overt or covert participants was left entirely to the leaders of the various groups. In my professional capacity I carried out a number of evaluations, locally, regionally and nationally, on this particular programme (the IPLDP) and it is fair to say that aforementioned aspect of their training was, in many respects, very successful but with the caveat that some decisions to keep an officer 'under cover' as it were, produced some strident confrontations on either their

revelation or discovery. Their replies also indicate that part of their individual make-up and personality that prompted them to become police officers in the first instance.

This question was employed to introduce the concept of consent; it produced an interesting if somewhat similar range of responses all of which display a number of discursive themes. The emerging themes can be summarised as follows. It is obvious that you cannot obtain everyone's consent; there is a genuine requirement that any response made in a policing situation needs to be proportionate, which in fact is one of the fundamental principles of the HRA of 1998; checks and balances need to be in place to prevent or at least limit excesses; the fact that policing by consent is neither codified, defined nor part of any legislative process would, they feel, destroy the concept or 'doctrine' of consent. Bearing in mind the tri-partite agreement there is also, especially from the Chief Constable cohort, an acquiescence towards the legislature which, once again highlights the 'powerful yet in some respects powerless' dichotomy that is an integral part of their role. Once again aspects of the possible disappearance of a once prevalent aspect of police culture, that of convict at any cost, appeared at one stage to be waning in influence in the responses of this particular cohort. Whilst another response, PC (8), page 208, seemed to be at variance with its disappearance, his response was at least tempered by some professional self-reflection which the officer indicated, would in due course, facilitate the more desirable outcome of seeking the truth rather than a conviction.

It is obvious that the vast array of accountability processes that exist within the police service, and indeed a number of other publicly funded bodies, are part of the 'audit culture' that seems in many respects to stifling the very nature of policing by the addition of layers of bureaucracy. However there is not much doubt that true accountability should and can lead to a more open culture of personal responsibility which, in turn, will lead to a more genuine public appreciation of policing by consent.

In the following chapter the views of the police officers will be sought on consent and, in order to measure the validity and veracity of their perceptions, they will also be 'put on the spot' as it were by an opposing question which will ask them directly to explain and rationalise the times when they genuinely felt that consent was being lost.

Chapter 7: Consent

Interview Data and Analysis

This chapter will analyse and interpret the views, opinions and verbal explanations of the police officers in the four survey cohorts, with particular reference to policing by consent. I will endeavour to establish whether, within the confines of the service, there is any evidence of a doctrine of consent, which, by its very nature, must have a direct and lasting influence upon both the personal and professional conduct of those same officers. The phrase 'policing by consent', hermeneutically speaking, has variously been attributed to Sir Robert Peel, the principal architect of the bill placed before parliament which saw the formation of the Metropolitan Police in 1829 and the first commissioners of that same force, Rowan and Mayne[28]. It has also been ascribed to Reith, a noted author on the police in the 1950's, during a period which he termed the 'golden age' of policing.

In 1991 Beetham argued that '….consent in the contemporary era now has to be popular consent if it is to have any legitimating force'. (Beetham, 1991: p.151). This is in direct contrast to the contents of a report entitled 'Adapting to Protest', which was conducted at the request of the Commissioner of the MPS by HMIC, an examination of the policing methods used on 1 April 2009 during the G20 summits in London was carried out. The report was highly critical of the tactics used and stated, quite unequivocally, that the excessive use of force by the police had been a key factor in undermining the historic principle of policing by consent in Britain. When these factors are added to the 'mix of policing' that is almost unique to England and

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[28]   See also Introduction

Wales where, according to Reiner '….the attempted unification in the same organisation of the "high policing" function of regulating explicit political dissidence with the "low policing" task of routine law enforcement and street-level order maintenance' (Reiner,2003: p.8) presents a contradiction. It is this contradiction, which has already been briefly explored, that makes it an integral and inseparable part of any proposed doctrine or jurisprudence of 'policing by consent'.

However in 2012 Tyler, in Jackson, Bradford, Hough and Murray, had demonstrated that '….public perceptions of the *fairness* of the justice system are more significant in shaping its *legitimacy* than perceptions of its effectiveness….having earned an entitlement to command legitimacy is formed via interpersonal interaction….It is the quality of treatment….that is more important in encounters with the police than the objective outcome.' (Tyler in Jackson, Bradford, Hough and Murray, 2012: p.32). They went on to argue that '….by demonstrating 'moral authority' the police can embody….a shared sense of right and wrong and a commitment to the rule of law….which requires them to negotiate order in a way that maximises consent.' (Jackson, Bradford, Hough and Murray, 2012: p.34).

Doubtless these contradictions present a challenge to the interpretation of the interviews; however, the digital recordings of those interviews, together with the literal transcriptions assisted in the facilitation of the interpretation, which, in turn, helped to reveal any apparent differences between the written and spoken words. This enabled me to adduce evidence to support the aforementioned doctrine. The interpretation, particularly of the spoken word, relies, in no small measure, on personal experience and the insider

knowledge gained, both as a serving police officer and latterly as a member of the extended police family over the majority of my working life. This was highlighted in Chapter 4, where the identification of my locus within the research was described as being a 'distanced insider researcher'.

These concepts assisted in identifying what has been termed as 'conventional professional rhetoric', which was introduced in Chapter 4, and which, as already stated, is directly linked to the rhetoric/reality discussion inherent in all of the interviews. Indeed it is a salient and usually predominant feature of most qualitative interviews. In order to further assist in the interpretation of those interviews, and to assist in establishing whether the subjects were in fact producing those 'Millsian' vocabularies of motive or the rhetoric already identified, 'reality check', in the form of a contrasting question was introduced, which was designed to mitigate those occurrences. In this context the fourth question on the issue of consent simply asked them to recall when they felt that they had lost the consent of the public, whereby an honest and open answer would undoubtedly reveal some hitherto unexpressed and genuine recollections of any personal or professional shortcomings.

The age range across all of the sample groups is between 22 and 68 years, a very broad spread of years. This indicates that in policing terms, each group will draw upon a range of highly context-dependent experiences. In the case of the Chief Constables however, where both the age range (48 to 56) and the service band is quite narrow there is undoubtedly a comparable range of key policing problems over a broadly similar, and relatively short time span.

It must also be said at this stage that there are indications that police culture, and more importantly the effects of police culture, on how the job of policing is carried out are present across all four cohorts and that it not just the preserve of the more junior ranks.

In order to ensure that the questions on consent were, in a sense, limited but without being constrained, some associative boundaries, which are within the essence and spirit of the semi-structured interview, were constructed in order to facilitate clarity of focus for each of the four cohorts. They were introduced by highlighting the fact that, in this particular context, policing by consent does not necessarily mean that suspects, or indeed even those whose transgressions are relatively minor, give their consent to the police to act against them. Nor does it mean that the police have to obtain assent from victims of crime in order to apprehend and deal with the perpetrators.

The first question on the issue of consent simply asked the cohorts whose consent they felt was necessary to carry out effective policing and did they feel that they had that consent.

Cohort 1 – Chief Constables

> You can't ever get everybody's consent, I think we police with the consent of the majority of the people….we're largely unarmed and ….we have to police with their consent…. they outnumber us a hell of a lot CC (1) M/51/24/2

Within the same answer, however he reveals a dichotomy by confessing that:

> The one area where we don't police with consent….is the young people….they **are pretty much policed at, very little policed with**, (my emphasis) seen as a

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problem they are seen as....devils by the elderly. CC (1) M/51/24/2

This particular section of his response highlights the dominant conceptions of order present in society and is indicative of the use of force on this particular section of the public, those who are, to paraphrase the Chief's words 'policed at'. There is every indication from the audio recording that this particular officer was expressing a very real and tangible regret that he was unable to police this particular group in a more human and humane fashion. It also gives lie to the Millsian theory of an 'actor' producing talk based on the situation he is in, that is to say the interview, and is not, as a consequence employing a 'vocabulary of motive, neither can I identify any 'convenient professional rhetoric' (see also Chapter 2, and this Chapter)

> Everybody's....you don't switch consent on and off....
> you have to earn your consent for next week, not live on
> the credit of what consent you had last week....CC (2)
> M/56/31/3.

> Well it's the consent of the public....but....increasingly it
> will be individual communities.... CC (3) M/53/29/4.

> Well essentially the communities....we have to build a
> consensus that starts at government level....ultimately
> the test is at neighbourhood level. CC (4) M/51/32/3.

> ....the whole population....I belong to the school of
> thinking which says public confidence in us should be
> our share price. CC (5) M/52/30/3.

> The general populace, if you've lost that, then it doesn't
> matter if you're acting with the commission of
> government. And the closest we came to losing that
> was the miner's dispute....the general populace....has to
> give their implicit consent towards carrying out our
> duties. CC (6) M/52/30/8.

> Well the public, and as I say I struggle with the word
> consent, I know what it means, it's not a word the public
> support....I still think the vast majority of law abiding
> public ....want to be well policed.... and want us to
> succeed. CC (7) M/54/31/3.

The consent of the population as a whole…. I think it's probably too tenuous to pin down....consent….They consent to me enforcing speed limits, when it's not them who are paying the fifty quid…. overall, it is the consent of the broadest possible population in an area to the policing tactics and doctrine applied with the outcomes that are acceptable to the public as well…. CC (8) M/52/29/4.

Yes I do believe that it is a fundamental principle of policing, but we do....police with the support and confidence of the public. Not necessarily so much the consent of the public. CC (9) M/56/36/5.

Well it's easy to say the public's consent but I think it's the majority of the public's consent for policing. I don't think you can ever take 100% consent with you. I think you've got to take a broad range of public consent with you in terms of what you deliver. CC (10) M/49/28/1.

Whilst in general terms the chief constables rightly identify the need for the public's consent, a substantial minority are more than concerned about the specificity of 'consent' per se and prefer to express it in terms of public support; as one so rightly points no one 'consents' to being fined for a traffic infringement (CC 8) but can still broadly support the principle of policing. A similar example was employed to illustrate the associative boundaries to the questions earlier in this chapter. Several of them also referred expressly to 'communities' and obtaining the consent of individual communities as well as neighbourhoods. At this particular time there were two main elements to the concepts of neighbourhood and community policing, the first of which was the legal requirement placed upon chief officers to introduce this format of policing and the second was the accountability placed upon them by HMIC. It is easy to identify, particularly with this cohort, that at the time of the interviews both 'neighbourhood' and 'community' policing were at the forefront of the

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government agenda; it is therefore likely that there is probably a hint of 'conventional professional', as well as an acquiescent nod toward the legislature in an effort to demonstrate that they are, as it were, on-side.

It naturally follows that as Potter (2004) stated '....discourse analysis is against the assumption that we can treat accounts as true or false descriptions of reality....' it '....emphasises   the way versions of the world ....are produced in discourse.' (Potter, 2004, p.202 in Silverman 2011: p.301). This is, in many respects, in line with Smart's 'Worldviews' which he identified in 1983. (see Chapter 4, page 121). In this context it is therefore worth noting that;

> '....in studying discourse as **_texts and talk in social practices_**....the focus is....on language as....the medium for interaction; analysis of discourse becomes, then, analysis of what people do. One theme that is particularly emphasised here is the rhetorical or argumentative organisation of talk and texts; claims and versions are constructed to undermine alternatives.' (Potter 2004: p.203, in Silverman 2011: p.301 emphasis in original,).

This, I feel enhances and supports the theory of talk which has been identified as 'conventional professional rhetoric' which, in Chapter 4, it was proposed that it was employed whilst the officers, particularly the Chief Constables, were answering, or more correctly not answering, the question whilst acting in the 'police spokesman said mode'. It would therefore be logical to assume that the chief constables, and indeed all of the other cohorts, were producing their particular world or worldview of policing.

There is an overall acknowledgement from this cohort that one of the basic rationales of policing is the obtaining of the consent of the majority of people that you police. Even if that consent is not expressed verbally then

perhaps officers assume that consent is, in most cases, given. However, that consent is never universally given and several of the replies rightly highlight the fact that people do consent (to being policed) provided that they are not on the receiving end of fixed penalty ticket, usually issued in respect of relatively minor infringements of traffic regulations; in effect, it becomes a *conditional consent* which, on reflection, is probably the best that is ever likely to be obtained.

It is however interesting to note that this collective view in itself may be yet another aspect of police culture; is it a significant modification or a simple deviation from the official line?. It does demonstrate that there is a collective solidarity amongst professionals which has produced a distinctive version or interpretation of the official culture. However it could be argued that there is an *en masse*, almost conditioned response which produces something akin to professional rhetoric; are they just producing or reproducing something they have been taught? On balance it is felt that, given the caveats placed upon consent by a number of them, that the *conditional consent* obtained, although it appears to be counter-cultural to the official purpose, it is perhaps a truer reflection of the principle of consent.

Cohort 2 – Senior/Middle Management

> The consent of the vast majority of the law abiding members of the public. I (1) F/48/27/10

> ….every now and then a jury will throw up a decision which will make you think to yourself "Wow we really do have a democracy in this country….by and large we are under the influence far too much of the judiciary. Sgt (2)/M/49/29/6.

....the whole consent issue, and I know you're gonna be talking about accountability, but I do think that the two are inextricably linked....if we are serious about....consent....then we need to give people a voice over influencing what happens....it goes into a relationship of consent....DCC (3) M/47/21/1.

....the obvious answer is the individuals. We can't force people to give statements....we have to operate on that basis....give us information, give us intelligence....give us a statement....it is all....on the attitude of the individual....victim or otherwise. CI (4) M/53/23/8.

The....law abiding majority of society....who are supportive of the....boundaries....put in place by government.... overall we maintain the confidence of the majority of the public....CS (5) F/42/15/1.

Even under there, I think it still comes back to the people. I (6) M/42/23/5.

I wouldn't want to be part of a police organisation where there wasn't public support, public consent, that tradition of public support and understanding. CS (7) M/44/25/1.

The public's consent…. that is the bedrock of the service that we provide…. To lose that consent…. which comes back to…. [your question on] "no-go" areas….that had some real issues. CS (8) M/50/28/3.

….It's the consent of….the members of our…. communities….consent is seen in their willingness to cooperate with the police....that to me is where key accountability lies and that's what's so important….DCC (9) M/57/29/4.

I do believe it's the wider public, the communities….we, we could not….do what we have to do if the public didn't want us to do it. CS (10) M/40/20/1.

Once again the views of the previous cohort are echoed here with recognition that the consent of the public, albeit unpublicised and normally unarticulated, is recognised as being inextricably linked to the performance of their duty in the name of that same public. In 2008 Tyler stated that the

'….procedural justice model ….can build general legitimacy among the public by treating people justly during personal encounters'. (Tyler, 2008: p. 241). He then went on to say that by using fair procedures '….the police can increase their legitimacy, even if their policing activities involve restricting or sanctioning the people….' (Tyler, 2008: p. 241). Could this be interpreted as the nascent beginnings of the legitimation of consent no less, and could it help to facilitate the formation of a jurisprudence of consent?

From a cultural perspective, the attitudes and expression are very much in line with those of the previous cohort. In that sense it can appear to some that this is just the usual 'management speak', which, if repeated often enough will become an 'established fact'. However, again in line with the Chief Constable cohort there is that recognition that there are occasions that consent will not be obtained and that the more confrontational and coercive methods of policing will need to be employed.

Cohort 3 – Peer Group

> ….my consent….not because I work for the organisation still, but I would be one of those….who will stand up and be counted if I didn't approve of something….I (1) M/52/30/6R.

> I accept what you're saying about consent of the police and the consent of the public because….we've got to then define consent, there's a whole prison population out there would say we didn't consent to the law. I still think the consent of….the general public….is the basis to what we do….it's….old fashioned, but I still think we police with their consent. C (2) M/58/30/30R.

> Well maybe they need to think "What does the community want from us?" And they don't want the police to make money out of them. CS (3) M/67/30/4 R.

> ….something probably more nebulous than that, it's the public consent balanced by public duty. The perceptions

of the public….for you to carry out your role to the best of your ability. CI (4) M/64/30/8R.

The public, nobody else's. I (5) M/57/30/10R.

Well, as I say, if the public….just totally disagree with anything you're doing and come out on the streets and start rioting, you're in the shit….so you've obviously got to have the public's consent. CS (6) M/68/30/5R.

….as you said before, if I become a victim, I have to give my consent for details to be passed of course….the only other consent issues I would think about is….what affects me, I found the guy who burgled my house, but he'd only admitted that on….a prison visit…. Sgt (7) M/57/30/10R.

A great deal has been said and written about police officers empathising with the victims of crime in order to develop a more caring attitude towards those victims; however, I would contend that it is not until you actually experience being a victim yourself that the true meaning of 'empathy' is revealed. I support this with my own particular experience, which was almost identical to the situation described above, whilst still a serving officer. It was a defining moment for me and certainly helped to create empathy in my subsequent dealings with numerous victims of all kinds of crime in over 30 years of police service.

….there'll come a time when consent will not be required. I certainly do. I think we're moving that way now….you need to determine…. whether you want them to police you. S (8) M/63/30/6R.

Certainly not the consent of the criminals….you're really starting to talk about having….a constitution where there is implied consent…..we only know is withdrawn when things go pear shaped. CS (9) M/56/30/3R.

….the consent of the majority of people that live by accepted standards….I don't mean people that continue to break the law….you must have consent in the Human Rights issue….to Police with their permission.

Sgt (10) M/67/30/12 R.

There were some interesting answers to this particular question which gave an indication that, having retired, there was in some respects less constraint on what was said but, a recognition that at the same time retirement does not, in all cases, provides a means of breaking free of this particular discourse; that there is still a sense of duty, of a morality code which is inculcated in the make up of most serving and retired officers. This 'morality code' was also identified by Jackson, Bradford, Hough and Murray in 2012 when they stated '…. that in demonstrating a moral authority they are not required to be moralists or to demonstrate moral superiority.' (Jackson, Bradford, Hough and Murray, 2012; p. 34).

In a cultural sense the views of this cohort once again reflect the era in which they policed. As CS (6) so rightly commented on page 217/218 '….if the public….just totally disagree with anything you're doing and come out on the streets and start rioting, you're in the shit….so you've obviously got to have the public's consent.' The question on loss of consent (see page 231 onwards) will support this officers remarks, as well as facilitating the whole argument on rhetoric versus reality. There is an acknowledgement that in these situations the support of the public is required; whether or not consent is secured, its loss will lead to a much more restrictive and repressive type of policing, which, despite the almost glib assurances that the public's consent is required, is certainly highly undesirable.

Cohort 4 – Student Officers

> ….if you asked the community whether they wanted police….half of them would probably say yes and half….

would say no….the ones that say no would be the people that commit crime….so I'm not gonna stop working in [Town omitted] because the criminals want to have a free reign. I think as long as the Queen or her country needs a police force then that's what the country's gonna get. PC (1) F/23/2/2

….you've obviously got to have the consent of the public….you're out there….if these people who….don't give us consent, were aware of what we actually do to fulfil our duties. PC (2) M/31/2/2

I don't think they have a choice….a lot of them don't like it….and are put off by it. PC (3) F/2/2

A very telling comment here which displays a greater awareness of the power that is wielded by the police, whilst at the same time acknowledging, that it is, in all probability, that those who do not 'like it' are those who have fallen foul of the law.

….there's a lot….don't want to be policed, especially the criminal fraternity…they don't want to be policed so you're not really policing by consent….it's just a phrase isn't it. PC (4) M/34/2/2.

Again, like the previous reply this answer is concerned with 'those who do not want to be policed' which removes it (consent) from the restrictive boundaries of 'conventional professional rhetoric'. The telling end-note 'it's just a phrase' however immediately creates a dichotomy and, at the same time a recognition that perhaps it may well be the 'shibboleth' of all modern policing which has been alluded to under many guises across the continuum of the interview cohorts. It also contains elements of the cynicism noted by Reiner.

….fundamentally that comes from….the public….that's who's elected the government and who have then essentially said that they agree with the measures that we've introduced….voting….puts influence on the

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government to reflect the views of the public and how they give their consent. PC (5) F/27/2/2.

….If they want….to see police officers on the streets, they want to see….people who have done bad things have to answer for them….and be punished for doing that….so yeah people, you know, people in the community. PC (6) F/2/2.

The public. PC (7) F/23/2/2.

I think, we have to get away from the fact that people don't give us consent….there's very few people in society who don't really want the Police service to be there. The concept has to come from the people, without any question. PC (8) M/28/2/2.

'we don't need the public's consent to do our jobs….it is a funny one, policing by consent….we are there to keep the peace, we are there to uphold the law….so, I don't really understand where you are coming from with policing by consent….we are a public service, we do what is right for the victim, the member of the public. PC (9) M/29/2/2.

This answer is very much at odds with the majority of answers in this particular group and at first impression it appeared that the question had been misunderstood; however, on closer examination, after saying that we don't need the public's consent to do our jobs, he goes on to say that we are a public service and we do what is right for the victim, the member of the public. Surely consent by any other name?

….the publics' as a whole. PC(10) M/27/2/2.

In seven (or eight if you count PC (9)) out of the ten replies there is a recognition that the consent, or at least the acquiescence, of the public is required in order that the police service can function in the way it does and assists in the acquisition of legitimacy for its actions on their behalf.

A number of the previous questions have demonstrated at least an acquiescent nod towards the whole question of consent and in some cases a more substantial reliance upon the cultural factors revealed in Chan's findings, in order to carry out their day-to-day function. However, it is obvious from the replies to this question that that there is overwhelming support that the consent of the public to carry out their duties must be obtained. Rhetorically speaking, is there another facet to be added to the various models under discussion, that of an inherent belief that the police have both the confidence and the consent of the public?

The next question was concerned with the legislative requirement imposed by government in Section 101 of the PACE Act of 1984 whereby all forces were required, and indeed still are required, to set up consultative local meetings in order to ensure that people had both a forum for voicing their concerns about their local policing and that, perhaps more importantly, they were given a voice at those same forums. It would, at this, stage be interesting to know whether the legislature was making a genuine attempt to enshrine the concept of consent, perhaps as Rowan and Mayne had originally envisaged it, within the legislation, or whether it was perhaps a somewhat cynical or populist attempt to convince the electorate that they would be consulted about policing. Whilst this is a subject for further investigation without the confines of this study it must be pointed out, in purely unscientific or indeed measurable terms, that the PACE forums that I attended as a serving officer and in a secretariat capacity, almost always fell into the second category where there was a constant blurring of the boundaries between rhetoric and reality.

Cohort 1 – Chief Constables

….our surveys…. tend to suggest about seventy five…. per cent….are relatively happy....with the policing overall service and if they weren't, they would tell us…. CC (1) M/51/24/2.

….the feedback for….the robust early intervention stuff is….that….as a strategy, standing back and….being tolerant is not good enough for most good cops….I've had no negative feedback around that....CC (2) M/56/31/3.

In my opinion I think those, those statutory meetings would never be enough….I do a lot of public meetings….I think you've got to get out there and….find out what they really think. CC (3) M/53/29/4.

Absolutely. I think….that consultation under PACE….is just the....mandatory stuff….CC (4) M/51/32/3.

….it's been necessary but not sufficient. I think that if all we ever did was our PACE consultation, that would not be enough….there's a whole range of things that need to be in place. CC (5) M/52/30/3.

No to the second part of the question….you know you have the consent. It's like asking how do you know you've got your parents love. CC (6) M/52/30/8.

I think....the British police service has always had strong support….it was inherent you had the consent of the British public....there are different ways of…. doing things in order to keep that consent and that confidence, it's the confidence that's so crucial….CC(7) M/54/31/3.

The requirement to consult the public under PACE is an irrelevance….do I believe I have that consent? Yes because I think I would be confronted by a withdrawal of consent and it is perhaps the withdrawal of consent that's more easily identified than the giving. CC (8) M/52/29/4.

The surveys....about the confidence that people have in the police service….is very high…..the public….want more police….we have to be able to spell out….our values….and….live up to those values. CC (9) M/56/36/5.

> I think that was when it started....we've moved beyond that....one of the things we've got at the moment is....key individual networks at a neighbourhood level where in each of our neighbourhoods there's key people identified who we take soundings from at various times ....it's actually servicing that that's becoming quite a major challenge. CC (10) M/48/27/1.

There is quite a divergence of opinion on this particular question with five chiefs agreeing that this requirement is at least sufficient to begin with but needs backing up with further initiatives, some of which have been outlined. Four of the chiefs stated that it was a bare minimum. One chief, whom the reader will have already noted as being particularly frank, stated that it was an 'irrelevance' by highlighting the fact that he would certainly know when he did not have consent. A very telling remark indeed!

Further to this there is also an acknowledgement about the way things are done in the organisation, and an almost traditional reliance on the fundamental assumption that the police perform an essential role in protecting the social order and, as Reiner pointed out, '....with a sense of mission' (Reiner, 1992: p112). These are also some of the salient features found in Chan's description of axiomatic knowledge.

Cohort 2 – Senior/Middle Management

> ....no in my experience that's lip service....I've been involved in a few myself and you get a handful of the same people turning up at the meetings and you're not really I think getting a realistic view.... I think it's a bit of a paper exercise....Not through the police's fault....if they're not really interested that's....a good sign I (1) F/48/27/10.
>
> I can only say it....from a citizen's point of view rather than a police officer's....people say "The police did a

good job with that….those people want the police into their community, they want them as a proactive part of it. Sgt (2) M/49/29/6.

No I don't think that requirement's sufficient at all….we need to go far beyond that into a relationship with the public whereby we are able to meet them very locally, establish….their priorities. DCC (3) M/47/21/1.

….it is difficult to judge…..you will never know exactly to the extent of which you do have it. I suppose it provides some sort of measure….as a general index of whether we are getting a degree of cooperation. CI (4) M/53/23/8.

….we survey and consult the public to death….but in terms of how satisfied people are with the service then….results are encouraging. We've gone beyond that to consult more widely because it's….good business….whether your customers out there are satisfied….we do it much more extensively than….the minimum requirements within….the statutes. CS (5) F/42/15/1.

Absolutely. I think we have the consent of the majority, unfortunately we end up dealing with and assisting the minority. I think….most law abiding citizens….do support….help….and assist us. I6 M/42/23/5.

….it does aid the process and I think it's something that in this area the police authority do, which forms the basis of our priority setting each year. CS (7) M/44/25/1.

….their consultation process of questionnaires gives it another degree of significance findings. But I think conversely is that the lack of serious public disorder demonstrates contentment with policing arrangements. CS (8) M/50/31/3.

I think….public satisfaction surveys that we conduct…. show there is still a high degree of trust in policing than politicians….evidence I've given you from my own consultation around the mergers[29]....DCC (9) M/57/30/4.

I don't think that PACE….I mean that's where you see neighbourhood policing developing in that area….that our goal is to get to the level where….you consult

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[29] See pages 19, 60 and 61 (The proposed 'Strategic Forces' merger)

frequently on a neighbourhood basis. CS (10) M/40/20/1.

It would appear, that at this level of policing, the PACE requirement for consultation is seen at best as a beginning. Despite having the requirement forced upon them by statute, the majority of these officers are responsible for both carrying out the consultation process and ensuring that action is taken upon the complaints they receive. They recognise the necessity of the forums and also the need to make them more meaningful than simply a statutory requirement. This can readily be identified as yet another discourse from which there is little or no hope of escape; even Giddens does not provide an escape route because of the statutory nature of the discourse. It (the situation) is almost in tune with Weber's legitimate domination, validated on rational grounds whereby there is 'a belief in the legality of enacted rules and the right of those elevated to authority….to issue commands' (Weber, 1978: Vol. 1 Part III, p 215).

In 1978, according to Manning, the '….police have staked out a mandate that claims to include efficient, apolitical and professional enforcement of the law'. He then went on to term this an impossible mandate '….which is driven by public expectation rather than the reality of police work.' (Manning, 1978a in Chan 1997; p.76). It is this impossible mandate which forms one of the base lines of Chan's axiomatic knowledge and which is inherent in some of the responses.

Cohort 3 – Peer Group

> Yes I do actually, I think I always felt I had the consent….I have been in many of the public consultation meetings….many of them for years….I have always felt that the public just wanted to talk to the police. I (1) M 52/30/30/6 R.

> I don't think massive amounts changed….through consultation with police authorities and things like that and through people on the streets, I think….for me it's an implied consent. PC (2) M/58/30/30(R).

> For me to get a consultative meeting you'd need agreement….they used to have a go at us all the time. CS (3) M/67/30/4 R.

> It is always good to consult, although I am not entirely convinced that being….forced to consult is a good or a bad move. It might look a bit like 'well I suppose we have to go through the motions' but if some good comes of it then….it might work. CI (4) M/64/30/8(R).

> I think it probably was counterproductive….I think a consultative process is all very well providing you take cognisance of what people say and do something about it. I (5) M57/30/10 R.

> No. CS (6)M/68/30/5 R.

This, and the previous answer, indicates that all is not well; that being, in a sense, forced to hold meetings can, in some instances (see replies 8 and 9 of this cohort that follow) be counter-productive and unable to achieve the ends that the legislature had wished for.

> No….I think the police service should been seen to be working for the people....not for any political ends at all. It comes down to who runs the police. Sgt (7) M/57/30/10(R).

> I was very often ambushed by ethnic minorities who would bring along members of the public who allegedly couldn't speak English and then you'd get these self appointed people who'd stand up and interpret and take

it as an opportunity to lambaste the police. S (8) M/63/30/6 R.

No. That was a complete and utter waste of time, the PACE requirement….following….the Scarman Inquiry. CS (9) M/56/30/3 R.

I never really thought about it I'm if honest. I knew that if I had gone outside what some persons considered to be their consent then I got a complaint against me which is acceptable. Sgt (10) M/67/30/12 R.

Once again there are some notable exceptions to the veracity and usefulness of the PACE requirement which, in some instances, can be readily attributable to some officers being 'ambushed' by local, self appointed spokespersons (See comments by S (8)). From the recording it is clear that these people have viewed the statutory meetings as forum to push their own political and personal agenda as well as a means of 'police bashing'. In this instance the person concerned had indeed become a self-styled 'community leader who was seeking publicity in order to push his personal agenda.

Within the context of these particular responses there is less clear delineation along cultural lines with very mixed reaction to the format, purpose and success of police/community forums. Indeed some officers felt that, given the way policing is carried out they should be left, albeit in a cultural sense, to get on with the job. As Reiner identified in 2000 there are undercurrents in this situation, one of which appears to be a collective sense of cynicism, whereby this requirement has been foisted onto a somewhat unwilling organisation and that there is no real option but to carry it out despite whatever cultural misgivings they have about its introduction.

Cohort 4 – Student Officers

> Question unanswered by PC (1)
>
> I think it has helped….I am aware of the meetings that go on where the public get involved and we then get down briefed with the priorities that have come out of those meetings. PC (2) M/31/2/2.
>
> They've got the domestic violence [positive policing]…. you get involved in….strategy meetings to see if they can get people to move from certain areas and things like that. PC (3) F/2/2.
>
> ….people who chair these meetings….are they aware of what police deal with….what it is like going….to these places trying to stem anti-social behaviour. I think if the police were ruled by other authorities….that would probably be the wrong decision. PC (4) M/34/2/2.

It is of particular note that, in reply to the next question on when they thought consent was being lost, this officer was involved in a situation where drunken youths were rampaging on a village green and when the police (heavily outnumbered) responded they were castigated by local residents who stated that the youths were doing no harm and should be left to their own devices. Whether this was an attempt by some residents to forestall any retaliation by the youths when the police presence was withdrawn is open to conjecture; could it be seen as part of the deeper malaise in society where there is an overall resentment of the police which, in the comments made here, the PACE requirement is, in itself, a piece of rhetoric, which carries very little weight with some sections of the public. It could also be argued that it is part of the change of the position of the police in society in the last fifty years which, according to Bradford and Jackson, '….has undoubtedly changed for the worse' (Bradford and Jackson, 2009: p.9).

….very few people notice….a good service, it's only when they feel they've had a bad service that they'll vocalise it…. the police waste their time with….doing you for being on your mobile phone while you're driving….whereas they should be focussing on the real criminals….I think overall we've got the consent of the public. PC (5) F/27/2/2.

….it is important ….to be seen to be doing things…. public forums I think they're probably a very good idea, people can be….honest and give you their opinions of, how they feel they're being policed. PC (6) F/22/2/2.

….the way you gauge when you have the public's consent is through regular contact with the public and seeing….what problem their particular communities face and then trying solve those problems. PC (7) F/23/2/2.

….we were given consent by the fact that we've been there since 1829….people expect us to be there.… I don't understand what we need to do under PACE but regardless of that….the only way that you're ever going to ensure that we do get consent is through voting….a fundamental issue is we have the consent because of where we've come from and for what we do….how do we really engage the community in terms of what we do?….we have to give the power of decision to the people we serve in terms of the direction that we take. PC (8) M/28/2/2.

I think so, people….are a funny bunch….you have locked people up, given them a caution, or a ticket for £80, and, they say "Yes, sorry, thanks very much…. So I don't know what difference these forums make. PC (9) M/29/2/2.

I think we do have the consent.... as a whole, like I said. PC (10) M/27/2/2.

Once again there are some common discursive themes emerging but one of the more interesting answers included the phrase 'The requirement to consult the public under PACE is an irrelevance.' (see page 214 – CC 8); however the same Chief, who has already pointed out the viability of 'policing by consent' as either a doctrine or something which, if enshrined in law, would certainly atrophy, states categorically whilst you may not know when you have

'consent' you certainly know when you do not have it. There is, beyond a shadow of doubt, no rhetoric involved in this answer; it was straightforward, and unequivocal; it falls outside of Foucault's 'discursive' boundaries, indeed it displays a very objective use of power within that particular context. There were others within the group who also disagreed with the relevance of the PACE requirement and a distillation of their replies, together with an analysis appears later in this chapter.

In common with the other cohorts the overall impression gained is that this particular part of the legislation has a number of political undertones in effort to drive policing along certain lines. Their comments are very much in line with the previous cohorts who tend to indicate that the more junior (both in rank and service) officers are reproducing this cultural *more* from the older and more senior officers.

The next question on consent was the question specifically designed to identify the 'rhetoric/reality distinction' and to draw on their personal and professional experiences which may reveal a divergence from any 'rhetoric' that they previously used. They were simply asked when they felt they were either losing or had already lost consent. This, in turn, was designed to stimulate an answer which would reveal their true feelings rather than have them revert to a rhetorical response or to fall back on the Millsian style response.

Cohort 1 – Chief Officers

> The strategic forces debate….confused some of our communities. The miners' strike, I think there were some major concerns….we were the political arm of the state and I think a lot of well informed intelligent people were probably aghast at the sight of police officers marching to crush a ….trade dispute.... we've got a lot of people

within the county.... who don't like the police and never will because of the treatment they had during the miners' dispute....CC (1) M/51/24/2.

I don't think so. There are always single events that have the potential….to have a negative impact…. people who have had a bad experience telling ten people they know, who all tell ten people they know and all of a sudden a thousand people are aware of this one bad event. CC (2) M/56/31/3.

Yes….with a model that was about reducing crime.... what stays fairly constant is the fear of crime….I do think that during the miners' dispute….I couldn't find a member of the public who was in favour of what the police were doing…. CC (3) M/53/29/4.

I think here in (County omitted) the most recent example ….was probably the riots in (Town omitted) in 2001, but ….that was a very small section of the community, ….whilst people thought that was about race….the reality is it was about criminality…. the vast majority of people did understand that this was about them being exploited and they just wanted us to get back to normality. CC (4) M/51/32/3.

….two things that I've struggled with the most here, one was the agenda to improve (force named) and the second was gun crime. When it looked like we might lose either of those two battles then I think that consent and support were in serious danger….having …. damning HMI reports written about you….may well have been seen as a motivator….but it just fundamentally corrupted the public's belief that they were being looked after by the police service. CC (5) M/52/31/3.

Miners' dispute….in certain areas we were seen as an occupying army, riot situations that I've lived through in certain communities….you do lose that trust and confidence….we're better now at understanding the signs that things aren't good….the police authority are much more focused…. they usually focused on efficiency, now they are focused on community relationships….that's a bonus. CC (6) M/52/30/8.

A good example on call incident handling....what I witnessed....was the sheer volume of criticism in the press in letters from the Police Authority....we made a huge error....we were consistently letting them down. CC (7) M/54/31/3.

I well recall (location omitted) ....I was constable in the first set of disorder and an Inspector when the second set based around (location omitted) kicked off....you can label anything in order to sell papers. The danger is that the public will believe it and public confidence in the institutional law and order will fall and reinforce....antisocial behaviour. CC (8) M/52/29/4.

It was an interesting time when people felt that we were using fixed penalty notices as a means of a....quick fix on crime. I think some people thought, *"hang on a second, has this gone too far?"* I don't think we have ever reached the stage where we're losing the....public confidence....there are some occasions when you can see collectively the public are raising the eyebrows as if to say, *"not so sure about this".* CC (9) M/56/36/5.

I think the example from my previous working environment....the policing of an airbase during a recent armed conflict.....that particular conflict, whatever the rights and wrongs from my own points of view, are totally irrelevant. But that conflict, as it went on, appeared to attract less and less public support. CC (10) M/48/27/1.

This particular response would appear to answer, at least in part, the frustration demonstrated earlier by CC1 when he expressed a regret that young people, in general, were policed at. It was also echoed in the response by one of the student officers. Perhaps, as this interviewee expressed they may already be beyond reach, forming part of an ever growing and in many respects a somewhat disenfranchised group who have little or no regard for law and order. As I had expected however a number of this cohort expressed strong views about the miners' strike of the 1980s, which, as I have already stated, really did bring about a change in the public perception of the police, even to the extent of 'politicising' them.

Cohort 2 – Senior/Middle Management

....going back a long way....long periods of disorder like the miners' strike....a lot of harm done there.... the

shooting of John (Charles De Menezes) have a big impact on the public….I wouldn't like to say that it's damaged us to the extent that we're losing public confidence but all those things are damaging. I (1) F/48/27/10.

….if you went to some ethnic areas….where there's historically problems and frustration you definitely wouldn't have policing by consent. At G8 when you've got people that are demonstrating against Heads of State and their different policies to do with the environment….we definitely lost their consent because they're trying to do something which we're trying to stop them from doing and they want to achieve a completely different purpose. Sgt (2) M/49/29/6.

I think that is….difficult, because….there is a swathe….of young people who have an approach to authority….which is expressed to their parents, to education, to the police….which is very difficult. My concern is that I think that these young people are doing it either with the acquiescence or with the support of parents and I think we're storing up a significant problem for ourselves. DCC3 M/47/21/1.

This answer is very much in line with comments made by one of the student officers and indicates that there may well be a negative 'approach to authority', or indeed a challenge to the overall legitimacy of the police.

The miners' strike might be a good example, whereby there was hostility. But even then in places like (Location) things got back relatively quickly to normality although there are still festering sores. There will always be individuals that will never forgive and forget. CI (4) M/53/23/8.

….we've made changes….around….communications.... people felt….it was pointless in ringing us because…. they couldn't get through….I don't think it ever reached the stage of people rebelling….which, if we hadn't addressed…could have resulted in a loss of consent....CS (5) F/42/15/1.

....part of the role is to communicate and engage with people and if we were just seen as very authoritarian, policing to the letter of the law with no lee-way, we would lose that trust and that support and it would just make our job harder. I (6) M/42/23/5.

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Brixton and Broadwater Farm....the consent of the public was withdrawn there....as a commander I'm required to have police and community forums whereby I go with the police authority and face the people....and sometimes the people disagree with my decisions. CS (7) M/44/25/1.

....the miners' strike....where communities then families were torn apart....because father and brother were on opposite sides of the fence....For no other reason than we had to police the rights of those individuals who wanted to go to work. CS (8) M/50/31/3.

....it's difficult to say, I've been in a situation where I think we've been losing....the consent of elements of the public....how we were dealing with....visible ethnic minority groups, road traffic enforcement, I think sometimes those have lost....a large element of support. DCC (9) M/57/30/4.

I think it's almost like Fort Apache the Bronx....where all the police were told to do away with their discretion, and do everybody for everything. I think it makes a total enemy of the public, that's why we're here, for the public. We can't have the public as the enemy. CS (10) M/40/20/1.

This particular answer, although based on a feature film, is nevertheless a very perceptive comment on a situation where this officer sees it as a dystopian future which he finds difficult to accept. Indeed it creates a situation or a form of discourse where the public views the police as 'the enemy'. This almost mordant sense of humour disguises what appears to be a real fear of this officer that, as he so rightly identified, 'We can't have the public as the enemy.'

Once again, because of the age and service band of this cohort, the miners' strike of the 1980s has become a part of their police psyche, entrenched and immoveable as many Foucauldian discourses are. There are also a number of legitimate concerns expressed about the loss of public support during major changes to communications methodology which, rather

than making initial contact with the police easier, has only served to make it even more complicated and difficult for the public to grasp. In earlier research I examined the introduction of a centralised call acceptance/resource dispatching system in (Force name omitted) in the 1980s and can give first hand testimony to the utter confusion that the public were literally plunged into. One of the major criticisms, which still echoes today, is the inability created by these systems for a caller to speak to their local police station.

Cohort 3 – Peer Group

> ….when I worked on the drug squad….some of the policies would constantly harass them, turn them over, and search them. That was pre-PACE….It was not the best way to engage that community, many of whom actually wanted to give up drugs. I (1) M/52/30/6 R.

There is, without doubt, honesty in this reply where the officer states he harassed a certain class of offender which he candidly admits was not the best way of dealing with them. This is the kind of reply that provides decisive counter-evidence to the Millsian theory of 'vocabularies of motive' or indeed any rhetoric; it appears to spring from a genuine regret that the best course of action was not followed and presents what will probably be the nearest approximation to the 'truth'. This is particularly descriptive of the directory knowledge which Chan highlighted whereby officers tend to target those who are both different to the cultural norm and also appear less reputable than the remainder of society, or at least those parts of society that are within the police purview. This particular facet of police culture also relies upon the fact that patrolling officers never know what situation they are going to be confronted with and therefore tend to rely upon commonsense, experience and, to some extent, discretion.

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….the miners' strike hit me….there was a real fear that we're gonna completely lose the consent….look at some of the situations….was it justified….there were times it wasn't….I think sometimes that we were in real danger….the Brixton riots, Toxteth and places like that you were gonna lose minority community groups….there's certain areas….where we're vulnerable. PC (2) M/58/30/30(R).

I didn't know if I had it in [location omitted] sometimes.… I don't think I did….I always tried to seek their consent. I'm sure there were incidents when they didn't agree with us. CS (3) M/67/30/3.

….the heavy handed approach to the….riots at [Location omitted]….where places became no-go areas simply because the police withdrew from them in order to consolidate….for a short period….there was a no-go area….half a day later that situation was addressed. CI (4) M/64/30/8(R).

I think it probably was counterproductive (The requirement under PACE)….I think a consultative process is all very well providing you take cognisance of what people say and do something about it. I (5) M/57/32/10 R.

There's a lack of respect of the police by younger people. They don't respect anybody….as a result you have got more problems with disorder….with alcohol. …you see groups of girls and lads on Friday nights drunk, lying in the gutter….that would never have been allowed in the old days. CS (6) M/68/30/5 R.

No, unless we go back….to the miners' strike….I think it was a testing time for us all…. Sgt (7) M/57/30/10(R).

….there was always problems with Muslims having to walk through poor white areas to get to the mosque in (Town omitted) and white people….the underclass, resented this and attacked them as they went to the mosque. I think that the loss of respect for the police was already there and I think that resulted in the riots. S (8) M/63/30/6R.

 Definitely….because I just couldn't do what they [the public] wanted me to do. CS (9) M/56/30/3R.

….at one time one of my Community Team PCs used to go to these meetings…. it became obvious that they would get a lot of brow beating….from the local

> residents and councillors…. they were quite rightly upset with the increase in crime, there were senior officers with their own agendas….where they were going to put resources. I stopped my officers going unless I was present. I felt that we weren't policing with the consent of the public that lived in that community….they were getting very uptight about what they perceived to be a lack of policing, and it was because our resources were being moved from one place to another at the drop of a hat. Sgt (10) M/67/30/12 R.

Culturally, this supervisor's action, in relation to the officers under his command attending these PACE forums would appear to be, as Reiner identified, at odds with the official purpose of the police. In saying that however what he is arguing against is that those self-same senior officers are the people responsible for directing, or in this case re-directing, police resources away from the locality where the complaints are being generated.

Again a very wide ranging selection of incidents selected to illustrate that 'loss of consent' but, once again the miners' strike of the 1980s features; it was, without doubt, a defining moment in police/public relations which left scars on participants from both sides of the dispute. That it saw further 'politicisation' of the police is beyond dispute and once again, highlights the need for a jurisprudence of consent. Whilst this approach will never rectify the effects of that dispute, it may facilitate greater accountability and a bastion against some of the excesses of force employed by the police which had not been seen in these islands since the General Strike in 1926.

Cohort 4 – Student Officers

> I think if, if you go in too heavy handed, or....with an attitude, then you get it back twice as bad from members of the public and I think if you go in....highlighting one group of people or assuming things, then the reactions

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gonna be horrendous....I think you need to be open minded in this job. PC (1) F/23/2/2.

....the officer that has to listen to a number of complaints over a nightshift weekend about lack of action or lack manpower....Or that nothing is being done about antisocial behaviour. If that's not controlled correctly by that officer, confidence is not really gained....I'm sure it could escalate into a bigger problem. PC (2) M/31/2/2.

A lot of people don't have respect for the police....But the majority....you'd be surprised who do. But you just get used to it. PC (3) F/28/2/2.

I was called to a job down at (Town omitted) it was just youths drinking on The Green....there was about twenty or thirty youths....litter strewn everywhere, people staggering about....there was only four, four officers on at the time, but we got down there and did the best we could....asked them to go home and they wouldn't, all you can do is take the alcohol and move them on then we had two or three residents come out of their houses giving us a hard time, I was completely shocked and I said to one of them, "What do you want us to do and they said "leave them they're not doing any harm". And I said to her "are you happy to live like this?" and she was like "well yeah, yeah I am yeah, I don't think they're doing any harm"....I couldn't believe it because for me it would be a nightmare. PC (4) M/34/2/2 (see also on page 26).

This response is particularly noteworthy because the officer concerned was responding to a genuine call, albeit from an anonymous resident, about the disorder he found at the scene. The striking thing about the comments of the resident who spoke to the officer, and who is quoted above, appears indicative of some people's reluctance to be policed even although, in the officer's opinion, the disorder was fairly serious. It is, in many respects, the *other side* of police culture, indicating a negative view of law and order, and, in many respects, highlights the societal changes which Holdaway, Chan and Reiner all recommend as being a pre-requisite in order to bring about changes in police culture.

The student riots….in (Town omitted), where I just kept thinking….they're all students, they will have a grain of common sense….we didn't even try to rationalise with them at all, it was just straight in with the dog unit and operational support unit….so many of them were trying to argue back, that's when they got dog bitten because they were seen to be resisting….it was not a very pleasant thing to be around….I just felt that we could have at least tried a little bit further to….use the arm of communication before you flood in the resources. PC (5) F/27/2/2.

It is particularly noteworthy that this officer, who is an HPDS (see glossary) candidate is not that far distanced from her own university studies. Here she has expressed feelings that may well be more sympathetic towards young people who, once again, are being policed at[30] and in a very robust and vigorous manner. She recognises this as a failing on the part of the police and something that is obviously at variance with the concept of 'consent'. Indeed she expressed the wish there should have been at least an attempt to communicate or negotiate. Of more particular note however is the fact that this comment is similar in many respects to the view expressed by CC on page ? when he also recognised that young people were 'policed at'. This situation demonstrates that, despite the age/gender/rank/experience which in this instance is probably at its widest, there is a commonality of both regret and frustration at this apparent inability to reach young people.

Not really, just when people haven't wanted to pursue a prosecution, but I suppose that's not really them not wanting any police or anything….that's just them not wanting to pursue a prosecution, so no, not really. PC (6) F/22/2/2.

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[30]   Once again 'policed at' is identified. Is this perhaps one of the discourses of power which Foucault claimed whose influence we cannot escape?

Probably the derby day (the officer is referring to the aftermath of a local football derby when a riot situation developed in the town centre because the local transport infrastructure failed to cope with the large numbers of drunken fans) on Sunday when people couldn't get their trains. PC (7) F/23/2/2.

….I've never really….been in a situation where….if I've needed the public's help….it's not been there. But equally….have I really asked for an awful lot beyond what people would normally give and the answer's probably no as well.   I've generally always found that people have been very cooperative. PC (8) M//28/2/2.

….the only other thing I can think of ….would be domestic violence situations. If that person [the complainant] doesn't want to give their help to us, that is taken out of their hands. PC (9) M/29/2/2.

….it could be blatantly obvious that someone's possibly responsible for something, however, without the evidence to support that we can't act. I think that's frustrating for people, when they know who is, or they think they know who it is but….we can't act. PC (10) M/27/2/2.

Once again this response indicates the old cultural shiboleth of conviction at any cost rather than a search for the truth. Whilst the officer states that it is '….frustrating for people' it is felt that, on this occasion the officer is also making a personal statement of regret about the situation.

In this series of replies there is a clear demonstration of a number of different policing experiences, which in their view led to an implied loss of 'consent', that are directly attributable to the age gap between the student officers and the other three cohorts. The miners' strike in the 1980s, as indicated in the comments by the respondents, looms large in the consciousness of the chief constables, the senior and middle management officers and my peer group. I have already explored my own personal experiences of that particular dispute in my Masters dissertation; suffice to

say here that my relationship with my father, an ex-miner, suffered a severe hiatus for a number of years. If any one particular event could be said to have done the public persona of the police the greatest disservice, particularly in the late twentieth century, it was that dispute. There is a general recognition that the police were both 'politicised' and polarised by their part in what turned out to be, in many respects, a bitter and rancorous occurrence which still has repercussions to this day with families still divided and a general mistrust of the police which is both geographically and demographically located in what were once the major coal mining areas of the North East of England, West Yorkshire and Nottinghamshire. This particular discourse tends, in my view to support Foucault's theory of discourses.

Whilst there has been an overall consensus between the cohorts, especially on the first three consent questions, there was a significant and quite voluble minority who expressed a different viewpoint. I have termed them the 'outliers' and I will now attempt to contextually rationalise them across the age/gender/rank boundaries that I have previously employed.

Outliers - Question 1

> I would like to think….I was answerable to the law….I think that's more the case....it's all about discretion[31] ....if you come across someone committing a motor offence….a decent person….you let them off with words of advice….Someone with a criminal record….they're not gonna get away with it. We're not machines you know. So the laws are there.... but it's not used any more consistently is it. PC (4) M/34/2/2.

> That's an interesting one….the frustration I have is around the work effort that we put into a prosecution.... in terms of gathering the evidence….the trivial sentence…. was it really worth it?....You can get some

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[31]   The use and loss of discretion was explored in Chapter 5

> guy for shoplifting and they get an £80….fixed penalty
> and yet….three points and £80 for speeding. I'm not
> sure with that one....PC (8) M//28/2/2.

A genuine frustration has been expressed here and, although in human terms, quite understandable, is at variance with the views expressed by another student officer who saw the necessity to keep the 'desirability to convict' totally divorced from the implementation of the law. There are obviously strong and opposing influences at work, highlighted by the remark about fixed penalty notices (FPN) where he highlights the fines for theft and speeding; it has obviously made a negative impression on his sense of 'making the punishment fit the crime'. Further to this, in drawing the distinction between the extensive work required to present a case at court as opposed to writing a Fixed Penalty Notice (FPN) which has immediate effect.

> . ….when I worked on the drug squad….some of the
> policies would constantly harass them, turn them over,
> and search them. That was pre-PACE….It was not the
> best way to engage that community, many of whom
> actually wanted to give up drugs. I (1) M/52/30/6 R.

There is, without doubt, honesty in this reply where the officer states he harassed a certain class of offender which he candidly admits was not the best way of dealing with them. This is the kind of reply that totally negates the viability of the Millsian theory of 'vocabularies of motive' or indeed any rhetoric; it appears to spring from a genuine regret that the best course of action was not followed and presents what will probably be the nearest approximation to the 'truth'. Once again the responses from PC (8), on the previous page and I (1) at the top of this page allude to the culture of *convict at any cost* but with one important difference. PC (8) indicates that he is

'....not really sure about that one', that is the work and effort involved in preparing a case knowing that his efforts may be frustrated. Whereas I (1) acknowledges that what he did to certain communities i.e. drug users, by harassing them, was very much in line with Chan's findings, particularly in respect of what she termed directory knowledge. 'Having developed indicators of normality and abnormality, police officers tend to target the unusual and the disreputable.' (Chan, 1997: p.78). This response highlights that targeting but at least the officer does acknowledge that it was not the best way to engage that particular community, some of whom, in his view, wanted to give up drug taking.

> '....I struggle with the word consent, I know what it means it's not a word the public support and understanding is crucial....the general feeling about support is very important to the British police...I think.... the vast majority of law abiding public are proud and want to be well policed....depending what the issue is, if you're talking about enforcing the law on speeding it's subtly different consent than....talking about enforcing the law on openly smoking cannabis in public places. CC (7) M/54/31/3.

Outliers - Question 2

Whilst the PACE requirement to consult revealed broadly similar views there was a voluble minority who expressed dissenting opinion. In revealing what amounts to an opposition to the requirement, particularly in the way it was expressed, indicates support for my theory of the use of content specific rhetoric and similarly a revelation of something akin to a vocabulary of motive found in the replies of the majority.

> Those statutory meetings would never be enough....I think you've got to get out there and....find out what they really think....that's where I've got my view of the two levels of consent, or conditional consent as I would call it ....but I don't know whether they're consenting or

not….I think to some degree, they just want the whole thing to go away and the police will deal with it….CC (3) M/53/29/4.

The requirement to consult the public under PACE is an irrelevance. Do I believe I have that consent?   Yes because I think I would be confronted by a withdrawal of consent and it is perhaps the withdrawal of consent that's more easily identified than the giving….you don't know when you've got it, **but you do know when you haven't** (my emphasis) CC (8) M/29/29/4.

The reader will have already identified this particular interviewee as the same one who offered his own particular and very individual viewpoint on consent. In this particular context his use of the phrase 'an irrelevance' indicates a particularly strong and forceful personality who is, despite his position, unafraid to express an opinion that is far removed from conventional professional rhetoric. There is some evidence here to indicate that he does not see himself bound by this particular discourse.

….I don't think that requirement's sufficient….we need to go far beyond that into a relationship with the public …. establish what their priorities are and….go back and tell them what we've done about those priorities….I think …. the PACE requirement has nearly become cosmetic…. make sure the local….community beat officer sits with the….local community and says 'right, what shall we work on this month'. DCC (3) M/47/21/1.

In his reply on the second consent question this interviewee stated 'that if we are serious about….consent….then we need to give people a voice over influencing what happens'. He obviously feels very strongly that the PACE requirement has, in many respects '….nearly become cosmetic' and that something much more meaningful is required. This surely adds weight to the opposing views on the PACE requirement.

I think it would be dangerous to do any more than

that. ....I think if you have people making decisions....where they know a little bit....could be dangerous or wrong.... if the police were ruled by other authorities....that would probably be the wrong decision. PC (4) M/34/2/2.

No, because even in the most controversial policing circumstances that I have deployed....I'll use G8[32] as a chief....I came under a certain degree of flack from interested politicians about how protests were to be managed around the (Location omitted) venue for the G8....even at the height of that when....people were saying that I wasn't acting correctly....I was quite confident from my post bag, from my email and from comments by politicians. ....indeed I went to the council and said okay, you know, let's stop the sniping ....you tell me straight and of course suddenly all the other people who had not written to me....I had their unwritten support, I certainly have that articulated. So that's about judgement....what's acceptable....the feedback you get and what you have to do is get as many sources as possible, so you understand where your policing needs lie. CC (8) M/52/29/4.

Once again a well-articulated statement from a chief officer who, in this context, expresses a very frank view about 'interested politicians'; this can be easily interpreted as 'interfering politicians' for whom he appears to hold little regard particularly when they appear to be critical of, and interfering with, the impartial discharge of his duties. It is also noteworthy however that these self-same robust tactics came under fire in the HMIC report highlighted on the first page of this chapter. It was, however, a course of action that he was appeared determined to pursue and which, in his considered opinion had the approval of diverse groups who had written to him in support of his actions at this particular venue. There is obviously a divergence present and it indicates once more strength of character and a willingness to break, or at least

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[32] It would require no great effort to make a personal identification of this particular officer and his forthright views are well known. I would reassure the reader that he was cognisant that in highlighting a particular occurrence that he could be identified but, nevertheless, was insistent and concerned that I reported accurately.

surmount, the influences of this particular discourse by utilising the resources available to him.

> I was called to a job down at (Town omitted) it was just youths drinking on The Green….there was about twenty or thirty youths….litter strewn everywhere, people staggering about….there was only four, four officers on at the time, but we got down there and did the best we could….asked them to go home and they wouldn't, all you can do is take the alcohol and move them on then we had two or three residents come out of their houses giving us a hard time, I was completely shocked and I said to one of them, "What do you want us to do and they said "leave them they're not doing any harm". And I said to her "are you happy to live like this?" and she was like "well yeah, yeah I am yeah, I don't think they're doing any harm"….I couldn't believe it because for me it would be a nightmare. PC (4) M/34/2/2 (see also on page 26 and page 33).

This demonstrates 'the other side of the coin' where this particular officer, who is young in service and who felt that his efforts on behalf of the residents had been effectively negated by their attitude towards the miscreants, was totally taken aback. He was quite visibly upset by the rebuff his efforts on their behalf had received. It is also apparent that we are once again witnessing the 'disenfranchised' minority already alluded to by both a Chief Constable and a Student Officer. Additionally the attitude of the residents indicated in the response 'I don't think they're doing any harm' would suggest a possible root cause for the situation that they are in and perhaps gives a strong indication why they are policed 'at'.

That concludes the analysis on the questions dealing with consent which has, because of its' importance, been subjected to a detailed analysis which will help to establish (or not) the existence of a doctrine of consent. This in turn may provide the basis for the proposed 'jurisprudence of consent.'

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In the following chapter, Chapter 8, the findings will be discussed and any common themes or discourses, as well as the many aspects of the various police culture models, and the effects that they have upon policing that have emerged from the data will be identified. Any themes that are at variance with the majority view will be highlighted and also rationalise the differences in answering which in many respects are contextually significant to the era in which the officers policed.

Chapter 8: Discussion

The main themes of this work, which the reader can readily identify, were concerned with obtaining the views of a broad based continuum of police officers through rank, gender, length of service and policing experience to obtain their personal views on the autonomy or discretion they have within the daily milieu of policing; the accountability that they have both on a personal level and in conjunction with their rank and an exploration, based on their responses, of the many facets of police culture, as particularly identified by Holdaway (1984), Chan (1997) and Reiner (2000) that have a bearing on their day-to-day policing. Finally and most importantly their views were sought on that most contentious of issues that of policing by consent. As a reminder to the reader it must be borne in mind that consent in action is under constant negotiation, there is not a passive acceptance nor is it a 'one-off' yes. It is, and always will remain, conditional to the context in which it is given with the ever-present potential that it can be withdrawn at any time.

The Literature Review established that whilst there is a large volume of research on the subject of policing by consent there has been none which has sought the views of the practitioners themselves. It is, as already stated, a well hackneyed, sometimes overused phrase which some researchers find a total anathema whilst others are great champions of the principle. The literature review supports the diversity of those opposing views but it is the words and thoughts of the police officers themselves, from those who command to those who carry out the day to day policing tasks, which have added a new dimension to the research on this particular aspect of policing which has a long and chequered history. Indeed, given the exploration of the

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impact of police culture on the day-to-day functions of the police, a further important dimension has been added to the large volume of research on policing.

It is interesting to note that in early January 2014 the current Commissioner of the MPS, Sir Bernard Hogan-Howe, appeared on television following the inquest jury's verdict of Lawful Killing on the shooting of Mark Duggan in 2012 by armed police officers. During the television statement he also used the phrase 'policing by consent' several times and stated that we, the police, must retain this consent by regaining the public's trust for what we do.

In Chapter three, the Literature Review, a large array of views on policing by consent was uncovered. It is immediately apparent however that although this somewhat amorphous and ideological concept has been the subject of a considerable amount of academic research, none of the researchers had, as far as can be established, ever sought the views of the practitioners themselves. A number of authors including Adlam and Richards have espoused the idea of a doctrine of consent, rather than the proposed jurisprudence of consent; however there is no substantial evidence, apart from that revealed in Chapter 3, that such a doctrine exists. Further research on this has also proved negative. Despite this apparent set-back, the original stand point whereby rather than consent per se, there is acquiescence, usually based on the little knowledge that public have, about the duties and workings of the police still holds up. As the reader will have seen in Chapter 7 most of the police officers interviewed take a very pragmatic view of the subject.

Consequently the overriding impression gained is that there is only a basic understanding of what policing by consent means to the public. Further to this identifying the existence of a doctrine of consent appears to be quite an elusive challenge. Given that this is the case is it therefore possible to construct a 'jurisprudence of consent'? This jurisprudence may resemble a set of legally recognised *'rules of engagement'* which would inform both the police and the public of the nature of that consent, coupled with the fact that it is necessary, as already premised, to be negotiated before, during and after each encounter. The fear is that if it is possible, would the dead hand of the audit culture, which has already permeated public organisations such as the police to a vast degree, kill it off before it had an opportunity to become a solid working practice? Additionally there is the danger that there will be yet another set of bureaucratic forms to be completed as part of the almost ritual processes of the New Management Culture. This will be explored more fully in the conclusions.

Within the discussion on power in Chapter 4, the methodology chapter, Foucault's theory on discourses of power was employed as a means of identifying similar ways of thinking or discourses. This was also explored in greater depth during the analysis of the interview data. It is important to note however that there was no rigid adherence to Foucault's main theory. In this instance it was employed more as a method of classification of the similar ideas and ways of thinking expressed by the various interview subjects. This approach enabled a sound anchorage of the theory proposed.

In addition a number of models of police culture, namely those identified by Holdaway 1984 and 1997, Chan 1997 and Reiner in 2000 were

examined for the effect that they have both on the organisation and individual officers through the continuum of rank, length of service and seniority.

The key concept of the work was to explore the practical reasoning of a number of both serving and retired police officers on how they felt with regard to both the concept of policing by consent and also what influences it might have on the performance of their day to day dealings with the public. It also involved an additional exploration of their recollections and the narratives of their collective and individual experiences.

In constructing the methodology a number of key theories regarding the analysis of interview data were examined. They included; Life History; Oral History (Memory and Retrospection); Discourse Analysis; Critical Discourse Analysis; Conversational Analysis: Grounded Theory and C Wright-Mills's Situated Actions and Vocabularies of Motive. For a number of different reasons, which were demonstrated in the methodology chapter, none of the aforementioned methodologies provided what could be considered an ideal structure for the data analysis; however, important elements were drawn from a number of them and, in particular, Wright-Mills's theory, in many respects, provided the basis of a sound platform on which to base the analysis.

The basis of the methodological plan was drawn up with the aim of conducting a series of semi-structured interviews from the four cohorts of both serving and retired police officers across the continuum of rank, gender, ethnicity, age and policing experience. These interviews, in turn, would then support the key research question enabling exploration of the practical reasoning of serving and retired officers with regard to policing by consent,

with an additional exploration of their recollections and narratives of their experiences.

The main aims of the study were as follows:-

The most important part of the research was to obtain the personal views of the individual officers within each of the four cohorts on the concept of policing by consent and what impact, if any, it had on the performance of their duties and professional conduct.

The gathering and recording of the perceptions of the four cohorts on how they felt that they are, or conversely are not allowed, to exercise autonomy and/or discretion in the daily performance of their duty.

To analyse the data and to employ that analysis as a barometer in order to gauge their views on both collective and individual accountability as well as exploring their perceptions on the differences between accountability and answerability.

To identify the underlying influences of police culture with particular reference to Holdaway, Chan and Reiner and how the various facets of their models or concepts of that culture impinge, either knowingly, unknowingly or even to some extent, intuitively, upon the day-to-day practices of all officers, particularly those who police at street level. These particular authors, as well as others previously mentioned (see page 89) all tend to view police culture in a negative light and indeed Chan viewed it as being 'somewhat corrosive'. In common with Chan, both Reiner and Holdaway also asked how we can get to the roots of this culture and how its negative effects can be overcome.

A further analysis of the data in order to find any evidence of the employment of 'conventional professional rhetoric', which , in turn, would help

> **Comment [PR1]:** Better find a page number for Chan here

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to establish whether or not Mills's hypothesis of 'Situated Actions' and 'Vocabularies of Motive' would stand up to examination as a valid social theory, particularly in the context of this work.

Having obtained their views, carry out further analysis of the data in order to establish if there is any support for the proposed jurisprudence of consent.

The data has proved, in many respects, to be revelatory, personal, and apparently unencumbered by any need, especially in the case of Chief Officers, to use the interview situation as a means of airing their views in a public forum. In other words this supports the chosen methodology which was designed to invoke direct responses rather than allowing them to conduct a public relations exercise.

Autonomy and accountability rank highly in this work but it is undoubtedly the area in and around consent that is its raison d'étre. It is therefore necessary to briefly reprise the three main question areas and then, to assist the reader who will have just read the chapter on consent, discuss it in more depth whilst they retain its salient points.

The first question area was concerned with the autonomy which officers have over the day to day performance of their duties, including the ability and indeed the means, to practice a certain level of discretion as to how they deal with individuals and how satisfied those individuals will be with the outcome of the encounter. Indeed this is the basis of police legitimation.

The next question examined accountability and it is obvious that, apart from the high levels of personal accountability that are demanded from officers of every rank there is a new and recent phenomenon to be taken into

consideration. The 'New Management Culture', as identified by Hough in 2007, has seen '…. conventional bureaucracies lose sight of outcomes in their obsession with processes' (Hough, 2007: p. 79). It would appear that the main concern of this 'audit culture' is the actual recording of the process, rather than concentrating on the policing aspects with the joint aims of achieving both local and nationally set targets. Indeed there has been 'a rumbling of dissent amongst police professionals….about performance measures based on outcomes'. (Hough, 2007: p.79). These types of processes undoubtedly have an effect upon the legitimation strategies of the police insofar as the processes and not the outcomes become the driving force. As Hough (2007) stated '….there is a risk that the pursuit of public compliance through legitimation strategies could itself be transformed into a form of narrow instrumentality'. (Hough, 2007: p. 80). This, according to Hough, will lead to a high cost in terms of the loss of '….institutional legitimacy' (Hough 2007: p.80).

Unfortunately this particular culture does have stifling effects on both police actions and, more worryingly, police legitimation. It has further negative connotations insofar as in many situations, it has a tendency to nullify the individual actions that an officer may employ to ensure that there is an element of fairness, and indeed a' smile on the face of justice'. This should, and in many respects often does, characterise the many millions of face-to-face encounters that take place on a daily basis in and around the minutia that comprises day-to-day policing.

The third and probably the most important question area dealt with the title of the piece, and, as stated, was its raison d'étre, that of the impressions

of a number of serving and retired officers, across the spectrum of age, gender, rank and service of their views on 'policing by consent'.

Autonomy/Discretion

In Chapter 5 the views of all four cohorts were sought on the levels of autonomy that police officers across the continuum of ranks, from the most junior officers to chief officers have. Closely linked to the question of autonomy is discretion and, as a number of authors, including Elmsley, Weinberger and Reiner, have already identified, the greatest amount of discretion is practised by the most junior of the ranks, those constables who patrol the streets on a daily basis. It cannot be denied that the question of control is also closely linked to the practice of discretion and there are undoubtedly many situations where the officer does not, because of controls that are in place, practice discretion.

Official reaction to the practice of discretion, has, within my knowledge, resulted in some police forces setting targets for traffic patrol officers who have been told achieve a certain number of processes (summonses for traffic regulation offences such as exceeding the speed limit); should they fail to reach those targets on a regular basis they would then be 'transferred' out of the Traffic Department. Again within my knowledge this did happen to a number of my colleagues and is a particularly unedifying aspect of control over junior officers. Other police forces also had unofficial 'league tables' for various types of offence that were prosecuted successfully, again mostly traffic based infringements and that officers were encouraged to assist the force in achieving a high league position.

This of course totally negates the exercise of discretion and is also closely linked to a lack of consent for this kind of action. However it is still maintained that it is the proper exercise of discretion which makes the job manageable and acceptable to the public. It is not difficult to envisage the effects if every officer on patrol identified every minor infringement of the law and either arrested the person committing the offence or reported them for summons. Within a day the street work of every officer would grind to a halt under the weight of the bureaucracy needed to complete the process. It is therefore important to recognise that, properly and fairly exercised, discretion is surely the most potent of tools in an officer's tool box.

Additionally the practice of discretion would appear to have its roots in the many aspects of police culture. As Holdaway found, officers often employ stories and jokes, which to both lighten the more trying aspects of the job and to place themselves, following a particularly chastening experience, and in a better light with both their colleagues and their supervisors, as well as backing up colleagues, even when their actions may be wrong; Chan's multi-layered description of police knowledge which officers appear to rely upon to *get the job done* and, finally, the 'sense of mission' which Reiner identified as an important constituent of that same 'police culture.

Discretion

Chief Constable Cohort

Within the Chief Constables cohort there was a recognition, that whilst they encouraged their junior officers to practice discretion, they also recognised that this led to a concomitant loss of their control; however

because of the trust they placed in their officers they seemed quite happy to relinquish that particular aspect of control. The use of discretion was neatly summed up by one Chief Constable who stated that 'I like their exercising of discretion….just because you have got a power doesn't mean you have to use it.' (CC (3) M/53/29/4). Five of the chief officers agreed that discretion should be practised, especially by their patrol officers and one Chief even stated that 'we don't have enough discretion' (CC (4) M51/32/3). It is interesting to note at this point that in 2008 Her Majesty's Chief Inspector of Constabulary, Sir Ronnie Flanagan, following a year-long review of policing, actually recommended that police officers should be allowed even more discretion than they currently practise.

With regard to the 'control' element or the other side of discretion two of the chief officers recognised that whilst they have a large amount of control and operational independence over the day to day running of the police the imposition of government targets and performance frameworks is '….constantly eating away at that control.' (CC (5) M/52/31/3).

The main cultural theme disclosed in the responses to this question clearly emerges as that identified by Chan in 1997 and which she described as axiomatic knowledge; in other words the Chief Officers acknowledge and identify what they see as the main functions of the police, or as Chan described it, '….why things are done the way they are in an organisation.' (Chan, 1997: p.76). They also clearly identified that the practice of discretion is, to a much greater degree, practised by the more junior ranks particularly those who have day-today dealings and contact with the public. The practice of that discretion also bears hallmarks of Reiner's *sense of mission.*

Senior Management Cohort

In the Senior Management Cohort there was a definite contrast in attitude with the views expressed by the by the Chief Constables in that they felt the power to exercise discretion was being eroded all the time. One officer stated;

> 'I am of the opinion that driven through statistics, target management and government policies, the individual officer, and I take this directly from experience within our own county , has no discretion whatever anymore.' (Sgt (2) M/49/29/6).

Another four officers in this cohort also alluded to what they felt was an erosion of discretion but six of them agreed that they were able to exercise control over what they do. This was neatly summed up by CS (5) F/42/15/1 who stated that '….we have controls in place across all of the range of policing activities….we haven't got somebody sitting on the shoulder of every police action we….have a number of checks and balances in place to ensure that they carry out their duties lawfully proportionately and professionally….'.

A somewhat contrasting view of the patrol officer's exercise of discretion was expressed by an Inspector who stated 'I have an awful lot of control over what I do but if you are talking about an operational person who is interfacing with the public they can have….control that's without discretion…. the easiest thing in the world is just to deal with things by the book isn't it?....I'm not suggesting that's the right way….I think you have to be prepared to justify the action you have taken but that erodes discretion which I think is completely essential.' (I (1)F/48/27/10). It is obvious that whilst this officer exercises a great deal of control over her own daily tasks she recognises that patrol officers could exercise control to the extent that they do

everything by the book. However, a bureaucratic system designed along these lines would, within a very short space of time, render any officer incapable of performing further patrol duties until the necessary documentation was completed. The Inspector also acknowledged this fact and, very tellingly, admitted that this would erode discretion which she obviously regards as an essential part of policing.

Within this same cohort another two officers expressed much the same view about the erosion of discretion with one stating '….they don't have a lot of discretion….they are looking to us to be clearer about the parameters within which they can operate.' (DCC (3) M/47/21/1). The other officer stated that '….I feel that constables now are losing their powers of discretion, they do not see it as an option….if they can get five detected crimes out of an offence that's the way they are pushed.' (I (6) M/42/23/5).

It is very telling that the second officer above, who mentioned an officer recording five 'detected' crimes out of one set of circumstances, is clearly referring to the relatively new National Crime Recording Standards (NCRS) a set of procedures which are driven by the audit culture demonstrating that 'accountability' is always in an upward rather than a downward direction. To illustrate this point the key feature in this set of circumstances, where a number of offences have been 'cleared up', is the effect that it has on the published figures for detected crime; that appears to be the important element. It naturally follows from this, that because of this culture, officers are being driven more and more down the path of meeting crime detection targets in order to improve the forces detection rate; however, in my opinion, it is not, in any way, a fair and just way of policing.

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This set of responses developed a similar cultural theme to that of the Chief Constables insofar as the tacit acknowledgement and indeed a recognition that the practice of discretion appears to be necessary to keep the wheels turning. This indicates that, as Reiner proposed, the sub-culture often appears to be very much in contrast to the official police function. Once again, in view of the seniority of this cohort, the traditional views, identified by Chan as axiomatic knowledge, see them acknowledging that they are, according to Chan, '….waging a *war against crime*, maintaining order and protecting peoples lives and property.' (Chan, 1997: p. 76)

Peer Group

Within the peer group cohort only two of them linked control and discretion with one stating that '….the degree of control came with responsibility….to use discretion effectively and not to discriminate against any particular group. (PC(2)M/58/30/30R). Once again this officer is demonstrating that he has a genuine concern being expressed about the fair and just qualities of policing upon which so much rests. The other officer alluded to the 'league tables' that I have already identified when he stated that '….there was a lot of pressure….they have five shifts competing….but I never did that….and whilst I was part of that culture I can say that I had exercised discretion.' (I (5)M57/30/10/R). This officer, whilst acknowledging that league tables and target driven performances were always present he at least had exercised some discretion both in his dealings with the public and in a refusal to take part in the 'competition' between the shifts.

Whilst six of the cohort expressed the opinion that they were able to exercise a certain amount of control over what they did the remaining four

expressed a different view. One very pointedly referred directly to the lack of resources which did not enable him to be in control when he stated 'No I didn't have the resources and as a result I lost the control. That was my Achilles heel.' (CS (3) M/67/30/4/R). Here we see a direct link between budget restrictions and the very real consequences that they had in this particular situation. Another officer was quite adamant that in a certain situation control had been removed from him by the Command Block (ACPO Officers office block within the forces headquarters.). He was involved at BCU level in a situation involving an ethnic minority population stating that '….the directions from command meant that I had to do certain things….take some flack and put my resources where they directed….I think that was totally wrong.' (S (8) M/63/30/6R). This theme, which linked the lack of resources to the lack of control was continued by CS (9) who stated that '….the difficulty….goes back to resources. I felt that I didn't have control….it was all to do with targets, Police authority targets and Home Office targets…. (CS (9)M/56/30/3R). Whilst a lack of resources was in some cases due to inadequate funding it was also the case that on a number of occasions officers would be taken for other duties when required. 'When there were no other priorities ….I was allowed to get on….build my bridges with the community and it worked….but that control was soon taken away if the resources [in this context the officer means the officers under his command] were needed elsewhere.' (Sgt (10) M/67/30/12R). Once again targets appear; this is testament to the 'dead hand' of the audit culture that reaches into every aspect of policing today and which, in many respects is gradually changing the nature of the service.

In this set of responses the contradiction between the official purposes of the police in response to both local and national policing initiatives and the level of Chan's axiomatic knowledge, applied to the 'whys and wherefores' of the job was quite obvious. This in turn appears to find them, as Reiner highlighted, as being at odds, in a cultural sense, with the official purposes of the police. It is important however to view this particular set of responses in light of the era that they policed in i.e. mainly during the late 1960s to the early 1990s when police practise was subject of much less scrutiny than it is today.

Student Officer Cohort

In the Student officer cohort the seven of the ten officers acknowledged that they did have at least a measure of control over their day to day functions and six of them linked that control to the practice of discretion which they were able to practice particularly at a lower level. It is heartening to note that in most cases that discretion appeared to be applied fairly and justly with a recognition of the consequences should they get it wrong. 'It's my decisions….if I mess up it's my fault and I am in control of every decision I make….and unless I am directed by a supervisor…. I will do what I think is right. (PC (1)F/23/2/2). Another officer explained that he was still able to give warnings for the more minor offences when he stated that '….lower level stuff you have more control on that, you can still give warnings….but you've got PACE (see glossary) that you have to adhere to….but lower end you do have a little bit of discretion.' (PC (2)M/31/2/2). Another officer reported that in many situations that he was involved in he was able to establish, at the outset of the encounter, the level of discretion that he felt both qualified and able to apply 'Someone parked on a double yellow line dropping somebody off who is

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elderly and infirm….there is no benefit for the police to say 'oh, £30 ticket for obstruction' ….this is not going to improve the consent of the public.' (PC (8)M/28/2/2). This situation is exactly what the practice of discretion is about and also demonstrates the officer's awareness about the consequences of not practising discretion when the circumstances virtually demand it. Again that link between control and discretion was highlighted by another officer who said that 'I can decide whether or not someone is arrested or not so to that extent I have control'

There were however occasions when the opportunity to practice discretion was effectively removed from the officer's armoury and this situation was highlighted by an officer who stated '….to be honest when a log has been created your discretion has gone.' (PC (4) M/34/2/2). This simply means that the complainant has actually telephoned the police to record a complaint and that an official record has been created on the force's computer aided despatching system. This places an absolute necessity upon the officer to deal with the incident and, where necessary, take the appropriate action.

There is however one dissenting voice within this particular cohort who stated that whilst '….you have control over just small things….I think you are always answerable to someone else.' (PC (5) F/27/2/2). This, in essence is the crux of the matter and that whilst she has a measure of control and therefore discretion there is always an ultimate requirement to report back….to your supervision who, in turn are reporting back to NCRS (see glossary) or conforming to a force policy on domestic violence.

This particular structure of answerability or accountability reveals the dichotomy between the control that an officer exercises over the performance

(or non-performance) of their duty and the need to report back reveals the discourses of power that Foucault explored when recognised that we are subjected to and subjugated by those discourses which we are unable to escape.

However it is apparent from the answers given by this cohort that the practice of discretion appears to be very much 'alive and well', and, perhaps more importantly, it is being applied fairly and justly. In 1984 Pepinsky proposed that the practice of discretion starts '….from the premise that discretion is a desirable part of policing. It proposes a system of accountability designed to generate discretion in a way that reduces the injustice of selective law enforcement' (Pepinsky, 1984: p.249).

There are clear and distinct cultural differences in this set of responses which appear to be directly linked to the officers' junior (in rank) status within the organisation. In 1995 Holdaway stated that '….police work requires officers to summarise complex and ambiguous situations in a short period of time and to take some action' (Holdaway, 1995 in Chan 1997; p.77). This is what Chan described as *dictionary knowledge* whereby officers '….develop routine ways of categorising their environment and the people they encounter in the community.' (Chan, 1997: p.77). It also reveals elements of Chan's directory knowledge which '….informs officers how operational work is routinely carried out.' (Chan,1997: p. 78). Elements that Reiner identified as a need to *get the job done,* but which often appear to be at odds with the official purpose of the police are also present. These cultural themes appear to be very much a prerogative of those same junior (in rank) officers.

In order to balance the measure of control that the various cohorts can and do establish in the performance of their duties it was therefore necessary to ask the question that would examine the situations or conditions which would render their ability to control a given situation impossible.

Lack of Autonomy/Discretion

Chief Constable Cohort

As expected the Chief Constable cohort, by the responses given, did not appear to be in favour of the New Management Culture with seven of the ten claiming that targets and performance indicators had a tendency to stifle what they were trying to achieve. 'We get measured on a massive portfolio of performance indicators, it does remove my discretion because frankly some of them are meaningless and all they do is confuse the cops. I have even been hauled up once in front of the Attorney General because our Persistent Young Offender [PYO] performance was poor for one quarter.' (CC1 M/51/24/2).

Another chief officer identified being in the same position when he said that his control was '….being eroded by the inappropriateness of the basket of targets we are given….I think most of them are diagnostics they're not outcomes…..there are some frustrations around….the way forces are being directed….' (CC (2) M/54/31/3). In a similar vein another Chief Constable expressed the view that '….it [the audit culture] aggregates into bureaucracy, into perverse decisions that are being taken, the wrong judgements that are being applied to some sensitive areas, we're moving into enforcement when we should be into some sort of treatment or rehabilitation….' (CC (4) M/51/32/3). This last quotation would appear to sum up the majority view of

the Chief Constables interviewed that, once again, the audit culture extends its influence over a vast area of policing and carries a set of negative connotations for policing with it.

Once again one of the main cultural themes is that of Chan's axiomatic knowledge; this, as already premised, is about the way things should be done within an organisation; it also indicates the effects of the audit culture described in the previous paragraph, which is perhaps better described as the *'official position'* and its impact upon policing. It reveals that there is appears to be a collective counter-culture demonstrating that there is often significant deviation from the *official position.* The Chief Officers have demonstrated the pragmatics of doing the job and their collective solidarity appears to have produced a distinctive version or interpretation of that same 'official culture.' They have also demonstrated a fairly healthy scepticism regarding the official position which runs very much in opposition to that same *official position.*

However, as in previous replies and in order to achieve a balanced view, some Chief Officers took an opposing view. Chief Constable number 8, whom the reader should recall from his forthright and frank answers given throughout his interview, has never appeared to hide under the cover of conventional professional rhetoric. In this particular question about whether he was always in control he replied 'Yes, absolutely I do. If you ask my subordinates further down the food chain they might feel the answer's different. But I think that if you feel you don't have control over what you do, that's a failure in yourself, not a system error.' (CC (8) M/52/29/4). Another expressed a similar view when he stated that 'I've got control over policing most of the time. I don't feel as though there is any pressure on me that I

should or shouldn't conduct an operation. I think the operational independence of Chief Constables is extremely important.' (CC (9) M/56/36/5). Once again it appears to be a very careful balancing act that most Chief Constables perform; that of trying to satisfy the needs of the New Management culture and, at the same time preserve their operational independence.

Senior Management Cohort

Overall this particular cohort expressed a much more pessimistic view in realising that their autonomy over their day-to-day duties was ever-decreasing. A number of them identified that pressures placed on their limited resources by some of the more unedifying features of the audit culture that have already been identified by the Chief Constables' cohort in the previous section were causal links in this process of loss. It is also interesting to note that eight of the ten claimed a recognisable diminution in the practice of discretion for both themselves and for the junior officers under their command. '….you're tied as a constable to a very strict system of rules, regulations and guidelines….the discretion of the constable….has virtually completely gone.' (Sgt (2) M/49/29/6). Another expressed a similar viewpoint when she stated that '….the lack of freedom about what we deal with comes more from central policy making than it does from….local controls over policing..' (CS(5) F/42/15/1). The negative aspects of the New Management culture were highlighted by DCC (9) who was '….very concerned with some of the targets set by government which do remove an element of discretion from the front line officer because we have to achieve results….' (DCC (9) M/57/30/4).

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However on a more positive note, but very much in the minority within this cohort one officer stated '….I think there has to be discretion and if we ever lost that discretion it would be a very sad day….we might as well become a dictatorship.' (I (6) M/42/23/5).

In this set of responses there are a number of fundamental assumptions, similar to those of the Chief Constables insofar as Chan's axiomatic knowledge is concerned. However, again in common with the Chief Constables, they display a collective cynicism about the official rhetoric insofar as they view the imposition of policing targets and initiatives as an erosion of the traditional role of the police. However, it also demonstrates that they are thinking professionally and displaying a measure of self-reflection.

Peer Group.

It will be obvious to the reader that I policed in a very different era and was an operational officer and supervisor, in various departments, from 1964 until 1987. Following the completion of my two year probation period when the practice of discretion was somewhat overshadowed by the necessity to prove oneself a good and efficient constable I was then able, in a fair and honest manner [but perhaps this is for others, including my one-time supervisors, to judge], to apply an element of discretion to a level that was common in the delivery of street-level policing at this particular time.

This view is echoed in the majority of the comments of the peer group cohort who served as constables around the same time as I did. 'I thought police officers on the street showed a great deal of discretion in the manner in which they dealt with the public…. If we couldn't make a decision we went up the chain of command….now I think they pass it up the chain of command

straight away….the level of discretion been taken away from the officer on the beat.' (Sgt (7) M/57/30/10R). Another echoed similar sentiments when he stated 'I think officers had some discretion when I was on the job. I don't think they have that much now….it's all to do with targets.' (S (8) M/63/30/6R). Once again the spectre of the audit culture appears and this view was supported by CS (9) who stated 'Discretion….has been eroded….it's accountability to the nth degree where you really started to strangle initiative….' (CS (9) M/56/30/3R).

The 'ways and means' according to Chan, of getting the job done using the components of her dictionary and directory knowledge are very much to the fore in these responses. This is very much in line with the same groups previous responses insofar as it is an indicator of the way policing was carried out in those less restrictive times. It also indicates a collective solidarity of professional people who could and often did produce their own distinctive version of the *'official position'*.

Student Officers

Within the context of this work it is interesting to note, that despite the somewhat gloomier views expressed on the lack of discretion by the three previous cohorts, seven of the student officer cohort felt able to confirm, that in their view, the practice of discretion is alive and well. Indeed it is, as already demonstrated, invested in the most junior of ranks; those officers who face the public on a day to day basis. One officer stated 'I'm comfortable where I can give discretion….minor crimes….but if they over-step the mark you've got to act. (PC (2) M31/2/2). Similarly PC (3) stated 'I think we do have a lot of discretion because we are at the forefront.' (PC (3) F/28/2/2).

Another officer explained that he used discretion on a daily basis but that the new NCRS (see glossary) had, to some extent, limited his ability to practice discretion because '…. a log has been made….you have to fill in your pink which records all your statistics for the Home Office….which gives you ethical crime recording….but in those circumstances you've got no discretion. (PC (4) M/34/2/2). The comments that this particular officer made were similar to an earlier reply by another student officer. They were directed at ethical crime recording (under the auspices of the NCRS) which, in some respects, had resulted in the criminalisation of a young person who, for want of a better expression, has been scrapping in the school playground. As a result of this incident being officially 'logged' (by the creation of a computerised incident log) by the call-taker it then necessitated the protagonist being arrested and processed in order to obtain a 'Sanctioned Detection' (see glossary).

It is certainly worth repeating at this stage that in Chapter 5 one of the student officer cohort described a situation where a misguided remark between two work colleagues resulted in the reporting of a 'Hate Crime' incident. This incident was then referred, on no less than two occasions to a hate panel that had to decide whether the police had done enough. This resulted in the complete disillusionment of the person who had originally spoken to the officer concerned and who had, throughout the whole lengthy process expressed the view that he was aware that the remark was simply an unintentional off-the-cuff remark. He stated that he would have been completely satisfied if the officer had spoken to the person making the remark to ensure that he realised that his words could have easily given offence. As it

was the incident dragged on for over two months, the complainant, as stated, was thoroughly disillusioned with the police and it had, in his opinion, strained community relations. Rhetorically speaking, does this highlight the need for the practice of discretion?

There are quite striking differences in the responses of this cohort (the Student Officers) to those of the other three cohorts, namely the Chief Constables, Senior Management and the Peer Group. This is noticeable with particular reference to their junior position within the rank structure and, although they are in many respects bound by the same local and national initiatives as their senior officers, they are able to practise discretion on a much greater scale. This they do by employing knowledge previously gained by dealing with similar incidents (Chan's directory knowledge) as well as employing knowledge gained from more senior (in service) officers of the same rank. This, in turn, provides them with a number of practical solutions in order to deal with the incidents, which may not always be in line with official thinking.

Accountability

Chief Constables

Chapter six dealt with some aspects of police accountability encompassing the accountability that all ranks have to their colleagues, their supervisors in the hierarchical structure, and ultimately to the legislature and the government of the day. It is important to note that whilst police officers are also citizens, and are able to express personal political views and exercise their individual franchise, they are not, under the strictures of the Police Discipline Regulations, allowed to take an active part in politics.

It is however important to state that the 'new police' were undoubtedly politicised when the Thatcher government literally used the police to 'control' the miners' strike in the early 1980s and the phrase 'Maggie's Boot Boys' still resonates with when recalling the many days and hours spent policing miners' picket lines in a large number of locations throughout the North East and Yorkshire.

Since this work began, the current coalition government have fulfilled at least one element of their election manifesto which was to enable the election of Independent Police and Crime Commissioners for 41 of the 43 police forces in England and Wales the MPS and the City of London being the exceptions. This action has removed the powers that the various police authorities had over the setting, (within Home Office 'guidelines'), and control of the policing budget and the appointment of the Chief Constable and has placed it in the hands of the newly appointed Independent, i.e. elected, Police and Crime Commissioners. It remains to be seen how successful these appointments may be but as already noted, Lord Stevens, the chair of the Independent Police Commission, set up by the Labour opposition during the coalition government, has recommended removing the commissioners from their posts and re-directing the control and power back to the police authorities.

In order to establish the varying degrees of accountability which exist across the spectrum of rank in all four cohorts they were simply asked to outline both their perceived personal accountability and the official accountability attached to their rank and position in the organisation. Once their replies had been explored and analysed then the interview data from the

other questions was re-examined because it became obvious that evidence of accountability, which had emerged in their replies to some of the other questions, was also present, particularly in some of the replies on consent.

Without exception all of the Chief Constables acknowledged their ultimate accountability to the government of the day [of whatever political persuasion] through the medium of the Home Office. As one chief stated '....to the police authority (now the Police and Crime Commissioner).... and the Home Office....' (CC (2) M/56/31/3). This was echoed by another who stated that ultimately he was responsible '....to the Home Office and the Government.' CC (6) acknowledged the significant influence that the Home Secretary of the day has over chief constables when he highlighted the case of the Chief Constable of Humberside who was removed from his post in the aftermath of the Soham Murders and the subsequent Bichard Enquiry into the police handling of intelligence which was fully explained in Chapter 3 CC (6) M/52/30/8. CC (2).

It is also worth reporting that there was also an acknowledgement of the accountability that the police service has to the public and five of the chiefs alluded to this particular accountability in their replies. As CC (5) remarked '....I cannot go anywhere in this county without being stopped and told by people what they think....and asked difficult questions as well.' (CC (5) M/51/32/3). This aspect of interaction with the public rang particularly true because, during interview, he also revealed that many of these instances had occurred whilst he was shopping in the city centre and had literally been accosted by a number of residents. It is entirely to his credit that he did not in any sense curtail his shopping because these unrehearsed meetings allowed

him to gauge some of the grass roots opinions and perceptions that the people had of their police force. The overall accountability to the public was neatly and concisely summed up by CC (8) who, after acknowledging his accountability under the law to the Home Secretary, stated that '….ultimately I'm accountable to the public through my local police authority and **that's more important than anything else** (added emphasis). (CC (8) M/52/29/4).

As stated earlier, accountability to their workforce was also acknowledged and CC (1) went even further than a mere acknowledgement when he said '….I don't mind being held to account by my workforce '….I am happy that they can come and knock on my door at any time and speak to me about something that they are not happy with.' (CC (1) M/51/24/2). It was later established, through the auspices of the Police Federation that the chief did, obviously within reason, to his credit have an 'open door' policy. Another chief simply stated '….I am accountable to my officers and staff….and they certainly hold me to account.' (CC (3) M/53/29/4). Also worthy of comment is the answer given by CC (4) who, after acknowledging the police authority and the Home Office remarked that '….constitutionally we're in an interesting position because we do not have a boss'.(CC (4) M/51/32/3). This surely highlights the unique independence and day to day control that Chief Constables hold but it is also true to say that are at the mercy of the ultimate sanction.

The reader needs to bear in mind that these interviews were conducted whilst Police Authorities were still functional before they were replaced by Police and Crime Commissioners. However their responses still rest upon '….the fundamental assumptions about why things are done the way they are

in an organisation.' (Chan, 1997: p. 76). These whys and wherefores once again were a dominant theme of their responses given their rank and seniority within the organisation indicating that it almost appears to be the most dominant feature of their working practices.

Senior and Middle Management

Within this cohort and without exception each of the officers acknowledged the varying degrees of accountability up through the rank structure and six of them also recognised their accountability to the public but one officer did say '….I'm accountable to my head of department but in my current role I'm not accountable to anyone outside of the organisation.' (I (1) F/48/27/10). This may strike the reader as somewhat unusual but it is important to recognise that the officer was speaking strictly within the context of her current role. It emerged during interview that she is extremely cognisant of her overall accountability to her staff, her senior officers and, more importantly, her accountability to the public. This attitude was reflected in the remarks of DCC (3) when he stated that '….I'm really clear that chief officers and the staff of the constabulary are accountable to the public of [County Omitted].' (DCC (3) M/47/21/1). CS (8) stated '….I am accountable on a daily basis….to the public of [Location omitted] in relation to the provision of that [policing] service. (CS (8) M/5031/3). This view was echoed by I (6) who recognised that, despite the bureaucracy, and the generation of almost endless statistics to satisfy the demands of the audit culture, that this is an organisation '….of people for the people.' (I (6) M/42/23/5).

Once again, the police mandate, which Chan identified as axiomatic knowledge, is a dominant cultural theme in this set of responses; however the

final remark by I (6) indicates that '....despite the endless bureaucracy....this is an organisation of people for the people.' (I (6) M/42/23/5). This appears almost to be at variance with the official line but nevertheless carries more than a hint of practical common sense and an effort to place the police firmly in context within society.

Peer Group

Once again an analysis of what the peer group cohort said about their accountability reflects the very different nature of policing in that particular era. Whilst the police service at this time was not, in any way, a secret organisation it was, in many respects, a closed organisation with its own rules and mores. Additionally, as an organisation it did not appear, at that time, to be open to a great deal of public scrutiny. This position appears to have reversed since the advent of the New Management Culture that is prevalent today. It is mainly because of these factors that officers of the time acquiesced to the senior ranks to whom they saw themselves mainly accountable and it featured in eight of the answers. Accountability to the police authority featured in three of the answers and the Home Office only twice. Only one officer mentioned his accountability to the public but he then qualified it further. He stated that '....I'd like to think that I was accountable to the public but that would be a bit naive of me....my accountability was to the person who had the strongest voice within that district at the time....' (Sgt (10) M/67/30/12/R). The reference to the 'strongest voice' can be found in Chapter 6.

In common with their previous responses this cohort is very much a product of the era that they policed in and their sense of duty, as well as a

strong moral obligation, are both strong influences. Strangely enough it is Chan's axiomatic knowledge which is a relatively strong theme in these particular responses whereas, in their responses to previous questions, Chan's directory and dictionary knowledge were more dominant.

Student Officers

There is, within this group, a strange, almost mirror image of the replies given to the question by the peer group insofar as they all referred in some detail to their accountability up through the rank structure. However there may be different reasons behind this insofar as these are very junior officers at the start of their policing career who have not yet developed a wider awareness of their responsibilities whilst they concentrate on learning their trade. Nine of them referred to their accountability throughout the hierarchical structure and PC (8), whilst obviously possessing a keen awareness of his junior position, was able to inject a sense of humour into his reply when he stated 'My Sergeant and everybody above (and the jocular reference) PCSOs and Special Constables….not really I'm not accountable to them at the moment….I'm moving up the ladder, but pretty much everybody.' (PC (8) M/28/2/2).

PC (1) was keenly aware of her responsibility and accountability particularly to the other members of her relief when she said '….I'm accountable to myself and to my colleagues obviously, I'm part of a busy working shift….and if I sit about all day I'm not going to be flavour of the month….it doesn't work….It's the management that I'm accountable to in relation to figures, what I am doing with my time….KPIs and all that rubbish….' (PC (1) F/23//2/2). This is a very succinct and pithy comment

about how the officer feels about the audit culture in general and certainly reflects the attitude held by most of the junior ranking officers whom I interviewed as part of my work as Training Evaluation Officer with Durham Constabulary.

Another officer stated that on some occasions she may not be held personally accountable. This was a direct reference to the one-time vicarious liability that the Chief Constable held for all officers under his/her command. However with the enactment of the Human Rights Act individual officers can now be held accountable for their own malfeasance. She did however go on to say that '….I am accountable to the public but whether the force would take some kind of responsibility for it [her actions] or whether it would be a case of 'No she's just a loose cannon….on her own. (PC (5) F/27/2/2). It is obvious that this particular officer, who is an HPDS (see glossary) candidate, has given considerable thought to this reply and indeed to all of her replies. PC (9), whilst acknowledging that '….we are accountable to the public' offered a similar view to his cohort when he stated that ….inside of it [the job] we are accountable to our chief.' (PC (9) M/29/2/2).

Within this set of responses there appeared to be a great deal of both scepticism and cynicism regarding the official policing purpose, as identified by both Chan and Reiner. One particular officer acknowledged his accountability, in somewhat jocular fashion, was to everyone, including the PCSOs. This cultural feature was identified by Holdaway in 1984 whereby a joking narrative by the officer concerned helps '….to preserve the traditions of the occupational culture sustaining it against the odds of experience.' (Holdaway, 1984: p.138).

As previously stated there were a number of occasions when accountability was mentioned in context with the replies to some of the other questions, indeed it was raised on no less than twenty two occasions with more than half of the responses (twelve in total) coming from the Chief Constable Cohort. The remaining ten were divided thus; Senior/Middle Management Cohort five; Peer Group, three and finally the Student Officer Cohort, two.

Whilst the cohorts are relatively small, thereby rendering it difficult to extrapolate the results across a wider population, it is quite notable, and what I might have expected to find, that, once again the Chief Constables were so much more aware of the often political influences on their post. CC (2) put it very succinctly following his appearance at a public inquiry into the shortcomings of various bodies, including the police, to apologise for his forces' shortcomings. He said 'I gave evidence at the (Name Omitted) enquiry. I was the one who said sorry on behalf of the (force name omitted) and that gets quite interesting in terms of your digestive system, being dealt with by public inquiries….its real, I've been there and its not an amusing way to spend a few weeks….it is a very powerful sort of accountability!' (CC (2) M/56/31/3). Whilst there was almost an element of humour in his reply it appeared to spring more from his relief that it was over and that he was lightening the experience by a somewhat jocular response. There is no doubt, from the tone of his reply, that he did in fact find it a very harrowing experience. Here again we see evidence of the joking narrative by the officer concerned, as identified by Holdaway in 1984, whereby the humour helps '….to preserve the traditions of the occupational culture sustaining it against

the odds of experience.' CC (7) also highlighted the ultimate accountability when he stated that '….I'm always accountable….I know from personal knowledge and my predecessor knew better that I [did] given his experience with the Home Secretary. (CC (7) M/54/31/3).

Consent

Having analysed the interview data across all four cohorts it is obvious that there is a consensus amongst all interviewees, with one or two notable exceptions, that policing in this country (England and Wales) does indeed demand some form of consent, or, at the very least, an acquiescence based on the limited knowledge that the British public have about the policing that is delivered to them. As other authors (Brogden, 1982 and Dixon Coleman and Bottomley, 1990) argued, consent was no mere ideology but a view of the relationships between police and public which was constantly under review and shifting according to the practicalities of day-to-day policing.

However in the Sage Dictionary of Policing in 2009 an entirely different view of policing by consent was expressed when it was defined, despite its public status, as '….an inherently conflict ridden, potentially coercive mode of governance, concerned with the maintenance of dominant conceptions of order and the regulation of deviance, ultimately using legitimate force if deemed necessary' (Wakefield and Fleming, 2009: p.52). It is also recognised by many commentators that because of the pluralisation and part privatisation of some policing services sworn officers are being restricted to performing the confrontational and coercive role of policing. Doubtless this has given rise to the view expressed in the definition above. It is equally

obvious that, by its very nature, it may eventually impinge upon and perhaps even change the nature of consent.

However this somewhat narrow and almost dystopian view of policing serves neither to legitimate the actions of the police nor to make any useful contribution towards a betterment of relationships between the police and the public. Indeed in 2012 the rational for this particular viewpoint was, in many respects, modified by Jackson, Bradford, Hough and Murray (2012: p. 14) who demonstrated that in order to achieve legitimacy and therefore by default, consent, the public impressions of fairness of the system were an extremely important contribution to that legitimacy. The way that people are treated by the police would appear to be more important than the actual contact and its final result. Indeed the consent of the public depends on the legitimacy of policing, defined in parts as fair and just, which, in turn, demonstrates that it is also impartial law enforcement. Jackson, Bradford, Hough and Murray were also of the opinion that the police themselves should negotiate with the public in order to ensure that consent is obtained.

Chief Constables

This need for negotiation view was clearly supported by CC (8) who had already recognised that a substantial minority are more than concerned about the specificity of 'consent' per se and prefer to express it in terms of public support; as he so rightly pointed no one 'consents' to being fined for a traffic infringement but still can (and indeed do – added) broadly support the principle of policing. This support for that principle of fairness also serves to assist the legitimation of the police.

On the other side of the coin however one Chief Constable (CC (1) stated that '….one area where we don't police with consent….is the young people….they **are pretty much policed at, very little policed with**, (added emphasis)….seen as a problem and not a solution, they are seen as....devils by the elderly. (CC (1) M/51/24/2)

This answer is obviously at odds with the concept of negotiation but it has been reiterated to highlight personal perceptions, drawn from the audio recording, that this Chief Constable was expressing regret at his apparent inability to police young people in a more human and humane fashion. It also disputes the Millsian theory of an 'actor' producing talk based on the situation they currently find themselves in because there is no apparent use of any 'vocabulary of motive'. There is a clear distinction here which highlights a total lack of the conventional professional rhetoric which was already identified in the Methodology Chapter. It is, in all probability, as near to the truth that we are likely to get.

In answer to the first 'scene setting' question on consent six of the ten Chief Constables employed 'accountability' as their benchmark whilst the remaining four, more specifically and honestly, used the term answerability. CC10 neatly and concisely defined what he felt was the answer to this conundrum when he stated '….Is my requirement to explain, articulate and provide an answer? Or is it to account…. If its' to account, is the ultimate sanction around accountability to get rid of me? (CC (10) M/48/27/1). However, whilst it is appreciated that this question has produced some semantic dialogue, overall there appeared to be no doubt as to either their

accountability or their answerability, in which ever way they chose to express it. As CC (3) said '....Yes thankfully I do still feel we are answerable to the law and its quite right that we should be.' (CC (3) M/53/29/4), whilst CC (7) explained '....Yes I do feel accountable to the law and that's entirely right. (CC(7) M/54/31/3).

Once again, as in their previous responses, the dominant cultural theme is that of Chan's axiomatic knowledge. However, it is important to note that as with many of their responses Chief Constables do appear to be very aware of, as it were, the dark or negative aspects of police culture; however their professionalism and self-reflexivity indicates that whilst they are bound by the official position there does appear to be a collective instinct to produce their own version of the official line which is not at odds with doing the right thing as far as their professional lives are concerned. This point will be further discussed in the following and final chapter.

Senior/Middle Management

Within this cohort there was, once again, a division between accountability and answerability with seven of the ten using accountability and the remaining three answerability. That all in the cohort expressed strong feelings is beyond doubt and in whatever way it was expressed there was recognition that, as police officers, they were duty bound to operate within the law. Of course it must be said that there are occasions when officers do overstep the mark or operate outside the confines of the law but as we have seen in Chapter seven, one Chief Constables as recently as May 2012 has been dismissed from his post for misconduct in a public office. Another Chief

Constable resigned in October of the same year having been found guilty of a similar type of misconduct. However, unlike his colleague, the Police Authority chose neither to dismiss him nor require him to resign. Nevertheless he did choose to resign in a very short time, in all likelihood, because his position was, in effect, untenable.

One officer in this particular cohort very perceptibly stated '….the whole consent issue and accountability are inextricably linked….if we are serious about consent then we need to give people a voice over influencing what happens'. (DCC (3) M/47/21/1). This statement confirms the long-held view that consent, according to Brogden in 1979 '….is subject to continuing interpretation, re-interpretation, adaptation and negotiation – an endless testing and resolving of the contradictions and ambiguities and contemporary experiences…..'(Brogden, 1979: p. 7). In other words, the majority of police/public encounters that involve more than the day to day routines of policing require that same negotiation in order to ensure that consent can, whenever and wherever possible, be obtained.

The close link to the law was summed up by I (1) who stated '….you let the law take its course and I think that is ultimately it….any other way is when you start cutting corners and being dishonest to….make the outcome the way you want it to be….' (I (1) F/48/27/10). Another officer linked the impartiality of the police in their upholding of the law when he opined that '….the police service is still answerable to the law and it's entirely appropriate that we are set apart from the judicial process. What happens in a court of law is and should remain ….nothing to do with the police.' (CS (7) M/4425/1). This

demonstrates that whilst the police are often regarded as the gatekeepers of, or the entry point into the CJS (see glossary), officers of all ranks should be seen as seekers of the truth who will present a properly evidenced case before the court and then have no further influence or interest in the decision of the court.

Once again, present in this particular set of responses, there is what appears to be a thematic construct of police culture, which is concomitant with the rank and seniority of this group of officers within the organisation. Additionally, the solidarity of their views provides a different and distinctive version of the official policing policy.

Peer Group

Without exception, all of the officers in this cohort recognised their answerability to the law; however, the differences in the police culture during the era they served were acknowledged and neatly summed up by I (1) who stated that '….as an individual I was answerable to the law but in my early days I felt driven….because of the culture in the CID, to succeed in prosecutions, rather than a search for the truth [see previous paragraph]. On reflection, I think I actually believe in the search for the truth. (I (1) M/52/30/6 R). Sgt. (10) expressed similar views about this cultural more when he explained that he had '….lost cases at court. I used to get a bit uptight about it but I moved on. I knew I could probably end up going to pieces over it….I thought, I'm accountable to the law, if I stick with what I can do and what offences I can investigate, we get to court and, irrespective of sentence [or any other finding] I've done my job. (Sgt (10) M/67/30/12 R). Yet another

stated '….we should be answerable to the law, not to a political bias….You had to seek the truth in all incidents….that's the way its' got to be done. (Sgt (7) M/57/30/10/R).

The 'inner workings' of police culture are quite clearly on display in these responses. They are once again indicative of the era they policed in whereby the culture of conviction at any cost, rather than a search for the truth dominated the certain areas of their work which, in turn, led to a number of well publicised miscarriages of justice, some of which are still coming to light.

Student Officers

With one notable exception, all of the officers in this cohort clearly acknowledged their answerability to the law coupled with the fact that there should be a search for or a seeking of the truth as an absolute necessity. One officer highlighted what she viewed as police impartiality when she stated '….I think that the positive aspect of the police being a separate entity to the courts [is important]….our main issue being the implementation of the law rather than procedural aspects in terms of convictions'. (PC (5) F/272/2).

This accords with some of the views of the previous two cohorts and removes an officer from being 'result driven' with a desire to convict. The only exception to the views expressed by the majority was the answer given by PC (8) who appeared completely genuine, open and honest when he stated that '….the frustration I have is the work effort that we put into a prosecution….finding that person guilty and then the trivial sentence….was it really worth it? It's difficult to divorce yourself from the end result.' However it

is important to note that the same officer went on to say that '…I'm not sure that I've got enough experience in the service to be able to give that a proper reflective answer.' (PC (8) M/28.2/2). It is evident from the tone of the recording, that this officer appears to have a genuine personal and human conflict which he may well solve as he gains more experience of the service. It is quite probable that he may well gained this view from one of his more senior (in service) colleagues, that of conviction at all costs rather than a search for the truth. It is however heartening to note that this particularly dark aspect of police culture seems, at last, to be declining.

Whose Consent?

This was a straightforward question on whose consent, in their view, was necessary to carry out effective policing and did they, in turn, believe that they had this consent.

Chief Constables

Eight of the ten Chief Constables generally recognised that it was either the public or the communities, which are, in this context, one and the same. As CC (1) so succinctly phrased it '….I think we police with the consent of the majority….we're largely unarmed and we have to police with their consent….they outnumber us a hell of a lot….' (CC (1) M/52/24/2). This was, in many respects, an open and honest phrase and if anything could be utilised in support of the necessity for consent surely this particular phrase forms the basis of an extremely convincing argument. It would also tend to indicate that he genuinely felt that he did have both the support and the consent of the

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public. CC (8) neatly summed up the conundrum of consent when he said 'The consent of the population as a whole is probably too tenuous to pin down….they consent to me enforcing speed limits when it is not them that is paying the fifty [now £60] quid….Overall it's the consent of the broadest possible population….to the policing tactics and doctrine applied with outcomes that are acceptable to the public….' (CC(8) M/52/29/4). It is interesting that he uses the word doctrine, but having replayed the recording several times it appears that he was using it as a general term for a policing methodology or paradigm rather referring specifically to a doctrine of consent. However he does get right to the core of the question and indicates that he feels there is indeed general, if not specific support, in this instance, for the principle of policing by consent.

At this stage it is also worth reiterating the words of CC (1) who said ,….the one area we don't police by consent is young people….they are pretty much policed at, very little policed with….they are seen as a problem….they are seen as devils by the elderly….' (CC (1) M/52/24/2). As already noted this answer was given with a very tangible element of regret, he has obviously reflected on this and it is perhaps an area where he would like, if it is possible, to try and change this particular facet of the policing of his area. Whilst hesitating to put words in his mouth it was felt that his remarks were meant, not only for the force he commands, but for the police in general.

One Chief Constable (CC 7) did not, during interview, appear greatly enamoured with the concept of 'consent' per se when he stated that '….I struggle with the word consent, I know what it means, it's not a word the

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public supports….but I still think the vast majority of the law-abiding public want to be well policed….and want us to succeed….' (CC (7) M/54/31/3). It is obvious from the recording, and the amount of time he took to formulate his reply, that a great deal of reflection took place before he answered. This reflection really appears to place his words beyond conventional professional rhetoric and sums up the fact that he wants to serve the public to the best of his ability.

There is a collective and professional theme to these responses which may even, within itself form another aspect of police culture. It also demonstrates that this solidarity of a group of professional officers has in effect produced its own version of the official line. That they feel they have obtained conditional consent to what they do is perhaps a truer version of the principle of policing by consent.

Senior/Middle Management

Eight of the ten members of this cohort firmly believe quite emphatically that it is the consent of the public and CS (7) summed up the philosophy quite neatly when he stated '….I wouldn't want to be part of a police organisation where there wasn't public support, public consent, that tradition of public support and understanding.' (CS (7) M/44/25/1). This tradition of public support can be linked directly to Rowan and Mayne's nine principles of policing which they laid down during the formation of the 'new police'. Despite the fact that the support and indeed trust has, on many notable occasions, taken a 'bit of a battering' it is indeed heartening to find that this officers' belief

is still quite strong and which, in turn, obviously influences the performance of his duty.

In support of this view another member of the cohort DCC (3) stated '….I know you are going to be talking about accountability but I do think that the two are inextricably linked….if we are serious about consent then we need to give people a voice over influencing what happens….it goes into a relationship of consent. (DCC (3) M/47/21/1). There is demonstrated here a clearly established link between accountability and consent coupled with recognition that if the police both need and want the consent of the public then they [the public] must be given a say in what happens. They also need to be ensured that there are strict accountability measures in place when that consent has not been obtained and that the police themselves are policed. Could this indicate support for a jurisprudence of consent?

Culturally speaking the views of this cohort fall broadly into line with the previous cohort and that a conditional consent is likely to be the best in the given circumstances notwithstanding that, on some occasions, the more coercive and confrontational methods of policing will need to be used.

Peer Group

Whilst a number of this cohort generally supported the view that it was the public's consent that was required, a number of them did acknowledge that there are situations and occasions when people do not consent. For example, as C (2) stated '….there's a whole prison population out there would

say we didn't consent to the law….' (C (2) M/58/30/30 R) whilst CS (9) said 'Certainly not the consent of the criminals….' (CS (9) M/56/30/3 R).

There is here a recognition of the very tenuous nature of consent and as CS (9) also stated '…. you're really starting to talk about having a constitution where there is implied consent….' and even more tellingly '….we only know it is withdrawn when things start to go pear shaped….' (CS (9) M/56/30/3 R). Further to this the expression he used about having a 'constitution' is very much in line with the view that a number people from all walks of life have frequently expressed; that we (The United Kingdom) should have our rights enshrined in a constitution somewhat similar to that of the United States of America. Again this indicates that there may be some support for a jurisprudence of consent.

Whilst not wishing to excuse this cohort on the grounds of the influences of the era they policed in, their views nevertheless do reflect this. They acknowledge that the support of the public, whether or not consent is secured, is paramount to the purpose of policing, and if not secured, will see a much more repressive policing regime come into being.

Student Officers

Six of the members of this cohort unreservedly stated that it was the consent of the public which was required. Out of the four remaining, two of them again echoed views previously expressed by the other cohorts that the people who commit crime obviously do not subscribe to the concept of policing by consent. PC 1 simply said that '….the ones that say no would be

the people who commit crime....' (PC (1) F/23/2/20), whilst her colleague PC (4) echoed her sentiments when he stated that ,....there's a lot don't want to be policed, especially the criminal fraternity....'; however he then went on to say that '....they don't want to be policed so you are not really policing by consent....' (PC (4) M/34/2/2). This very succinctly captures the concept of consent and its limited application in the eyes of some of the practitioners.

The two remaining members of this cohort expressed an opposing view and were equally adamant. PC (3) quite bluntly stated '.... I don't think they have a choice....' (PC (3) F/2/2), a view echoed by PC (9) who appeared at first to ride roughshod over the whole concept when he stated '....we don't need the public's consent to do our jobs, its' a funny one policing by consent so I don't really understand where you are coming from....we are there to keep the peace....to uphold the law....we are a public service....' (PC (9) M/29/2/2). Having already commented on this particular statement and having reviewed the recording it is felt that the officer does indeed recognise his duty and whilst he would not 'label' it as policing by consent he did acknowledge 'the victim' and 'the public'.

This cohort appears to have an almost inherent belief that the police do have both the confidence and consent of the public to carry out their role despite the fact that their reliance on Chan's dictionary and directory knowledge appears to run in cultural opposition to the official policing purpose.

The PACE (See glossary) Act 1984 – Section 101 - Requirement to Consult

This was a legislative requirement, set out in the PACE Act of 1984, which required Chief Officers to set up consultation forums, to be held on a regular basis and to involve senior police officers, representatives of the local police authority and members of the public. In simple terms it was designed to give the public a say, if somewhat limited, on the way their communities were being policed.

This requirement has already been reviewed and it appears to have been a genuine attempt by the government of the day to involve the public in the policing of their communities. However having reviewed the reasons for the introduction of the PACE (see glossary) Act, 1984, an Act designed to ensure that police/public encounters, particularly in the areas of Stop and Search, Arrest, Detention and Interview, the overwhelming impression is one of the need for greater accountability. Not, I hasten to add, that it was not needed. My personal experiences of policing, particularly in the time preceding PACE, demanded the need for such legislation.

In connection with other research, interviews were carried out on the introduction of PACE. It is interesting to note that pre-Pace all officers saw it [PACE] as completely unnecessary and they were all of the opinion that it would make their job almost impossible. To their credit, once the Act had been operational for some time, they recognised that as well as protecting the person who was under arrest or being stopped and searched, it also gave

them [the police] a clear set of guidelines or Codes of Practice which would make these encounters rather more professional than hitherto.

Chief Constables

Half of the cohort, whilst recognising the need for such a requirement, and the additional accountability that it provided, simply saw it as a bare minimum that required much greater efforts, in form of additional initiatives, in order to ensure that it did not become yet another public relations exercise. 'Its been necessary but not sufficient. I think that if all we ever did was our PACE consultation that would not be enough….there's a whole range of things that need to be in place.' (CC (5) M/52/30/3). The views of the remaining four in favour accord with this view recognising that it provided a basic driver for further initiatives.

CC (8) simply viewed this requirement as '….an irrelevance' and he went on to highlight his belief that he had consent when he stated 'I believe I have that consent….I think I would be confronted by a withdrawal of consent that's more easily identified than the giving. (CC(8) M/52/29/4). It is also worth repeating that this Chief Constable summed up his views on consent by stating that it was a concept best left 'woolly' and that any attempt to define or codify it would render it at best unworkable. Perhaps an argument against any proposed jurisprudence of consent.

There is overall acknowledgement that, traditionally, the police have a fundamental assumption that they perform an essential role in protecting the social order with Reiner's '….sense of mission.' (Reiner, 1992; p. 112)

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Senior/Middle Management

Almost in line with the views of the Chief Constables cohort more than half of this particular cohort saw it (the PACE requirement to consult) as, at the very best a basis on which to build. As I (1) stated '….no, in my experience that's lip service. I've been involved in a few and you get a handful of the same people turning up at the meetings and you're not really, I think, getting a realistic view….' (I (1) F/48/27/10). This was supported by DCC (3) who said that '….I don't think that requirement's sufficient at all we need to go far beyond that into a relationship with the public….meet them locally and establish their priorities….' (DCC (3) M/47/21/1). A further three gave qualified support to the process with CI (4) stating 'I suppose it provides some sort of measure….as a general index of whether we are getting a degree of cooperation. (CI (4) M53/23/8). 'Their consultation process of questionnaires gives another degree of significant findings. But I think conversely is that the lack of serious public disorder (in that officers particular police area) demonstrates contentment with policing arrangements. (CS (8) M/50/31/3). Is it therefore possible to build on what is revealed during the consultation process and arrive at a much better way of conducting these particular forums and perhaps identify at least the beginnings of a jurisprudence of consent.

In 1978 according to Manning the '….police have staked out a mandate that claims to include efficient, apolitical and professional enforcement of the law.' (Manning, 1978: p.8), which he regarded as an impossible mandate '….driven by public expectation rather than the reality of police work. Culturally this falls within the ambit of Chan's axiomatic knowledge.

Peer Group

Once again the era in which this cohort policed impinged upon their views with eight of them seeing little or no value in this particular process. The answers ranged from a simple, straightforward unequivocal 'No' (CS(7) M/68/30/5). to the comments by another who stated that 'I think it was probably counter-productive….I think a consultative process is all very well providing you take cognisance of what people say and **do something about it** (added emphasis). This clearly illustrates what this particular officer thought about both the process and the follow-up (or lack of it) and his tone of voice indicated the latter. Of the two who supported the process one was reasonably enthusiastic when he stated '….I've been in many of the public consultation meetings….I have always felt that the public just wanted to talk to the police.' (I (1) M/52/30). It is interesting to note at this juncture that from information obtained from the Northumbria Police Professional Standards Team, the majority of complaints made against officers in Northumbria in 2012 were for officer incivility. This tends to indicate, that despite the public's wishes as expressed by both CS (7) and I (1), are either not being met or not being met correctly.

Culturally, there appears to be an undercurrent of collective cynicism that the legislature has willed a somewhat esoteric requirement upon an unwilling organisation, who, despite the cultural misgivings they express, nevertheless have little or no option but to carry it out.

Student Officers

Having only policed in an era where the requirement was already in place it was reasonable to expect that a majority of this cohort would agree and indeed it was found that seven of them did. PC (6) stated '….public forums, I think they are probably a very good idea….people can be honest and give you their opinions of how they feel they are being policed.' (PC (6) F/22/2/2). PC (7) supported this view by stating the way you gauge you have the publics' consent is through regular contact with the public and seeing what problems their communities face.' (PC (7) F/23/2/2). In an historical context PC (8) was quite dismissive of the requirement when he stated 'We were given consent by the fact that we have been here since 1829….people expect us to be there, I don't understand what we need to do under PACE but regardless of that the only way you are going to ensure that we get consent is through voting….we have to give the power of decision to the people we serve in terms of the direction we take.' (PC (8) M/ 28/2/2). Here, once again, there is an indication of support for a greater involvement of the public in the direction that the police should take in order to police their communities more effectively. This particular comment could also be taken as a pointer towards a jurisprudence of consent.

Within these responses there are indications that whilst these more junior (in rank and service) officers are expressing the view that policing is being driven along a particular path it also appears that they may simply be reproducing a particular facet of police culture that they have gained from their more senior colleagues.

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Consent – When it was lost

The final question on consent simply asked all four cohorts when they felt they were either loosing, or had already lost, the consent of the public for the action they had either physically taken or had been responsible for implementing. This question was specifically included in order to enable me to 'see through' any conventional professional rhetoric. Additionally it would enable them to be put in a position where they would find it difficult to revert to a Millsian type of response, which is explained in detail in Chapter 4, the methodology Chapter. In essence, according to Mills, the answers given are the product of both the situation and the relationship. In effect, none of the reasons or explanations of past conduct given are truer than any others and it is therefore not possible to divine the truth of given explanations with any certainty.

Chief Constables

There were, within the context of the size of the cohort, quite a varied set of replies to this particular question and during the planning stages it was thought that, particularly within this cohort, the miners' strike of the 1980s and its consequences would be a dominating discourse. The reality however proved somewhat different with only three of the Chief Constables referring to it.

'The miners' strike, I think there were some major concerns….we were [seen] as the political arm of the state and I think a lot of well-informed, intelligent people were probably aghast at the sight of police officers marching

to crush a trade dispute. We've got a lot of people within the county who don't like the police and never will because of the treatment they had during the miners' dispute.' (CC (1) M/56/31/3). CC3 echoed this when he stated 'I do think that during the miners' dispute I couldn't find a member of the public who was in favour of what the police were doing....' (CC (3) M/53/29/4).

This particular dispute, as already suggested, was one of the worst policing episodes of my career and I recall, during many stages of the dispute, being thoroughly disgusted by the behaviour of some of my erstwhile colleagues, from police forces in other parts of the country as well as those from my own force, who were acting more like mercenaries in an armed conflict, rather than police officers within an organisation that I was once proud to be part of. Indeed the actions of some officers at the Orgreave Coke Works in South Yorkshire in May 1984 still continue to be the subject of a divisive debate with ever increasing demands for a full public enquiry.

One Chief Constable made particular reference to the strategic forces debate engendered by the HMIC report, published in 2005, entitled 'Closing the Gap'. The report dealt with the proposed future structure of the police and one of the main recommendations, that of reducing the number of police forces from the current 43 down to approximately 12 regional forces was enthusiastically welcomed and wholeheartedly endorsed by the then Labour Home Secretary, Charles Clarke[33]. However history tells us that there was intense public dislike of the proposal and it eventually foundered for a number of reasons including a failure to make the proper arrangements for funding.

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[33] See also Chapter 2 p. 19

Another Chief Constable referred to a situation in his force where he, having replaced its previous Chief, was struggling with two major problems. Firstly the complex and detailed agenda of improvements that were being carried out and secondly, the worrying rise of gun crime in the same force area. In direct reference to these major problems he stated 'When it looked like we might lose either of these two battles then I think that [both] consent and support were in serious danger….having had damning reports written about you….may well be seen as a motivator….but it just fundamentally corrupted the public's belief that they were being looked after by the police service. (CC (5) M/52/31/3).

This was a truly genuine response, at once highlighting the difficult professional and personal situation that he found himself in. He did not however, to his credit, demonstrate any animosity towards his predecessor; neither did he shrink from his responsibilities or his overall determination to put matters to right. This particular response was one of the highlights of his interview, and one which gave lie to the Millsian theory of one explanation given for past conduct being truer than any other; neither was there any attempt to hide behind conventional professional rhetoric.

CC (7) made reference to the introduction of centralised call-handling and resource dispatch within his force, a process which I had also experienced personally within Northumbria Police. He stated 'A good example on call-handling (to highlight the loss of consent – added) ….what I witnessed was the sheer volume of criticism in the press and in letters to the police authority….we made a huge error….we were consistently letting them down.'

(CC(7) MM54/31/3). The adoption of this type of centralised call-handling, which was introduced by the majority of forces in England and Wales in effort to modernise and streamline the initial contact with the public, was without doubt, one of the biggest single causes of public dissatisfaction with the police in many years. There are still echoes of that dissatisfaction today and the public are still annoyed that they are unable to speak to their own 'local' police station.

Two chief officers made reference to major public disorder scenarios, one in his own force and another in two separate forces in which he served as a more junior (in rank) officer. CC (4) explained that '….the most recent example was probably the riots in (Town omitted)….but that was a very small section of the community….whilst people (and the media) thought that it was about race the reality is it was about criminality….the vast majority of people did understand….and they just wanted us to get back to normality.' (CC (4) M/51/32/3). ' I well recall (location omitted)…. I was a constable in the first disorder and an Inspector in the second lot in (location omitted)….you can label anything in order to sell papers. The danger is that the public will believe it and confidence in law and order will fall and reinforce anti-social behaviour. (CC (8) M/52/29/4).

CC (2) was the one dissenting voice in answer to this particular question and whilst he recognised the potential of particular events to have a negative impact [upon consent] his reply indicated that he did not feel there was a particular occasion that pointed towards a loss of consent. He stated '….I don't think so. There are always single events that have the potential to

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have a negative impact….people who have had a bad experience telling ten people they know, who all tell ten people they know and all of a sudden a thousand people are aware of this one bad event.' (CC (2) M/56/31/3). However it is telling that his use of the phrase 'have a negative impact' could direct both the researcher and the reader into the area of a potential loss of consent. In order to substantiate this theory it is worth recalling his reply on accountability (see page 184) when he found himself in front of a public inquiry having to explain his force's failings in connection with an incident that generated both a media and a public outcry and a mass of soul searching. It is not a leap of faith to link this reply on accountability to a lack of consent in what his force had signally failed to do.

In examining these particular responses it is noteworthy that, almost without exception, there did not appear to be any collective culture to 'shift the blame' as it were for their own particular failings and the frank admissions made are, I feel testament to their honesty and professional integrity.

Senior/Middle Management

Within this cohort there was, as in the Chief Constables' cohort, a wide variety of incidents which, in their view, had lost them the consent to police with three of them mentioning the miners' strike. As I (1) observed when referring to the miners' strike, she stated that '….going back a long way….periods of disorder like the miners' strike….a lot of harm was done there….I wouldn't like to say that its' damaged us to the extent that we are losing public confidence but all these things are damaging….' (I (1) F/48/27/10).

Apart from that strike it is extremely interesting to note that this particular officer was the only one, across all four cohorts, who mentioned the shooting of Jean Charles De Menezes in July 2005, an event which had massive repercussions, especially on the MPS. It severely damaged the reputation of the then Commissioner Sir Ian Blair who, whilst he did not resign at this stage, later became embroiled in a scandal over contracts for services provided which were awarded by him to a friend. Following a vote of 'no confidence' from the Lord Mayor of London, Boris Johnson, Blair eventually resigned in October 2008.

The miners' strike might be a good example, whereby there was hostility. But even then in places like (location omitted) things got back relatively quickly to normality although there are still festering stores. There will always be individuals that will never forgive and forget….' (CI (4) M/53/23/8). Whilst this officer acknowledges the harm that was done to mining communities in the policing of this dispute he still felt able to say that in his area relationships did return to what they were fairly quickly but, at the same, time he acknowledged that some individuals would never forgive and forget.

The treatment of ethnic minorities featured in three of the replies with one officer commenting '….if you went to some ethnic areas where there's historic problems and frustration you definitely wouldn't have policing by consent….' (Sgt (2) M/49/29/6). There is, however, as we have found to our cost, no easy solution to these particular problems and evidence of racial discrimination within the training of police recruits was uncovered when a BBC reporter joined Greater Manchester Police as a recruit and covertly filmed

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such incidents. The programme, entitled 'The Secret Policeman' (Daly, M. 2003) was screened in October 2003 as a part of the 'Panorama' investigative series of programmes

Evidence of overt racism emerged from the film and The Campaign for Racial Equality launched a formal inquiry which identified that racism was still at the core of the police service. The subsequent report made 125 recommendations for change.

Additionally, ten of the police officers involved resigned, twelve more were disciplined and three police trainers were removed following a Police Complaints Authority (PCA) investigation, in agreement with the IPCC. The IPCC also made a number of recommendations for changes to police training nationally, some that were similar to those used in Northern Ireland to bridge sectarian divides. (Marshall, A. 2014).

It is disturbing to note that, despite this and a number of other high profile cases, that rioting and looting took place in London following the shooting of Mark Duggan in August 2011. This highlights the fact that, despite the many enquiries, reports, recommendations and initiatives that have been made over the years since 2003, there are still a number of serious issues that exist between the police and the ethnic minority communities.

In a direct reference to the problems of policing, especially with young people, one officer commented '....I think that it is difficult because there is swathe of young people who have an approach to authority....which is expressed to their parents, to education, to the police which is very difficult.

My concern is that I think these young people are doing it either with the acquiescence or with the support of the parents and I think we are storing up a significant problem for ourselves....' (DCC (3) M/47/21/). This comment is very closely linked to an answer given by a Student Officer, PC (4) who talked about an incident involving a large group of intoxicated youths drinking on a public green. He was obviously shocked when some of the residents in the area volubly objected to the police presence and demanded in no uncertain terms that they (the youths) should be left in peace because they were causing no harm.

The officer obviously felt his efforts on behalf of the residents had been effectively negated by their attitude towards the miscreants. Having done his best to ensure fairness in the encounter, thereby legitimating his actions, he was quite visibly upset by the rebuff his efforts on their behalf had received. In addition to this, the attitude displayed by the residents would appear to indicate an obvious lack of consent towards the policing of the occurrence. Is it possible that their reaction, which indicated that they felt no harm was being caused, is root cause as to why some young people feel they are being policed 'at'. This was also highlighted by CC1 and by one of the peer group who stated '....There's a lack of respect of the police by younger people. They don't respect anybody and, as a result you have got more problems with disorder (and) with alcohol. You see groups of girls and lads on Friday nights, drunk, lying in the gutter....that would never have been allowed in the old days....' (CS (6) M/68/30/5 R).

It is clear from this answer, which reflects the other three answers involving loss of consent and young people that there is a minority of young

people who, either by choice or by default, are becoming more and more distanced from the norms of society. It is also interesting to note the use of the phrase '….in the old days' which indicates a different style of policing in that particular era.

Culturally this particular cohort fall largely into line with the Chief Constables cohort insofar as genuine regret, with little or no attempt to attach blame to any one else, is expressed at the loss of consent that they experienced.

Peer Group

As already stated, having policed at the front line during the miners' dispute, I thought that it would feature heavily within this group but only two of the cohort made direct reference to it. As CI (4) commented in the particular area he policed, the situation returned fairly quickly to some semblance of normality after the strike ended. Perhaps it was also 'lost' in the collective consciousness of this particular cohort?

Of those who did comment Sgt (7) said that '….unless we go back to the miners' strike….I think it was a testing time for us all….' (Sgt (7) M/57/30/10 R). PC (2) was more forthright when he commented that '….the miners' strike hit me, there was a real fear that we were going to completely lose consent….look at some of the situations (this part of his answer was in direct reference to the particularly unedifying spectacle of police brutality that occurred at Orgreave in South Yorkshire, where he had been posted, on a mutual aid basis, under the auspices of the National Reporting Centre)….was it justified?....there were times that it wasn't….' (PC (2) M/58/30/30 R).

Four of the cohort highlighted various riot situations that they had been involved in. CI (4) drew attention to the '….heavy-handed approach to the riots at (location omitted)….where places became no-go areas simply because the police withdrew from them in order to consolidate for a short period….half a day later that situation was addressed….'(CI (4) M/64/30/8/R).

One officer Sgt (10), who had latterly been a Community Beat Supervisor, made particular reference to the PACE public forums which, at his direction, one of his team PCs would attend. 'They got a lot of brow beating from both the local residents and the councillors. There were senior officers with their own agendas who were moving resources at the drop of a hat and I felt we were not policing with the consent of the public in that community because the residents were quite rightly upset at the increases in crime. (Sgt (10) M/67/30/12 R). This situation arose in this particular area because, whilst the BCU Commander, partially embraced the philosophy of community beat policing, those particular resources were often drafted into other areas on response, because of personnel shortages. Whilst there may not have been a causal link to the increases in crime there were a number of indicators from the statistics that this may be part of the cause of the increases.

One member of the cohort again made reference to the differences in the conduct of the police prior to the introduction of the PACE Act 1984 when he recounted his personal experiences that occurred during his time in his force's drug squad. He quite candidly stated that '….when I worked on the drug squad some of us would constantly harass them (drug addicts), turn them over, search them. That was pre PACE….it was not the best way to engage that community many of whom actually wanted to give up drugs'.

This was, without doubt a clear and unequivocal answer, devoid of any conventional professional rhetoric, and an acknowledgement that there never was nor could their ever be, consent for this kind of conduct.

The one outstanding cultural aspect highlighted in this set of responses is in Sgt (10s) reply on the previous page. He indicated that he had stopped his officers attending the PACE community forums, because, in essence, they were being taken to task for the failings of their senior officers. This would appear, as Reiner identified, to be at odds with the policing purpose. However placing those same officers in a no-win situation is not a particularly edifying aspect of senior management and on this occasion might easily be excused.

Student Officers

It is no surprise that the miners' strike did not feature at all in the answers provided by the Student Officer cohort given that it was outside their purview. Indeed as I have already surmised it has probably been lost from the collective consciousness of older police officers and, as one officer commented, from the consciousness of the community he policed at the time and in the aftermath. However it is important note that in some of the ex-mining communities of County Durham there are still family divisions which were caused by some family members working during the strike.

There was a broad range of responses from this cohort and one female officer was concerned with what she viewed as a lack of respect for the police when she said '….A lot of people don't have respect for the police…but you just get used to it….' (PC (3) F/28/2/2).

Another student officer despaired at the actions of her colleagues whilst policing a student demonstration. She was particularly and visibly upset by the fact that there had been no attempt at negotiation or conciliation, even although, as she rightly points out, they do possess more than a grain of common sense and would have, in all likelihood, responded to negotiation: instead as she graphically put it 'they got dog bitten'[34] (PC (5) F/27/2/2. This answer once again prompts the feeling that some young people, as we have already premised, are being policed 'at' which is totally unsatisfactory and in no way serves to legitimate the actions of the police. There is, without doubt, even in this small survey, a genuine worry from three officers that this is not a satisfactory state of affairs.

There were however two officers in this group who expressed an opposing view which of course must be measured against their limited length of service and their experience. PC (6) stated 'Not really, just when people have not wanted to pursue a prosecution, but that's not them not wanting police or anything….' (PC (6) F/22/2/2). PC (8) was very positive when he commented '….I've never really been in a situation where, if I have needed the public's help it's not been there. But equally ….have I really asked for an awful lot beyond what people would normally give and the answer's probably no as well. I've generally always found that people have been very cooperative'. (PC (8) M28/2/2). Even whilst stating he had not experienced any personal loss of consent he does temper it somewhat by adding that he has not asked more of the people he has dealt with than would be expected

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[34] There was, in this situation, no attempt to negotiate and those in charge simply sent the police dogs and the Operational Support Unit, armed with all of the body armour and shields as seen in Fig. 1, page 71, into the demonstrators in order to gain the upper hand. Surely an attempt should have been made to negotiate in order to try and secure legitimacy for their actions?

so he does acknowledge that perhaps a situation might arise in the future when he will experience a withdrawal of consent.

Overall in chapter 7 the question on loss of consent once more raised the spectre of 'conviction at any cost' rather than a search for the truth. This particular cultural aspect is in line with Chan's findings on directory knowledge whereby police 'Having developed indicators of normality and abnormality, police officers tend to target the unusual and the disreputable.' (Chan 1997: p. 78).

In the next and final chapter I will draw my conclusions and I will also extend the discussion around that proposed jurisprudence of consent with some recommendations of how it may look and how it might be operated.

Chapter 9: Conclusions

Limitations of the Study

First and foremost there are limitations in a study of this size and the reader will have gathered that what have been presented are the personal views of the officers through each of the four cohorts. It is a 'snapshot in time' rather than a series of biographical histories. Furthermore the small size of the study population, forty officers overall, with ten in each of the cohorts, can and does only represent their particular views and perceptions. There is not sufficient data to enable the extrapolation of their views across a wider population with any confidence or accuracy, indeed that has not even been attempted. However, there is a measure of confidence that the views obtained have been genuine and relatively free of 'conventional professional rhetoric'.

At this point it is noteworthy to highlight that during interview Chief Constable No. 8 was called to an emergency Police Authority meeting and was unable to complete the interview. He subsequently provided a written response to the remaining questions. Whilst these questions were outside the basic remit of accountability, autonomy/discretion, control and consent the written answers provided evidence of both conventional professional rhetoric and a formulaic response. This clearly indicates that, when providing written responses, there is more time to phrase the answers and control the language which, in turn, provides ample scope for rhetoric. Methodologically, the face-to-face interviews have produced more genuine responses which, in turn, help to support the methodological stance taken.

In Chapter four, the Methodology Chapter, the position of the 'insider researcher' was examined and it was revealed that the majority of work on 'insider' research has been carried out by teaching professionals who, in the main, have carried out their research on their own work whilst still teaching. It can therefore be appreciated that because I no longer work for the organisation I am not researching the work I do. This, in turn, enabled the identification as a 'distanced insider researcher'. In essence, this simply means that whilst no longer a working police officer, the insider knowledge of the organisation and its inner workings, together with prior professional relationships with some of the respondents, placed me in an extremely valuable locus to carry out the research. Indeed it was because of them I was able to collect the interview data which, in turn, enabled me to inculcate both authority and authenticity within the interview proceedings.

Throughout this work extensive effort has been made to preserve objectivity, particularly with regard to the researcher's position as a 'distanced insider'. This was neatly summed up by Grumet in 1990 when she stated that '....a failure to engage in some analysis of the....texts beyond celebration and recapitulation leads to patronizing sentimentality.... resonant but marginal because it is not part of the discourse that justifies real action'. (Grumet, 1990: p. 3). It is felt that in essence, the dangers of 'patronizing sentimentality' have been avoided and that the data have been analysed with a critical and objective eye.

Additionally, this critically objective view has been applied throughout the data analysis, particularly with regard to the implications and the impact that the numerous and diverse facets of police culture have, either knowingly,

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intuitively or even perhaps, in some cases, subliminally, upon the day-to-day routines of the police, across the gender, rank and seniority continuum. I am confident that the objective viewpoint has remained to a very large extent; however, the final judgement on objectivity lies with the reader.

Again in the methodology chapter the work of Wright-Mills, particularly his early work on Situated Actions and Vocabularies of Motive was employed, in order to establish whether what was being said was the truth, or as near the truth as it was likely to be, given all of the caveats that have already been explored; however, it is important to recognise that 'absolute truth' cannot be guaranteed. Having gained the stories of the respondents' professional experiences and the narratives they deploy to make sense of them, the deployment of a built-in reality check, which put them 'on the spot' by asking them about situations where they felt that they had lost the consent of the public for the legitimacy of their actions was employed to force them away from conventional professional rhetoric by recalling their worst experiences. It is felt that, on the majority of occasions, there was some truth in what was said. This was particularly noticeable where genuine regret over the loss of consent was expressed; however, once again, it is for the reader to judge the veracity of what has been said.

In recent times the government has been seen to be more or less forcing people to be independent in so many areas that the welfare state used to provide for. This, in turn, gives rise to the impression that the public are increasingly on their own. Our experience of the great 1990s 'crime wave' indicated that, while the police responded to our calls, there was little they

could do to stop us suffering crimes. In essence the state seems unable to win the public over to some of the major changes they have made in policing.

Having already found that, according to Holdaway, Chan and Reiner amongst others, there needs to be societal change, which, in turn, will have a positive impact upon lessening the influence of police culture. However, given the observations in both the previous and the following paragraphs, it is felt that these desired societal changes seem destined to remain a pipe dream. Later in this chapter I will examine the conclusions drawn by these particular authors and their models of culture to determine whether in fact they are adequate in light of my findings.

The extremely low electorate turn-out in 2011 during the process to elect Police and Crime Commissioners bears testimony to this fact. Nevertheless the answers from all four cohorts indicate that individual officers can and do try to allay the fears of the public.

It is well established that what the police in England and Wales do and what they stand for is never going to be acceptable to everyone but the serving officers interviewed do appear to worry about this as their replies on the question of consent clearly indicate. There was some expectation that there would be a lot of commonality in the replies but there has been a considerable variance both between the cohorts. This was again expected to a certain degree, even within each cohort, which would tend to indicate that police officers do reflect on their practice and that reflexivity, both personal and professional, is becoming an increasing part of the police culture. Indeed as Giddens stated in 1994 'There is a fundamental sense in which reflexivity is a defining characteristic of all human action. All human beings routinely

'keep in touch' with the grounds of what they do as an integral element of doing it' (Giddens, 1994: p.1). It is also important to note that that same reflexivity is fundamental to professionalism and the professionalisation of the modern police officer's role.

Unfortunately, whilst their self-awareness is extremely laudable there is very little, if any, structured inside research to help them turn that self-awareness and reflexivity into positive action. It also raises the conundrum of how you research yourself with any great objectivity?

It is equally obvious that the police are not robots in a military campaign nor are they a monolithic organisation blindly following the dictates of the centre. At present, whilst there are a number of ACPO committees designed to ensure that there is some commonality and cooperation between the 43 forces in England and Wales, the independence of individual forces and the views of their chief officers, especially with regard to operational independence, are still paramount. This independence was highlighted in 2014 during the recent debate on the provision of water cannon which police could deploy in order to quell the calumny which is often a feature of large public demonstrations, particularly in the capital. The debate is further explored in the following paragraphs.

Water Cannon for the Police

This operational independence was highlighted recently in an article in the Guardian newspaper on the 28th of January 2014 whereby the Metropolitan police and the London Mayor, Boris Johnson, were pressing the

case for water cannon to be deployed in the capital as soon as summer (2014), amid warnings that continuing financial austerity could fuel disorder.

The article also went on to highlight the fact that not all Chief Constables or their Independent Police Commissioners were in favour of either the outright purchase or the ready availability of water cannon for deployment when required.

Five of the six largest forces in England and Wales said they were against deploying water cannon on their streets. The West Midlands PCC Bob Jones dismissed them as being "as much use as a chocolate teapot" for quelling disorder. Tony Lloyd, the PCC for Greater Manchester, said he remained sceptical when he stated;

> 'No convincing argument has been made about how water cannons could improve policing or community safety," he said. "Before we moved anywhere close to using them on our streets, there would need to be a full and proper public debate about when they would be used, how they would be used and why they would be used. For example, they would have been completely ineffective on the streets of Manchester and Salford during the 2011 riots.'

Greater Manchester's chief constable, Sir Peter Fahy, was in agreement with Lloyd and stated;

> 'Water cannon would have been of no use whatsoever as the groups of people involved in the disturbances dissolved to avoid confrontation with any significant police presence and reformed elsewhere to loot etcetera. If anything a water cannon could have been more of a liability, as an asset that scarce police resources would have been needed to protect.'

Jane Kennedy, PCC for Merseyside was also dismissive when she stated that:-

> 'The chief constable, Jon Murphy, and I have considered the use of water cannon and believe them to be of limited value for Merseyside. I would not want to see precious resources diverted to purchase such vehicles when their value is yet to be proven.'

David Shaw, the Chief Constable of West Mercia, who is ACPO lead on the water cannon project said that police may have reason to deploy water cannon because the '….on-going and potential future austerity measures are likely to lead to continued protest'. He did however go on to highlight that it was

> '….virtually unforeseeable that he would need water cannon in West Mercia….I'm not a water cannon zealot, I'm absolutely clear it's virtually unforeseeable I would ever need to use water cannon….they are a useful additional tactic, to be used in exceptional and rare circumstances. It feels very un-British, but it feels un-British when the streets of London and Salford are on fire.'

It is interesting to note that whilst he (Shaw) did not visualise the deployment of water cannon in his police area he did however express a caveat that they are 'a useful additional tactic to be used in exceptional and rare circumstances'

Additionally the report also stated that '….the views of the other forces leave the Met in isolation, weeks before it is expected to ask the Home Secretary for formal approval.' The police and crime commissioners (PCCs) for the forces in Greater Manchester, West Midlands, West

Yorkshire, Merseyside and Thames Valley have all rejected the idea and suggested they would be unwilling to share the cost. One senior critic said the MPS had made basic errors in the run-up to the riots, which were compounded by more blunders once the disorder erupted: "The Met made a mess of it and now they are looking for a gimmicky solution.'

The final word on this particular situation is left to Baroness Jenny Jones, the London Assembly Green Party Member, who stated in a report in the Independent newspaper, 'The water cannon has no place on London's streets. To bring them in would be deeply damaging to the principles of policing by consent'[35]

Reflexivity

Having looked at the situation of operational independence which has, in the aforementioned Guardian report, quite forcefully underlined and supported, it is as well to recognise that those patrol officers who carry out both the routine and less routine tasks of policing do not always have the luxury of 'thinking time'. This lack of time for considered action has recently been exacerbated by the commodification, privatisation and pluralisation of the police service which has left those same front-line officers to deal with the coercive and confrontational situations that form a growing part of day to day police patrol work.

That said however surely there is time, after the event, for a measure of reflexivity which is, as already stated, in essence, an essential tool in assisting professionals to be self-directing rather than being reactive to

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[35] On June 10th 2014, the Guardian reported that Boris Johnson, the Mayor of London had approved the purchase of three second hand Water Cannon for use by the Metropolitan Police.

situations. This of course rests on the premise that they, the police, can use the same level of understanding on others that they have used on themselves. However, if professional reflexivity is to become an integral part of their professional practice will depend, to a large degree, on the organisations' willingness to accept self-questioning and exchanges of self-doubt and stress. This would of course be difficult in a hierarchical organisation, based on obedience to orders and procedures. At this stage it should be noted that reflective practice has become an essential part of almost all professions, particularly social, work, teaching and other similar professions; why not within the police service?

It is well established that individual officers rely on training and development initiatives to provide them with the relevant knowledge of the law and procedures required for them to remain competitive in their role and responsibilities and to enable them to promote and exploit both local and national initiatives. It has also been established that, in some cases, training and development programmes did not always fulfil the explicit organisational requirements for addressing the range of knowledge required to police effectively, at whatever level that there were inconsistencies across levels, roles and functions.

Training and development initiatives would have to be augmented by organisational practices and policies focused on reorienting and reframing roles and responsibilities to address new and emerging demands. This would need to include a renewed focus on identifying and recruiting the right talent; identifying and addressing obsolete roles and responsibilities; re-skilling, up-skilling and reorienting the current workforce; and creating provisions for

managing out individuals who are not able to adapt. This process would, of necessity, include input on reflexivity as well as providing both the means and the opportunity to practise it.

Interesting parallels can be found in the role of psychologists within the armed forces who are inside the organisation in terms of uniform and authority but outside the organisation in terms of combat. It has been recognised that in World War II the US Army deliberately posted psychologists into the fighting zones with the other medical services which had the effect of preventing shell shock. Within this context it is also interesting to speculate whether in fact the modern army now has more experience of conflict resolution than the police and that the police presence may not be acceptable to all people in all situations, and indeed in some situations they are very badly trained when they come to face hostility, particularly in events involving large scale public disorder. The interview data has graphically demonstrated that all officers across the four cohorts either reported situations where they felt that consent had been lost, or that they found themselves unable to handle the hostility generated when that same consent was lost.

Overall it is essential that the police do reflect on their practices and learn from their experiences. Whilst the requirement to consult the public under PACE legislation this is only a base line to build on, in itself it will never be enough. Once again, the interview data, particularly from the Chief Constable cohort, indicates strong feelings to this effect. They indicate that it will never be enough and that all officers, not just the senior officers who head these PACE enforced forums, need to engage more with the public in order to legitimate the unspoken but ever-present notion of consent. It is also obvious

from the interview data that consent is something which still has to be negotiated.

What of police culture? Having used models, particularly those proposed and developed by Holdaway (1984) Chan (1997) and Reiner (2000) it is necessary to examine their proposed solutions to either eliminating or negating the effects of police culture. Holdaway proposed that;

> The tightly bound culture of the lower ranks has to be broken into; the virtual sanctity of police policy has to be demystified, not just to denounce but also to check power and gain a wider appreciation of the possibilities and limitations of policing. Whatever reforms might be effected, more attention has to be paid to the lower ranks as they work from day to day. The occupational culture remains the final testing ground of sociological analysis and policy intervention. (Holdaway, 1984: p. 175).

Here Holdaway advocates focusing attention on the lower ranks and their day-to-day workings but only in connection with greater analysis and, perhaps more tellingly, on policy intervention. It remains to be seen whether policy intervention or the introduction of more restrictive bounds being placed upon police actions will have the desired, but possibly unachievable effect of changing police culture.

Chan, in the main, tends to direct her summation in a similar direction to that of Holdaway. However, as she states

> '....change is traumatic, it has to be directed and continuous, people must be willing to change, and, finally, planned change is difficult to achieve, especially when it is imposed by one group upon another'. (Chan, 1997: p. 237).

Chan further argued that '....changing police culture requires changes both in the field, the external and internal structural conditions of policing, and

in the habitus, the content of cultural knowledge. Her model, shown on page 91 (Fig. 3) illustrated the existing condition and that on page 92, Fig. 4, demonstrated the changes she felt were needed to both the habitus and cultural knowledge necessary to bring about cultural change. Finally she suggests that….'police reformers should reconsider the utility of changing the field, that is, changing the structural conditions of policing.' (Chan,1997:p.237). She further proposed that this course of action;

> '….could find support among advocates of independent civilian review of police conduct….those who favour tighter control over police misconduct using various administrative, civil and criminal law sanctions….those who push for democratic control of policing….and those who prefer audit-based monitoring of police conduct' (Chan, 1997: p. 237).

In essence, it is felt that Chan appears to have grouped together a number of the standard methodologies employed that are designed to make professionals externally accountable. However, as she finally states, on a somewhat pessimistic note;

> '….changing the field does not guarantee any change in cultural practice. Many regulatory efforts not only fail to gain compliance, but sometimes lead to escalation of the problem, unintended or even perverse consequences. Nevertheless changing police culture and improving the relations between police and minorities requires changes in both the cultural knowledge and the structural conditions of policing.' Chan, 1997: p.p. 237-238).

Whilst it will be seen that Chan was referring to changes in the relationship between the police and minorities, which was in essence, the main drive of her study, it is nevertheless, easy to extrapolate both her research, her findings and her recommendations across the whole continuum of police/public relations.

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Lastly, Reiner suggested that 'Police culture is neither monolithic nor unchanging. But the predicament of the police in maintaining order and enforcing the law in liberal democracies generates a typical culture pattern.' (Reiner, 2000; p. 106). This would tend to suggest that Reiner at least envisages a debate that might perhaps embrace some of the more edifying aspects of police culture. However, this requires fundamental changes '….not just aimed at individual officers (for example in selection and training), nor grand policy declarations, but a reshaping of the basic character of the police role as a result of wider social transformation.' (Reiner, 2000: p.106).

How then do we go about getting 'rid' of the police culture, if indeed that is what is needed? As is common with almost every other occupation, both the selection of potential officers, and their subsequent training following selection, is delivered, in the main, by officers who are already part of the organisation and who, as we have seen from the data analysis, appear to be imbued with the very culture that it is proposed to eradicate or at least temper and change. Whilst Reiner has proposed that the basic character of the police role needs to be reshaped by a wider social transformation, it is interesting to speculate the shape and format this wider social transformation would have.

Having examined the views of Holdaway, Chan and Reiner, and analysed the interview data utilising their sometimes differing, but often similar views, particularly in their proposals for changing police culture, my evidence suggests that police culture is far from being monolithic. However there is a need for serious continuing debate on this question. Similarly, once again given the size of the study population, it is not possible to either document or establish the effects of police culture upon the actions of every police officer.

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However, it is felt that there is ample evidence, given the amount of research carried out, that it still appears to form part of the psychological make-up of most officers regardless of their rank, length of service or gender. The initial aim of the work was to obtain officer perceptions on the concept of policing by consent, and to identify whether the effects of police culture has any bearing on both this concept and whether it interferes with the impartial discharge of their duties. The work, despite its limitations, has made a valuable contribution both to the debate on the effects of police culture and to the possible changes in that culture which could be made.

It is probable , given the present social climate, that both the social and societal changes required to bring about changes in police culture are far beyond the grasp of any government, of whatever political hue. Overall it would appear that there is almost an inherent belief across the four cohorts that the police have the confidence and the consent of the public. Rhetorically speaking, is this, in itself, a cultural belief which has, over the years become a theoretical construct?

In summation, both Holdaway and Chan appear to favour changes to the internal structure of the police, whilst Reiner's view is more open and appears to recognise that there are some features of police culture that may be positive. Both Holdaway and Reiner also argue that changes to society are also required in order to bring about internal changes to the nature and culture of the police service as a whole.

Whilst the argument for social and societal change, which by its very nature would bring about changes to policing, is a persuasive one, it remains, in many respects, an extremely ambitious and perhaps unachievable aim.

Perhaps then my proposal for a 'jurisprudence of consent' could inform the debate to sufficient depth which, in turn may bring about some of the desired changes. On balance, there appears to be a place for some of the 'better' aspects of police culture which, if so adopted, could, at the very least, greatly enhance the debate in order to bring about those changes.

Jurisprudence of Consent

In 2005 Smith and Grey wrote:-

'....police conduct is the product of complex formal and informal processes;....while legal rules are important in regulating action, they are only effective insofar as they become 'governing principles' of police behaviour....This is contingent upon three factors; the type of rule; the structure and quality of police management; and how rules interact with the norms and objectives of police officers. For that reason they maintain that there are 'considerable dangers' in assuming that police conduct can be changed merely by the imposition of 'more rules' (Smith and Grey 2005 in Henry and Smith, 2007: p42-43).

It is immediately obvious that this view impinges upon the notion of a jurisprudence of consent whereby even more rules are required. It also highlights, once again, the negative effects of police culture and that changes can be brought about by the imposition of yet more rules and conditions. Will these rules then become another stick to beat the police or will they become part of the New Management Culture whereby the process itself, rather than the outcome achieved, becomes more important; another box to be ticked or an activity to be measured?

Police Code of Ethics

In July 2014, in a report published in the Independent newspaper it was announced by Michael Hirst, the Chief Constable of Leicestershire, who heads the ACPO ethics working party, was in the process of drawing up a new national code for policing ethics. He stated that the code was being formulated to prevent fresh miscarriages of justice and to protect officers from increasing pressures to secure convictions.

Other members of the working party include representatives from the Police Superintendents' Association, the Home Office and Bramshill Police Training College. On of the main aims is to improve the image of the police following a number of recent, highly publicised miscarriages of justice. Mr Hirst went on to say 'I have been saying for more than three years that we are getting it wrong. The gap between the public's expectation of its police force and the services the police delivers has been growing wider'.

The working party has examined the codes of conduct of other forces, the Council of Europe's Declaration on the Police and the United Nations' code for its law enforcement officers. It is planned to publish the code in December, but there is some disagreement over its format whereby some members of the working party are looking for a simple 10-point code whereas others appear to want a detailed handbook for issue to all police employees throughout the extended police family.

There are, as yet, no details of the proposed code available but when Police Scotland was established in April 2013 a code of ethics was also

published. The code has been examined and there is no mention of policing by consent. There were however a number of allusions to it contained within the code. Will the new national code for England and Wales be the same? In which case there is a place, within the code, for a jurisprudence of consent.

The data also include detailed accounts of their meanings and practices as well as mistakes that were made when the consent, which was hitherto always present, had been assumed but was not, in fact, given. As already premised, they have the experience, they obviously think very seriously about their role in modern society but are they getting the right training?

Despite a contention by some that today's police officers are not strictly 'professionals' their role is becoming more and more professionalised. Indeed they have a unique role in society; doctors do not arrest their patients; teachers have little or no control over their students but the police, in today's parlance, have 'customers' who they may also arrest. It is a unique contradiction that, in the police, we have a 'service' that also in effect punishes, with powers to do so granted by the state and enacted in legislation. The only other profession that has somewhat similar powers are social workers and their role within society also results in creating the same kind of ambivalence towards them as is directed towards the police.

Postscript

It was reported on BBC Television News on Tuesday 26th August 2014 that '…. all 43 police forces in England and Wales have agreed to adopt a new government code of conduct on the use of their powers to stop and

search members of the public'. (Marshall, A. 2014.) The Home Secretary, Theresa May, had said the technique was being misused so often that it was damaging relations between the public and police. From now on the police will record every outcome arising out of each application of Stop and Search Powers. Could this be the first step towards a jurisprudence of consent? This will, in all probability form the basis of some further post-doctoral research. I am of the opinion that this step, coupled with the Code of Ethics currently being written, may well be the nascent beginnings of a jurisprudence of

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Appendix 'A'

The following set of principles, which lay out in the clearest and most succinct terms what could well be regarded as a 'doctrine' as opposed to a philosophy of policing by consent, appeared as an appendix to '*A New Study of Police History*' by Charles Reith (London: Oliver and Boyd, 1956). Reith was a lifelong historian of the police force in Britain, and his book covers the early years of Metropolitan Police following the passage of Sir Robert Peel's 'Bill for Improving the Police in and near the Metropolis' on 19 June 1829. Reith notes that there are particular problems involved in writing police history, owing to the loss or destruction of much early archive material, and, probably for this reason, the principles appear without details of author or date.

However, it seems more than likely that they were composed by Charles Rowan and Richard Mayne, as the first and joint Commissioners of the Metropolitan Police. Rowan was a military man and Mayne, fourteen years his junior, a barrister. Rowan retired in 1850 leaving Mayne as sole Commissioner until his death in 1868. The sentiments expressed in the 'Nine Principles' reflect those contained in the 'General Instructions', first published in 1829, which were issued to every member of the Metropolitan Police, especially the emphasis on prevention of crime as the most important duty of the police.

Reith notes that Rowan and Mayne's conception of a police force was 'unique in history and throughout the world because it derived not from fear but almost exclusively from public co-operation with the police, induced by them designedly by behaviour which secures and maintains for them the approval, respect and affection of the public' (Reith, 1956: p.140).

The Nine Principles of Policing

1. To prevent crime and disorder, as an alternative to their repression by military force and severity of legal punishment.

2. To recognise always that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour and on their ability to secure and maintain public respect.

3. To recognise always that to secure and maintain the respect and approval of the public means also the securing of the willing co-operation of the public in the task of securing observance of laws.

4. To recognise always that the extent to which the co-operation of the public can be secured diminishes proportionately the necessity of the use of physical force and compulsion for achieving police objectives.

5. To seek and preserve public favour, not by pandering to public opinion; but by constantly demonstrating absolutely impartial service to law, in complete independence of policy, and without regard to the justice or injustice of the substance of individual laws, by ready offering of individual service and friendship to all members of the public without regard to their wealth or social standing, by ready exercise of courtesy and friendly good humour; and by ready offering of individual sacrifice in protecting and preserving life.

6. To use physical force only when the exercise of persuasion, advice and warning is found to be insufficient to obtain public co-operation to an extent

necessary to secure observance of law or to restore order, and to use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.

7. To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police, the police being only members of the public who are paid to give full time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.

8. To recognise always the need for strict adherence to police-executive functions, and to refrain from even seeming to usurp the powers of the judiciary of avenging individuals or the State, and of authoritatively judging guilt and punishing the guilty.

9. To recognise always that the test of police efficiency is the absence of crime and disorder, and not the visible evidence of police action in dealing with them.

Appendix 'B'

The Independent Police Complaints Commission (IPCC) made 16 recommendations for change to the police service as a result of the Stockwell investigation. These recommendations were addressed to Her Majesty's Chief Inspector of Constabulary (HMIC), the Home Office, the Association of Chief Police Officers (ACPO) and the Metropolitan Police Service (MPS).

In drawing up these recommendations the IPCC has worked closely with HMIC.

The area of concern will be demonstrated followed by each individual recommendation.

POLICE USE OF FIREARMS

Command and control

1. **Concern**

   Despite Commander Dick making it clear she was in command of all aspects of the firearms operation, there remains the potential for confusion between the respective roles of gold, silver and designated senior officer.

   Recommendation

   To review existing policy and guidance in relation to the command and control of firearms operations to ensure there is absolute clarity of role and responsibility within the chain of command, particularly when a designated senior officer is deployed. This should include deployments conducted under the auspices of Operation Kratos and Operation C.

2. Despite being appointed as the designated senior officer, the strategic briefing chaired by Commander McDowall commenced before Commander Dick's arrival due to inaccurate information being provided to her regarding the location of where the briefing was to be held.

Recommendation

To review existing guidance and practice to ensure gold, silver and bronze commanders have a clear and common understanding of the circumstances surrounding future firearms operations, the overall strategy and the key tactical options under consideration.

3. No formal recording was made of any of the briefings prior to the deployment of firearms and surveillance officers. Thereafter, there was no audio recording of what was communicated within the operations room. Such recordings would have provided an audit trail regarding the information that was received by the room and the decisions that were then transmitted. Some staff working in the operations room expressed concerns regarding the noise generated within it and how that may have affected its effectiveness.

Recommendation

To review existing practice to ensure that, at a corporate level, robust and appropriate facilities and mechanisms exist to maintain the effective command and control of future operations of a similar nature. Particular attention should be paid to ensuring that key briefings, strategic and tactical decisions are fully recorded or documented and in any event capable of audit.

4. The strategy set by the gold commander was not implemented. The strategy made it clear that all persons leaving Scotia Road would be stopped either as suspects or as potential intelligence sources. Six persons left the flats before Mr De Menezes. Due to insufficient resources being in place, none were stopped.

Recommendation

To review the existing mechanisms and policy for ensuring that sufficient and robust channels of communication exist that provide commanders with 'real-time' updates on intelligence, operational and resourcing issues that could adversely impact the successful implementation of the overall strategic parameters and the identified tactical options and that robust procedures are in place to ensure that the necessary fast-time action is taken in the early stages of an incident to achieve this.

5. There was no threat assessment and the risk assessments undertaken for this operation did not consider the risk of misidentification or uncertainty regarding the identification of a suspect. The assessment did not consider a suspect leaving the premises before firearms resources were in place.

Recommendation

To review existing procedures and training for carrying out assessments for operations of this nature incorporating lessons learned from this incident

OPERATIONAL CONSIDERATIONS

6. There was a substantial delay between the time the firearms team were requested and when they were deployed. By the time Mr De Menezes left Scotia Road at 9.33am, CO19 officers were still not in place despite being initially requested at 5.05am.

Recommendation

To review existing policy and practice to ensure that, when in pursuance of an armed operation, it is necessary to stop or otherwise detain potential subjects of a surveillance operation, and that appropriate firearms support is in place to expedite a prompt and safe resolution of the encounter.

7. There was a lack of clarity about the command to 'stop' the suspect given the likely mindset of the firearms officers. They were deployed on an anti-terrorist operation the day after unsuccessful attempts were made to cause explosions within the underground system. They had been issued with special ammunition. They knew a designated senior officer was in command.

Recommendation

To review existing policy and guidance to ensure absolute clarity exists in the use of operationally specific terminology. Particular attention is to be paid to ensuring the terminology used for deployments under the auspices of Operations Kratos and Operation C are entirely consistent with the common language of command for regular firearms deployments in response to serious crime operations.

SURVEILLANCE OPERATIONS

8. The S012 surveillance team, the CO19 specialist firearms officers and those in command were not used to working together and were not sufficiently familiar with each other's working practices.

Recommendation

To review existing policy and operational capability in relation to the deployment of surveillance teams on firearms operations to ensure that deployment fully complements and supports rapid armed intervention should such subsequently become necessary.

9. It was only the views of the surveillance team leader that were communicated in relation to the identification of the suspect. The fact that two surveillance officers believed that the person being followed was not the suspect should have been communicated to the designated senior officer, as it may have assisted her decision making.

Recommendation

To review existing policy and practice to ensure joint firearms and surveillance operations are fully integrated and that channels exist to ensure salient developments, such as doubts over a target's identity, can be swiftly communicated to relevant strategic and operational commanders.

10. The completion of the supplementary surveillance log has been proved to involve alterations which changed the meaning of the entry.

Recommendation

To review existing policy and practice to ensure that at a corporate level robust facilities and processes exist to demonstrate the integrity of evidence gathered during the course of surveillance operations. Particular attention should be paid to the continued utility of surveillance logs.

POST-INCIDENT MANAGEMENT

11. The incident was not referred until 3.21pm on Monday, July 25 and until that time the IPCC was prevented from starting an investigation on the instruction of the Commissioner of the Metropolitan Police. The rationale given by the Commissioner for this decision relating to the IPCC's powers and duties was not correct.

At the present time the Police (Complaints and Misconduct) Regulations 2004 require the police to refer complaints and allegations of misconduct that are subject to mandatory referral (such as death and serious injuries) to the IPCC no later than the end of the working day following the day on which the complaint was made or the conduct came to the attention of the appropriate authority.

Recommendation

That all mandatory referrals to the IPCC should occur, particularly in the case of death or serious injury, as soon as possible but in any event not later than the end of the day following the following the incident, complaint or misconduct and that the Police (Complaints and Misconduct) Regulations 2004 should be amended accordingly.

12. The difference in the treatment of police and civilian witnesses to this incident are not acceptable or justifiable. Members of the public were expected to be interviewed and make statements soon after witnessing a most traumatic incident without being able confer with other witnesses and provide a joint account. The police officers involved were allowed to return to their own base, refresh themselves and confer. This was and is accepted practice. However, the IPCC has raised its concerns regarding the post incident procedures put in place after other incidents where police firearms are discharged.

Recommendation

To review existing guidance and practice to ensure that appropriate and robust mechanisms exist to secure an accurate and auditable record of 'hot' and team/group debriefs.

13. Officers involved in the incident wrote up their notes together. This is current practice but makes those accounts less credible. Such practices were agreed in the protocol between the police service and the IPCC in July 2004.

Recommendation

To review efficacy of existing post incident management policy, guidance and practice to ensure an appropriate balance exists between being rightly held to account for one's actions whilst discharging the office of constable and the rights of the principal officers. Particular attention should be paid to the need to ensure that individual accounts are obtained in a proximate and transparent manner that is consistent with the rules of evidence, the

duty of care to staff and the need to secure public confidence. Post-incident procedures should be revised to ensure that officers do not write up their notes together.

COMMUNICATIONS INFRASTRUCTURE

14. Command and control of this incident was inevitably lost when CO19 officers entered the underground. Had there been any update regarding the uncertainty surrounding the identification at this point it would have been impossible to communicate.

Recommendation

That, in collaboration with partners in Transport for London and British Transport Police, the Metropolitan Police Service undertake to ensure that communications are harmonised and facilitate the command and control of operations conducted within the London Underground network.

TRAINING AND EXERCISES

15. Events during July 2005 confronted the Metropolitan Police Service with a series of challenges that had not been experienced before. Whilst terrorist attacks on the transport system had been predicted, the MPS relied on the ACPO firearms manual and the Kratos policy to combat such an attack. It is apparent that more was required. The IPCC wants to ensure that the police service and individual police officers have learnt as much as possible from the events of July 22 and have the best possible preparation for dealing with similar situations in future.

Recommendation

The MPS, HMIC, ACPO, the National Policing Improvement Agency (NPIA), the Home Office and other relevant agencies should revise planning, exercises and training provided for those involved in anti-terrorist policing to ensure such processes fully incorporate all the learning from the events of July 22.

As soon as legal procedures permit, the experience of those officers directly involved, including staff from the IPCC, should be fed into those reviews.

COMMUNITY REASSURANCE

16. The IPCC has noted the positive response given by members of the Community Reference Group and other community representatives to the steps taken by the then Lambeth borough commander and other statutory bodies to provide community reassurance in the aftermath of all the events in July 2005. The IPCC witnessed some of this at first hand. We commend Chief Superintendent Martin Bridger and his officers for an excellent job facing the communities directly, listening to their concerns and seeking to restore their confidence. It was reported to us that this had been achieved as a result of the community police liaison arrangements.

Recommendation

The good practice in place in Lambeth, which ensured effective community

reassurance, should be noted by the MPS and HMIC. Steps should be taken to ensure that, where appropriate, this good practice is replicated in other BCUs (Basic Command Units).