

contemporary issues in public policy



The Police and Social Conflict

second edition

Nigel G. Fielding



THE POLICE AND SOCIAL CONFLICT



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THE POLICE AND SOCIAL CONFLICT

SECOND EDITION

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Series Editors' Preface |

The *Contemporary Issues in Public Policy* series aims to publish books which provide highly informed and comprehensive analyses of topical policy issues. It has grown out of an earlier project by the same editors, *Conflict and Change in Britain: A New Audit*, which looked set to founder when its publishers, The Athlone Press, ceased to exist on the retirement of its mainstay staff. We have been fortunate in finding, in the GlassHouse Press imprint of Cavendish Publishing, a new publisher keen to relaunch the series with a fresh steer. The main change will be a greater emphasis of the new series on cross-national, comparative perspectives, both in their own right, as crucial for a better understanding of the issues under scrutiny, and for the light they shed on the situation in the UK.

Three developments have given added urgency to a more comparative perspective. First, the past few years have seen the quickening pace of globalisation and the engagement of nation-states in increasingly complex supra-national formations. Without subscribing to the view that this renders a national focus redundant – in some ways national frameworks have been strengthened by, for example, devolution – the shortcomings of a purely national focus are, in most cases, all too apparent. Secondly, the proliferation of international agencies and supra-national political and trade entities have led to data mountains of such variable quality that only the truly expert can make sense of the terrain. Thirdly, and to some extent consequently, a newfound populism and impatience with hard-won expertise have become increasingly evident in most media and political representations of public policy issues. Against the appeal of gut reaction and electoral advantage, academic scholarship is all too often consigned to the margins or dismissed out of hand. The need for measured and dispassionate weighing of the evidence and theoretical clarity is all the greater.

The focus of this, the second book in the new series, has never escaped political and public contention. Police and policing are symbolically and practically at the very core of the State; they represent one of the few institutions charged with the legitimate use of force in the service of the State and, more abstractly, the public; they are highly visible and often contested by those who challenge how that force can and should be

deployed; and they are beset by endemic contradictions. Chief amongst those contradictions is the mandate of the police simultaneously to protect, reassure and control the populace, a mandate that cannot but engender abiding dilemmas of policy and practice.

Although there were important forerunners (for example, Westley (1953, 1956, 1957)), the conventional history of police research traces its origins back to the social anthropological work of Banton (1964) which concentrated on the control of police-public relations. The theme of his *The Policeman in the Community* was how conflict was managed so that a potential for trouble was addressed and generally avoided, and it was to be a theme borne into ever more vexed times in which the police-public relation began to show signs of strain. It is a mark of that transformation that the book appeared at the same time as a Royal Commission was established to address the increasingly manifest troubles of policing.

During the next two decades, the police-public relation was not only marked by the substantial disaffiliation of large sections of society but also affected by a polity seriously divided on sectarian lines. It is no wonder that Reiner (2000a) characterised the social science of policing in that period as the conflict stage in the history of police research, a stage marked by radical conceptualisations and a generally hostile perspective on the nature of contemporary policing. But no trend is without its counter, and 'appreciative' studies of the police continued, although they were studies that were necessarily obliged to contend with the weight of structural critiques of the police enterprise and its alleged politicisation.

Banton's achievement had been to make the social science of policing empirical. It could not, of course, have come about without a new willingness of the police to afford researchers access to their working world, itself arguably a consequence of growing concern at the way in which the police went about their work. Yet, whatever the cause, the knowledge base for our analysis of policing has grown dramatically, and it is interesting to consider whether it is this, or the evolution of the polity and the consequent changes in the police organisation, that has been chiefly responsible for a social science of policing that is less strident and more considered than the somewhat starkly divided field of the 1970s and 1980s.

It would be wrong to conclude that internal divisions and conflicts have all subsided and that police research can settle into a more cosy future. That would be a view as narrowly led by the conditions of the times as had been the earlier, more conflictual perspectives that once marked the field. The contemporary world of policing is multiplex and nuanced: there is policing *by* government (the public police), policing *through* government (partnership policing), and police *beyond* government (private policing). The central activity – regulation – and the

forms of behaviour that are its object (whether they are branded *hooliganism*, *anti-social behaviour*, *riot* or '*public event management situation*') remain ineluctable features of society. The conflicts that inform and configure policing endure, and the trick is to tease out their pattern despite a natural but misleading urge to believe that the contemporary is always the new.

Compressing all this intricacy into a lucid analysis requires patience, skill and knowledge. Nigel Fielding is one of the most experienced and thoughtful commentators on policing matters, and his radically revised book brings up to date and distils an extraordinary breadth and depth of understanding of the complex, diverse and evolving character and context of policing in Britain in the early twenty-first century. As much an essay on the progress of conflict in Britain, *The Police and Social Conflict* is firmly anchored in broad social theory and a well-developed comparative and historical sensibility that allows him to qualify what are the sometimes unbalanced (and on occasion apocalyptic) pronouncements of others. Fielding is aware of how very difficult it is to come to simple conclusions about the nature of policing in a diverse and changing society, and he has managed to pick his way fastidiously amongst what are often tendentious and opposing positions. The regulation of conflict, it becomes apparent, must frequently be a matter of compromise, negotiation and discretion, and it can yield paradoxical outcomes where one set of police or political goals must give way to another. In all this, and because it obliges us to consider policing much more thoughtfully, *The Police and Social Conflict* is to be welcomed indeed.

David Downes and Paul Rock
London School of Economics
April 2005



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Introduction |

The police work at the heart of social conflict, and always will. Themes of endurance and recurrence seem quaint and blinkered in present times, when few days pass without the declared obsolescence of yet another 'eternal reality'; but social institutions do not change as rapidly as versions of computer software. Calling poverty, xenophobia and religious bigotry 'social exclusion' does not make them any less the age-old sites of social conflict that they have always been. The thesis of this book is as obstinate in its new edition as it was in the first: the police are inextricably central, not only to society's response to social conflict, but to the terms in which it is understood. As long as there is society there is conflict, and as long as there is conflict there will be the police.

In the past the police were unsubtle, even violent and crude, in their alignments in respect of the lines of schism, naively and instinctively standing with established interests, although the history of police unionism tells a more complex story, and one that will be sketched in later. However, the police have marched a long way in the last two decades, and the terms, if not the sentiment, in which a former Metropolitan Police commissioner, Sir Robert Mark, depicted the post-1945 trend of social and political relations, already seem to be echoes as if from the roar of a naive and blundering dinosaur. In the foreword to a book on police accountability, Sir Robert claimed that since 1945 'liberty under the law' had been extended to 'the freedom to steal and to misbehave ... with a high degree of immunity from any adverse judicial consequences' (Oliver, 1987: viii). Top **AQ** **'Top-ranking police'???** police are these days more apt privately to speak as academics do, and publicly pronounce as do politicians. Where the vantage point of the 1980s offered a view dominated by political and industrial strife, and by the brute force of the police response to it, this second edition is informed by two decades in which the 'enemy within' has become the 'enemy without'. Our compelling threats are international terrorism and international organised crime, not the miners, steel workers and student militants. In recent years, conflict involving the police is as likely to have been with government and other 'partner' agencies as with the public, and was played out in the concealed forum of bureaucratic forms of confrontation

rather than on the picket line. Communities protest at receiving too little of the police resource, not too much. Mundane crime has fallen, but serious crime, physical and sexual violence, is up. No one now sees such crime as an inarticulate, but political, act, as the Black Panthers once did in respect of assaults against whites. Industrial and political disputes are muted, and there is a sense that our contemporary ruptures are not with those wanting a bigger share of the cake, but with those who want to ship the cake abroad to manufacture it with lower wage-costs, or dictate its ingredients according to religious strictures.

If the lines of division within our polity and community are increasingly blurred it is not a sign that humankind no longer distinguishes between us and them. The lines are simply being drawn along new fissures. Class as a frame of reference may largely be gone, or at any rate have been obscured by a perceived affluence founded more on borrowing and the ever-decreasing cost of magical technologies rather than on any improvement in the share of national wealth held by the poor. But our gaze has moved off the estates and the dole queue. Ethnic tensions likewise endure, but are confined and local, and seem increasingly archaic set against a kaleidoscopically eclectic popular culture and hearteningly high rate of interracial marriage. We draw together much more than in the past when we 'do social control', because our worst 'enemies' seem unambiguously external: the international gangster, the 'economic migrant', the alien terrorist. These are the targets to whom we increasingly direct our police. When we do focus our gaze on our own divisions, we are as likely to find ourselves on the metaphorical picket line as the outcasts. Our contemporary set-piece confrontations are over the price of vehicle fuel (the 'fuel blockades' of autumn 2000), the juggernaut of multinational capitalism (the annual May Day protests, the demonstrations against the G8 summits), the building of new roads across our diminishing countryside, the banning of hunting with hounds. Indeed the polyglot jumbling of sectional interests is well-represented by any of these; the followers of the Countryside Alliance are as likely to be rural craftspeople and middle-class libertarians as they are toffs wearing scarlet; but a styrofoam cup will still break as conclusively as an old bottle, if in less predictable ways, and the fact that society ruptures on different lines does not mean that our first and last recourse is not to the police, nor does it deny the substantial continuities in the way that they respond.

The statement by Mark, earlier quoted, also declared that, because the courts are 'faced with controversy where there should be unanimity', they cannot effectively deter or punish, so the police have increasingly had to project themselves into the public order arena. Their role in containing disorder has become pre-eminent by default: 'AQ [t]here???

there is no other agency in our society capable of achieving it.' While Mark's claims were ahistorical in the extreme and revealed a daunting ignorance of the complex interweaving of the parts of the criminal justice system, they did lead him to a blunt statement of the boundary over which the conflict between police and dissenters is contested. The containment of wrongdoing is most problematic, he argued, 'in the field of public disorder arising from political dissent, industrial disputes, racial tension and mindless hooliganism'. Leaving aside the definitional complexity of these categories, he makes the important observation that 'police behaviour in dealing with the latter will always provoke strong criticism if applied to those involved in the former **AQ is this quote a complete sentence: if so, '[p]olice', and full stop inside quote mark???**'. Quite simply, if police are to keep down the level of public objection to their policies and practices, they have to make sure they do not treat the organised working-class and the vocal middle-class in the same way they do the 'mindless hooligan'. It is a most revealing statement of the police perspective on social conflict. It is highly pragmatic, providing a crude typification of groups likely to challenge public order, which no doubt serves police in their need to make rough and ready decisions about how to respond to particular circumstances. Implicit in it is the core belief in a 'professional' police, independent from the quarrels beneath them.

It is a perspective with a lineage. In the 1840s, the early years of provincial police forces, riots came about as attempts to arrest thieves or other miscreants were opposed by people suspicious of efforts to impose order by police from outside the locale. Likewise resisted were the strike-breaking function and political surveillance. Embourgeoisement has heightened acceptance of police practices that do not normally weigh on the working population, but rather on marginal groups, such as the homeless. That the post-Second World War consensus is changing, and old alliances breaking down, is not the object of speculation it was at the time of this book's first edition. There is no longer any doubt that mainstream politics is about the dismantling of the Welfare State. Old certainties have given way to new ambiguities. Today's 'hooligan' may be a stockbroker, and the picket may be self-employed. We cannot settle whether it is the times that are changing, or our perspective, or both at once; but we can look again at our recent history, and the role of our police in the conflicts that have made our society, and wonder if all this is really new. Is crisis really society's steady state?

Mark's concern over a changing and threatening revision of our 'liberty under the law' helps us to recognise how central to these matters the police perspective is. Historians have charted the rise of the police at the expense of the magistracy, but in terms of visibility this could today

be extended to their profile relative to the senior judiciary. We might recall the words of a parliamentary committee's report to Home Secretary Sir Robert Peel before the formation of the police:

AQ '... it' or 'It'??? it is difficult to reconcile an effective system of police with that perfect freedom of action and exemption from interference which are the great privileges and blessings of society in this country, and your committee think that the forfeiture or curtailment of such advantages would be too great a sacrifice for improvements in police, or facilities in the detection of crime, however desirable in themselves, if abstractedly considered. (Quoted in Evans, 1974: 46)

The committee was thinking in absolutes, and pragmatic needs soon predominated, but the period since can readily be seen as a series of battles of a piece with that conflict **AQ from 'battles' on, slightly unusual turn of phrase; do you want to use it or perhaps change it???**

However, is 'conflict' an adequate typification of the contacts of **AQ 'between'???** police and public? Does our notion of conflict contain only public order, or law enforcement? Is the distinction merely a convenient heuristic without adequate empirical underpinnings? If public order is our chief referent in discussing social conflict, does it include only major disturbances, or the pervasive application of police conceptions of normality at the neighbourhood and town centre level?

These questions are initially pursued here by examining popular notions of crisis and conflict, and their relation to the analysis of conflict in policing. It is argued that we too readily see difference from past times, rather than continuities brought by the rootedness of social institutions. In Chapter 2 this is illustrated by the relation of historical events to the mythology of a 'golden age' of policing. A distinction between public order policing and routine order maintenance informs Chapters 3 and 4. Chapter 3 concentrates on the set-piece major confrontations that provoke paramilitary responses, while Chapter 4 considers conflicts in the everyday policing role that are more pervasive, if less spectacular. Responses distinctive of these two demands are examined in Chapter 5 and their implications for accountability to the public and civil liberties in Chapter 6. The book concludes with a commentary on the future.

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I. Policing and social conflict |

The perception that society is 'in crisis' often features in both journalistic and social scientific discourse. Perceptions of 'crisis' implicitly have at their core some notion of society's normal state. If existing arrangements differ from the presumed normal state, commentators are apt to see a 'crisis'. Since normal society involves a balance of interests, society tends always to be in crisis from the perspective of the ideologically-committed. Narrowly conceived critical perspectives tend to elevate collective values, and narrowly conceived neo-conservative perspectives tend to elevate the value of the individual. The notion of 'crisis' as an endemic feature of society is harder to sustain when political systems are seen as necessarily seeking some reconciliation of values both of categorical equity and individualised justice. This perspective helps us to recognise as inevitable the tensions that arise in pursuing a temperate treatment for all people, as individuals and as instances of collective social categories. If these tensions are inevitable, so is social conflict. Using the language of degree and increment reserves the language of 'crisis' for extreme circumstances – a dictatorial government, a proven conspiracy, a corrupt constabulary.

There are dangers in playing the crisis card for radicals and reformers. To engender public engagement such groups may wish to exaggerate problems. Often the result is more power for the established order, as when the late Lord Scarman's assessment that the Brixton riots had been of a scale that brought Britain to the brink of total collapse was used to justify equipping police with new armaments. The truer vision is that if one comes down too hard on any socio-economically pressured community it takes little to provoke disorder; but power is better prepared for the apocalypse than are the weak, and is always poised to profit from a crisis that can be depicted as resolvable by more repression.

It is worthwhile reminding ourselves how familiar, and conventional, the language of crisis has become. Rather than being endemic, longstanding conflicts and problems of disorder are represented as an alarming contingency, an incipient cataclysm. These alarmist representations are more apparent at a distance. Thus one 1970s commentator claimed that Britain's 'closely woven social fabric' was 'now subject to growing stress ... And the conditions and forces which make for

strain, tension and division show every sign of increase throughout the society **AQ is this Brown, as below; consider ref for clarity??**. Almost everything was implicated.

Rapid technological change, ceaselessly modifying the shapes both of our economic and social structures, creates inherent instability; whilst in the foreground are the consequences of our immediate problems: anxiety and insecurity bred of economic decline and monetary inflation, together with a declining faith in our political management that also serves to devalue the political system. In this climate of unease and disaffection, extra-constitutional and extra-legal uses of power become more frequent – tactics all the easier to deploy in a society where both individual values and communal systems of self regulation **AQ check quote: might be a hyphen ‘self-regulation’???** lose hold. And usage serves to normalise, if not to legitimise disorder. Yet though political and economic issues take the limelight, there may be more deep-seated, long-term causes of insecurity in the social fabric: losses of meaning in family and community life; traditional values, beliefs and sources of authority all giving ground; a culture of commerce gaining sway, enshrining the anarchic values of individual acquisition, individual gratification; and western man divided – crucified, you might say – across his desires to achieve in the world’s terms of success and his growing alienation from them ... In this climate, common purposes and consensus become more difficult to achieve ... The multifarious components of society pursue their own paths, often with intransigence. (Brown, 1975: 95)

This cosmic catalogue of travails moves from topics dimly relevant to Brown’s subject (community policing) onward into existential imponderables. It was written in 1975. Can things truly have developed from there without the apocalypse, or is social conflict society’s normal state?

Social conflict has held a central place in social theory since its earliest days. Even in theory preoccupied with social integration, conflict motivates the problematic. For example, Parsons (1952) dealt with what is needed to procure ‘shared value orientations’ and the ‘fulfillment of role expectations’. His work can be regarded as a sustained attempt to determine means by which tendencies to conflict are resolved, obliging him to consider situations where ‘value-patterns’ are not shared and expectations are unfulfilled. As Rex (1981: 2) noted, because Parsons’s theory was based upon the concept of ‘action’, his methodological individualist position must negotiate what happens when differently motivated actors pursue competing goals, creating conflict. For Weber, too, the term ‘conflict’ refers to action ‘oriented intentionally to carrying out the actor’s will against the resistance of the other party or parties’ (1968, vol I: 38). Moral or legalistic argument represents conflict’s first stage. If ends truly conflict, its purpose will

not be simply to arrive at *the AQ* **is emphasis added: if not, OK as is; if so, pls say so – in the ref???** moral truth but rather at that interpretation of the relevant morality which allows for the attainment of each party's goals. It will consist in special pleading and rationalisation by each party on his own behalf coupled with an attempt to expose the dishonest or ideological nature of the other's position. (Rex, 1981: 12)

The first stages of conflict are, then, verbal and ideological. Conflict may be resolved when one party's moral or cognitive definitions of the situation prevail or where the parties agree they have made mistakes; but, if this does not end the conflict, sanctions will escalate, taking passive or active form. Resolution may occur when the cost of engaging in the struggle becomes greater than any foreseeable gain. Relationships between the parties will have changed and power centres relocated. This can be seen in the jockeying for position between police and magistracy, and police and police authorities, which began in the 19th century. An even more risky possibility is where the party that gained what it sought, senses the prospect of further gains and demands wholly new terms. At an individual level this could apply to cases successfully showing police practice to have been unlawful where the complainant goes on to seek damages or compensation, but such an end to conflict is rare in conflicts of collectivities in the law enforcement arena. The acquiescence accompanying conflicts so conclusively resolved that one side has 'won', does not last. A more normatively structured situation comes to pass, in the process Parsons called the 'twofold binding-in of the social relation' **AQ ref???**. The process can be seen as recurrent. Viewed as a social relation, social conflict is indeed enduring.

This is not to suggest that dominant and subordinate groups will always maintain their relative position. Those most alarmed by a theory that implies the persistence of conflict, may well be those who stand to lose the most if one of its outcomes, social change, is brought about. Those who profit from the *status quo* may feel that all they want is a quiet life, but, however passive, they are parties to social conflict too. There is a difference between conflict and random disorder. Conflict is seldom 'mindless'.

The history of policing offers many instances of the enduring character of social conflict. Manwaring-White maintains that it is 'a history which all along the line has been modified by parliamentary and police reaction to violent disturbances – just as it is today' (1983:3). She notes such events as the riots of starving field-hands in 1830 that resulted in three hangings and 400 deportations, the great electoral reform riots of 1831, the 1839 Birmingham riots when the police and army charged the crowd with drawn cutlasses, the baton and mounted cavalry charges against Fabians at Trafalgar Square in 1884, the riots and looting during

the 1919 police strike in Liverpool when three warships were diverted to the city, and the confrontations of the Depression years, including the hundred-plus baton charges against demonstrators between August 1931 and December 1932. From that perspective conflict is enduring, and the embrace by police of CS gas, Taser guns and electronic surveillance is consistent with what has gone before.

It has to be emphasised that, if we are to see such historically dramatic events as 'crises', that terminology has to be reserved for them, rather than applied to an endemic condition of society. The divisions or cleavages suggested by dramatic social conflict are mediated by integrating factors that hold at bay the kind of rupture implied by the dictionary sense of 'crisis'. Manwaring-White reminds us that the period leading up to the First World War was known as 'the great Unrest', with over a thousand strikes in 1913 and the formation in Ireland of citizens' militias by Nationalists and Loyalists; but the war changed this. Social conflict is not inexorable, nor does it develop in linear fashion. The relations between its causes are variegated and interactive. During the war, Home Rule for Ireland was shelved. All attention was focused on the external threat. The Home Secretary was able to extend his control over the police and the police also increased their power. The conditions under which the pre-war forms of conflict had proceeded were altered. The Home Secretary became closely involved in policy direction, co-ordinating operations and fixing the distribution of police. Centralisation increased, capacities for managing conflict were extended; but conflict endured. Change was patchy, there was backsliding, resistance, indecision.

In Bittner's (1980) analysis the capacity legitimately to use force is the core of the police role. His argument is not founded in the struggle over equitable distribution of material resources, but in the struggle to achieve a pacific civil society. Arguing that the search for peace by peaceful means is a culture trait of modern civilisation, he contrasts this with the *Pax Romana* that sought to 'subdue the haughty by force'. The modern commitment to abolish 'the traffic of violence' has ultimately been checked by the need to deploy responsive (reactive) force against provocation and illegitimate attacks. Responsive force is thus legitimate, but constrained (Bittner, 1980: 36). Force is authorised in self-defence, provided all else has been tried, including retreat. Coercive power is, in its second form, acceptable when exercised by specifically deputised persons against named others, for example, in respect of prison officers and mental hospital staff. The power is legitimated by court orders and is acceptable only in the degree required to implement the judicial order. The third legitimate use of responsive force is through the police. In contrast to the first two it is essentially unrestricted. Bittner invites us to cease looking at police work as mainly to do with law enforcement and

crime control. He argues that 'it makes much more sense to say that the police are nothing else than a mechanism for the distribution of situationally justified force in society' (Bittner, 1980: 39). This mechanism enables the police to play a key role in maintaining the *status quo*.

In practice, police efforts are unlikely to be equal, either between bodies of law, social groups or jurisdictions. The exercise of discretion is inevitable in a society where resources are limited. Even with a police force equal in size to the population policed it would be impossible to prosecute every law. The police have to decide priorities, and that is, of course, a question of politics. Setting action in relation to particular conditions is an exercise of discretion familiar to every officer. Speaking after the Brixton riots, former chief constable John Alderson said 'in order to enforce your law you end up with ... 4 million worth of property burnt to the ground. You may think you're being efficient in enforcing your laws ... but look at it, the place is burning around you ... I mean, do you enforce the Litter Act in the Mile End Road the same way as you would do in Belgravia?' (quoted in Kinsey and Young, 1982: 121). Such judgments are inherently political: 'AQ'... to'/'[t]o'??? to argue against the prosecution of ganja smoking in Brixton does not mean that demands for racial discrimination in working men's clubs in Leeds are to be met' (Kinsey and Young 1982: 122). Similar police dilemmas were expressed prior to introduction of the ban on hunting with hounds in 2005, with police doubtful they had the resources to control extensive civil disobedience by those determined to continue fox hunting.

A copy of any newspaper will reveal conflicts whose basis lies AQ **probably shd be 'whose bases lie', unless you mean that all the conflicts have the same basis ie every element of following list???** in class, ethnicity, gender and sexual politics, region, nation, employment status, age and ideology. Conflict is endemic. Technological innovation, environmental pollution, economic uncertainty, fear of international terrorism, and the break-up of customary community norms may all engender conflict. The major problems of any age inevitably direct attention to their most dramatic form of expression.

Yet the danger is that while our attention is naturally drawn to spectacular public order disturbances, intrusive governance, and policing that seems more biased than discretionary, we neglect the more insidious forms of low-level conflict whose effect is more pervasive. In particular we neglect *institutionalised* forms of conflict. The term 'institutionalised' refers to subtle processes that have been distorted in popular usage, to the point where, in its most familiar application, to ethnic and racial relations, the term adds nothing at all to the word 'racism' in the phrase 'institutional racism'. In policing, institutional racism can include the structured inattention the police apply to the demands of blacks in poor

inner-city neighbourhoods for more effective crime control. It can speak of the different police deployment figures between adjacent areas with different standards of living. It can refer to the tendency to regard groups of blacks on the street as the problem rather than as the community; but too often it simply means that individual officers are colour-prejudiced. While this is undoubtedly an obnoxious and real problem it is trivial compared to the fact that the police continue to allocate officers to given geographical areas on formulae set at a point in the past when it was accepted that middle-class communities had a greater right to expect that their interests be protected than did poorer communities. One hears little about such institutional discrimination, even following the Met Commissioner's **AQ shd this be 'Metropolitan Police Commissioner's' or will the audience be OK with 'Met'; but consider full name as 1st ref in chapt???** acceptance in 1999 that his force was indeed 'institutionally racist'.

Similarly, institutionalised discrimination can be seen in the balance in law between offences against property and against the person. English law has been keen to protect rights to property, and relatively casual in protecting the safety of the person. These points coalesce in the continuing complaints of ethnic minorities that attacks on them are treated less seriously by the police. Police deployment figures are relevant, as are the legal powers under which the police operate, and their assumptions about the warrant **AQ consider 'justification' or 'authority'; 'warrant' could confuse the reader in the context???** for and character of harassment. The law's perspective, or the intentions of its legislators and judicial interpreters, can frame another element in institutional discrimination. Whether an offence can be prosecuted by police or requires a complainant, and which offences attract a right to jury trial as opposed to summary judgments, have effects that shape the official response to a particular social problem, such as spouse-abuse or being a person 'reasonably suspected' of being about to commit an offence. While some behaviours are regulated, not all are regulated equally.

Institutionalised discrimination, by definition, implicates the system-wide, macro-level of selection and discretion as essentially political choices affecting large social groups. Critics of police institutionalised racism generally do not go far enough. Often such criticism fixes at the level of occupational culture ('canteen culture'); but it is doubtful that the key players can be identified in a personified form. Institutionalised discrimination is a product of decisions taken in several settings, in Parliament, in the courts, in the administrative settings of the state, whose consequences may be unforeseen and unintended. Those decisions are informed by a sense of history, of predilections determined by the inspiration of common law and re-interpreted and re-applied at

particular, often non-comparable, historical junctures. Another tack in blaming occupational culture is the idea that the racism that affects the perspective of police officers is part of wider working-class culture. 'The police are not an island of prejudice in a sea of working class tolerance' (Kinsey and Young, 1982: 125). Notwithstanding the complexity of institutional discrimination, the police do have some power relative to it. The police are not demure in commenting on given laws or policies affecting their interests. If it **AQ rephrase to avoid unclear 'it'???** had been a priority they could have lobbied for law to ameliorate institutional discrimination instead of waiting to be dragged to the issue by the Macpherson Inquiry, during which the Commissioner insisted his force was not 'institutionally racist', accepting the judgment only when it appeared in the Inquiry report, and then only on the definition given in the report. While it would be wrong to imagine that social conflict could be softened by change only at the legal level, it is worthwhile considering how many outbreaks of disorder begin as a result of police action.

It may be that amelioration in the forms of institutional discrimination could prevent riots and disturbances. In any case, contemporary protest has largely taken less dramatic forms in respect of racial tensions and problems of discrimination. The greater willingness of police to acknowledge the problem has had some impact. The extension of civilianisation and the Community Support Officer schemes introduced in 2003 have been marked by substantial increases in the proportion of police employees drawn from ethnic minorities. While figures remain modest relative to other occupations, the trend is the first positive development in a long history of the police missing ethnic minority recruitment targets.

There is longstanding evidence of racial stereotypes in targeting black populations. During the 1970s, reports from the Community Relations Commission, Institute for Race Relations, Runnymede Trust, National Council for Civil Liberties, and West Indian Standing Conference all documented the effects of racism on housing, employment, policing and welfare. Ethnic minorities are in a situation of multiple disadvantage. They are at the bottom of the class structure and are disproportionately affected by unemployment, bad housing and inferior facilities. For many years they suffered the application of the 'sus' (suspected person) procedure contained in the Vagrancy Act 1824. In 1975, over half the 30,000 people arrested on 'sus' were black (Ham **AQ not in biblio; might you mean Hain???**, 1979: 5). Those circumstances epitomized, for a generation of minority people, the coincident effect of obsolete law and dubious street-policing practices on promoting institutional discrimination. Police long defended their practices by reference to the crime rate in black communities. For the first time, in 1994, the Home Office published an ethnic breakdown of stops/searches. Nationally, 110,522 out of 441,905