

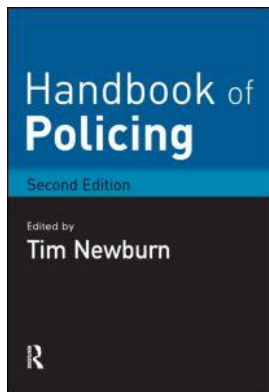
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Publisher: *Routledge*

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## **Handbook of Policing**

Tim Newburn

### **Criminal investigation and crime control**

Publication details

<https://www.routledgehandbooks.com/doi/10.4324/9780203118238.ch17>

Mike Maguire

**Published online on: 01 Aug 2008**

**How to cite :-** Mike Maguire. 01 Aug 2008, *Criminal investigation and crime control from: Handbook of Policing* Routledge

Accessed on: 07 Jun 2023

<https://www.routledgehandbooks.com/doi/10.4324/9780203118238.ch17>

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## Chapter 17

# Criminal investigation and crime control

*Mike Maguire*

### Introduction

This chapter is divided into three main sections. The first provides a brief historical perspective on the development of criminal investigation in the late nineteenth and twentieth centuries as a set of routine practices (both formal and informal), locating it as a core component of the 'modern' approaches to crime control that emerged with the growth of centralised bureaucracies and the nation-state. It also identifies common myths about the nature of criminal investigation and considers some theoretical perspectives that offer an alternative picture.

The second section examines key features of the working practices of the three main types of detective unit through which criminal investigation was organised in the twentieth century: generalist criminal investigation department (CID) offices, specialist squads and *ad hoc* major inquiry teams. In doing so, it identifies both the strengths and the major risks and weaknesses associated with each, and considers how each has contributed to the overall character, performance and reputation of the police in dealing with crime. It is noted that, despite periods in which it has been held in high regard, the history of the CID is littered with accusations of ineffectiveness and with scandals involving corruption, malpractice and/or miscarriages of justice. Criticisms of these kinds were particularly strong and sustained during the 1970s and 1980s, when something of a 'crisis of legitimacy' became apparent.

The third section describes the initiation since this period of a variety of substantial reforms, internal and external, designed to restore public confidence and improve the efficiency, integrity and accountability of investigative practice. These have included attempts at more systematic prioritisation of cases likely to yield 'results', encouragement of greater use of 'proactive' or 'intelligence led' methods of investigation, and mechanisms to improve the integrity of the production of evidence, especially in relation to police interviewing. It will be argued, however, that such reforms may be only the precursors of much more fundamental change. Strong challenges are looming

to some of the core assumptions behind twentieth-century approaches to crime control: in particular, that crime can be effectively controlled through the routine investigation and processing of individual cases by the police and criminal justice system. In response, some potentially far-reaching developments have begun to take shape – notably the introduction of the National Intelligence Model (NIM) as a standard framework for the management of all ‘police business’, and the establishment of statutory multi-agency Crime and Disorder Reduction Partnerships (CDRPs) with responsibilities for reducing crime at local authority area level. Indeed, these two initiatives, which previously developed quite separately, are now being merged, with CDRPs adopting the analytical and organisational framework of the NIM, routinely sharing data and increasingly engaging in joint planning and operations alongside the police. This may prefigure a major shift towards genuinely new strategic and ‘risk oriented’ approaches, driven by threat assessments, prioritisation, forward planning and ‘problem-solving’ objectives, and incorporating serious efforts to widen responsibility for tackling crime. In this context, the meaning of the term ‘crime investigation’, and its boundaries within the broader concept of ‘crime control’, are already becoming much less clear than in the past.

As with other contributions, although some reference will be made to practice elsewhere, the main focus of the chapter will be on England and Wales. Inquisitorial systems are not covered here, but it is important to be aware that in most other European jurisdictions, police investigations are conducted under the direction of judges or lawyers, which has significant implications for their regulation (see, for example, Field and Pelsler 1998). There is also no space here for another topic of major importance – that of the emergence of transnational forms of crime investigation, especially in relation to cross-border and organised crime (Sheptychi 1998, 2000; Norman 2005; Lewis 2007; Walker, this volume).

## Historical and theoretical perspectives

### *The CID and the birth of ‘modern’ investigative practice*

Examples of what might loosely be described as ‘criminal investigation’ (obvious cases being the tracking down and capture of thieves, bandits or highwaymen) can be found in many societies throughout history. Equally, some of the methods familiar in current investigative practice (such as the use of informers and the interrogation of suspects) were employed in, for example, Elizabethan England and Napoleonic France for the somewhat different purpose of identifying and eliminating political enemies. However, ‘modern’ forms of criminal investigation – the routine application by the (public) police of an established body of practices and techniques to gather evidence and detect offenders – date only from the mid to late nineteenth century. In the eighteenth and early nineteenth centuries, although a variety of (often part-time) local watchmen and constables provided some rudimentary ‘official’ responses to local crime, the extent to which thieves or robbers were

pursued and prosecuted depended largely on whether victims, or other wealthy people in the neighbourhood, were prepared to make 'citizen's arrests' and pay to bring private prosecutions under the common law. Some victims also hired the services of 'thief-takers' (in some ways forerunners of private detectives) who had contacts among criminal groups and would negotiate the return of stolen property or deliver offenders to justice for reward money – although the thief-takers were often suspected of organising thefts themselves. In broad terms, then, crime was perceived as an agglomeration of private wrongs against individuals rather than as a social problem, and responses to it remained highly localised and variable (for further discussion of these issues, see Radzinowicz 1956; Gatrell *et al.* 1980; Emsley 1996a, 2002; see also Emsley, this volume).

Even after the establishment of the 'New Police' in 1829, which marked a key point in the general growth in bureaucratic regulation of the population associated with the emergence of the modern state, it was many years before criminal investigation became a significant and firmly established component of the new apparatus of social control.<sup>1</sup> As Emsley (1996b; and this volume) makes clear, the 'New Police' were oriented primarily towards order maintenance, street patrol and the prevention, rather than investigation and detection, of crime. Indeed, 'detective work' was widely regarded with suspicion, and unobtrusive investigation in plain clothes was officially frowned upon, owing to its perceived association with autocratic governments and 'continental' methods such as the use of agents provocateurs and informers (see also Critchley 1978; Ascoli 1979). It was not until 1842 that the first small detective department was formed within the Metropolitan Police, and there was little further growth until the 1870s, when public concerns about rising street crime in London began to put serious pressure on politicians for more effective policing of the problem. It was eventually agreed in 1877 to set up a substantial and autonomous Criminal Investigation Department in the capital, initially with 250 officers.

From then on, crime investigation rapidly became established as a major plank of the policing agenda, and the CID established itself as the body that 'owned' its core elements: the identification and questioning of suspects, production of evidence and building of cases for prosecution.<sup>2</sup> Senior CID officers took every opportunity to portray detectives as possessing a monopoly on expertise in these areas, and to free themselves from any 'interference' or control by the uniform branch. Although never entirely successful in these respects (as will be discussed later, uniformed officers have always played a much greater role in crime investigation than tends to be acknowledged), they were greatly helped in the early years by events such as the Fenian bombing campaign in London in the mid-1880s, in which the investigative tactics of the CID's 'Special Irish Squad' came to be seen as more effective than the uniform branch's preventive strategy of guarding buildings.<sup>3</sup> In 1901, too, the establishment of an effective fingerprinting system and the Criminal Records Office both demonstrably enhanced detectives' arsenal of weapons against repeat offenders, allowing the CID to consolidate its independent position and expand its numbers (for more detailed discussion, see Morris 2007). Indeed, it is fair to say that the subsequent history of criminal investigation, including

the development of its standard methodologies and the informal practices (and frequent scandals) that grew up around them, has been inextricably tied up with the history and 'culture' of the CID. This will be explored in more detail presently.

### **Key roles of criminal investigation**

Throughout this period, too, criminal investigation has been a subject of enduring interest to the general public, and a considerable mythology has grown up around it. This can be understood not just in terms of the 'glamour' of the subject of 'catching criminals', which has consistently ensured a good living for thousands of authors, film-makers and television directors, but also in terms of both the real and the symbolic importance of successful criminal investigation in delivering one of the key promises of the modern centralised state, on which a significant portion of its legitimacy has rested: the promise of providing effective security to its citizens (Garland 1996, 2001).

Security from crime, of course, has always depended heavily on a myriad of informal and community-based mechanisms of social regulation and control. However, the core contribution of the modern state was the construction of the huge institutional edifice intended to underpin and back up all other forms of crime control: the criminal justice and penal system. In crude terms, the basic message about crime given by western democratic governments during the twentieth century was that it could be controlled by catching criminals and processing them through this system. The resulting sanctions would take offenders temporarily 'out of circulation' and/or attempt to 'change' them through punitive or rehabilitative interventions; at the same time, the threat of being caught and sentenced would act as a general deterrent to others tempted to commit crime. Criminal investigation has always played three critical roles in this edifice. First, it provides the gateway into the system: criminal courts, prisons and probation services can only deal with those who have been arrested and charged with specific offences. Secondly, it is central to the deterrence function: if effective, it should convince anyone tempted to offend that there is a high risk of getting caught. And, thirdly, it plays a major part in the 'reassurance' agenda – that is, in efforts to convince the public that the police are 'beating crime' and protecting them from the worst offenders. In the last two roles, it should be noted, the impression created is arguably as important as the actual level of investigative performance.

For the above reasons, the most prominent aim of criminal investigation has generally been that of 'bringing offenders to justice', and much of the following discussion of long-established investigative practice will be centred around this notion. However, it is important to recognise that a considerable proportion of investigative activity has always been aimed at other objectives, such as the collection of 'intelligence'. Moreover, as will be discussed in the final part of the chapter, recent doubts about the effectiveness of crime control in general may eventually alter basic assumptions about the purposes of investigation and its part in the wider picture.



### Myths and misunderstandings: the ghost of Sherlock Holmes

Given its importance to the modern state's claim of delivering effective security, the police (especially the CID) clearly have a strong interest in portraying a positive picture of the effectiveness of criminal investigation in 'solving crimes' and 'catching criminals'. This partly explains why so much police effort is put into the detection of certain crimes, such as particular kinds of murder, which capture the public (and media) imagination and arouse fear: the symbolic importance of success in such cases is considerable (Morgan 1990). It also underlines the huge value to a police force of generating widespread belief in a slogan such as 'Mounties always get their man', or of promoting media legends about the prowess of particular detectives who 'cracked' celebrated cases, such as 'Nipper of the Yard'. Myths about investigative work are further perpetuated through literary fiction and films, the popular appeal of which is partly due to a combination of the arousal of deep-seated fears (about danger from the criminal 'other') and the reassurance that comes from the usual 'happy ending' of the criminal being caught by the police and removed to prison (though as Reiner (2007: 315) notes, the traditional message that 'crime does not pay' has been increasingly called into question in contemporary news and fiction; see also Reiner, this volume).

The stereotypical image of crime investigation which tends to be promoted through most media and fictional representations (and is frequently reflected also in detectives' memoirs and police training manuals) is of a 'case' in which detectives perform a 'Sherlock Holmes' type of role,<sup>4</sup> usually involving the following sequence of events:

1. A member of the public reports a crime to the police.
2. Detectives examine the scene for 'clues', interview victims and witnesses, and make other inquiries.
3. A suspect is identified and confronted with incontrovertible evidence of his or her 'guilt', resulting in a confession and criminal charges.

This picture contains within it a number of assumptions about the nature of investigative work, namely:

- that it is 'reactive' (i.e. that the police respond to a crime complaint from the public rather than generate the investigation themselves)
- that it is focused on an offence which has already taken place
- that the offence which is being investigated is clear from the outset
- that the inquiries are geared to uncovering the 'truth' about what happened
- that it is carried out by detective (CID) officers
- that the main investigative skills lie in discovering and interpreting 'clues' to find out 'who did it'.





While it is not difficult to find real cases which follow the above sequence and appear to support these assumptions – in particular, what are sometimes referred to by the police as ‘hard-to-solve major inquiries’ (to be discussed later) – such an account gives a highly misleading impression of the day-to-day reality of most investigative work, past or present. In the following analysis, indeed, it will be shown that all the above assumptions are contradicted on many occasions.

### **Challenging the myths: ‘suspect centred’ investigation and ‘case construction’**

A radically different picture that has emerged from academic research is that, far from focusing on the scenes of individual offences, the bulk of investigative work has always been what might be dubbed ‘suspect centred’. McConville *et al.* (1991), indeed, portray it as essentially a process of ‘case construction’ against members of ‘suspect populations’ – principally, those people who have built up a set of previous convictions and have become well known to the local police. In its crudest form, this involves the practice encapsulated in the line from the film *Casablanca*, ‘round up the usual suspects’: that is (sometimes without any evidence to link them to specific offences) detaining and questioning ‘known criminals’ in the hope that they will admit to, or reveal information about, their own or their associates’ recent criminal activities. Many commentators claim that such practices – which rely on routine denial of suspects’ rights (including the use of tricks, inducements and threats) – are now largely consigned to history in England and Wales. While it was once relatively easy to detain and question people for long periods on the pretext of ‘helping the police with inquiries’, blatant ‘fishing expeditions’ of this kind have been explicitly prohibited since 1985 by the Police and Criminal Evidence Act (PACE) 1984, and opportunities for pressurising people into self-incriminating statements have been significantly reduced by the introduction of time limits, rights to legal advice and the tape recording of interviews. In these circumstances, the value of what was already (unless there was good criminal intelligence to make the initial link between particular individuals and particular crimes) a somewhat inefficient, scattergun strategy, has become even more questionable. Nevertheless, some still argue, with McConville *et al.*, that not only are the PACE regulations easier to circumvent than might be imagined, but the basic spirit of this approach to investigation lives on in more subtle and hidden guises (for further discussion, see below and Sanders and Young, this volume).

More broadly, the notion of case construction against suspects calls into question the claim that crime investigation involves an objective ‘search for the truth’. Indeed, McConville *et al.* (1991) argue that the basic organisational aims and culture of the police work strongly against the espousal or achievement of such an ideal. Adapting a distinction made long before by Herbert Packer (1968), they argue that police officers are driven mainly by a ‘crime control’ as opposed to a ‘due process’ orientation towards their work: in short, their main priority is to bring to justice those they ‘know’ to be guilty of crime, rather

than to ensure that suspects' rights are fully guarded and that designated procedures are meticulously followed (the main priority of many lawyers). This being so, once a person becomes a suspect, he or she is placed into an adversarial relationship with the police rather than one in which the latter seek 'the truth' in a neutral and objective fashion. Thereafter, detectives, starting from a premise of guilt, selectively weave together available pieces of information, or statements by suspects and witnesses, to produce a simplified and coherent story of 'what happened' – what Innes (2003) calls the construction of 'event narratives' – which they hope will eventually be used as the basis of the prosecution case in court (see also Sanders and Young 2007 and this volume; for discussions of initiatives aimed at encouraging a more open-minded approach by training officers in 'ethical' or 'investigative' interviewing, see Williamson 1996, 2006; Gudjonsson 2007).

A further variation on the theme of case construction entails the argument that in many cases the process of investigation 'creates crime' retrospectively. Through astute questioning based on a close understanding of the criminal law, detectives may persuade suspects to make statements which include admissions to actions or intentions that meet the legal requirements for proof that a criminal offence (not necessarily reported, recorded or even perceived as such prior to the interview) has taken place and that they have committed it. From this perspective, crimes are artificial legal constructs, and criminal investigation is inherently a creative and interpretative activity, concerned with translating 'social reality' into a 'legal reality' that can be dealt with by prosecutors and the courts. In the words of Ericson (1993), detectives are essentially in the business of 'making crime'.

### **Taking account of variety**

The above perspectives provide a useful broad lens through which to view the process of criminal investigation and act as an important corrective to the stereotypical images referred to earlier. In particular, they offer a framework for understanding one of the core features of the investigative practices which developed during the twentieth century: the central role played by police interviews in the production of evidence, and hence the extent to which the successful prosecution of offenders (and thereby, arguably, the effectiveness of the whole criminal justice process) came to depend on *confessions*. They also offer a way into debates about risks inherent in criminal investigation, such as potential breaches of human rights and miscarriages of justice, and about the most appropriate safeguards. These points will be picked up again later when discussing reasons for changes that have occurred in recent years.

At the same time, however, the unthinking and generalised use of concepts such as 'case construction' or 'making crime' can easily create ambiguity and confusion about what is being claimed. For example, confusions sometimes arise between the arguments: (a) that the normal processes by which human beings (be they investigators, historians or ordinary people) produce retrospective accounts of events which entail the selective use of facts to fit a coherent 'narrative' or 'story' that is already largely pre-formed in their mind; (b) that case construction by the police is an almost inevitable feature of



adversarial (as opposed to inquisitorial) justice systems, as investigators come to think like prosecution lawyers and seek to build a one-sided case for court, rather than pursue an open-minded 'search for the truth'; or (c) that police officers routinely set out to 'manufacture' crime (implicitly in a dubious fashion) through coaxing self-incriminating statements out of 'suspect populations'. Each of these claims is not only pitched at a different level of explanation, but has different policy implications in terms of risks to the integrity and effectiveness of investigative practice, and of possible strategies to combat such risks. Equally important, the risks may be different in different contexts. It is therefore important to take full account of the fact that investigative activity is triggered in a variety of ways and takes a number of significantly different forms. For example, as will be outlined below, evidence-gathering and the establishment of lines of inquiry in the reactive investigation of a single major crime tend to be managed quite differently from wide-ranging inquiries into the activities of local criminal groups suspected of participation in a variety of less clear-cut offences.

In short, theoretical accounts of criminal investigation need to be developed in the light of concrete knowledge about the diversity of forms it takes and the different ways it is set in motion. Ideally, one would like to create a typology to divide investigative activities into neat, mutually exclusive categories, but unfortunately there appears to be no entirely satisfactory way of doing this. The following sections examine some of the most frequently made distinctions.

### **The 'reactive-proactive' distinction**

Among the most common types of distinctions made have been those based on the opposing terms *reactive* and *proactive* (see, for example, Maguire and Norris 1992; Irving *et al.* 1996; Wright 2002: ch. 4). However, these terms are used in a variety of senses and can often produce more ambiguity and confusion than clarity. They are probably most helpful as a means of distinguishing between two broadly different approaches to the use of investigative resources: reactive approaches giving priority to responding to day-to-day demands (in particular, dealing with crimes reported by the public) and proactive approaches giving more weight to longer-term planning and to agendas set by the police. On the other hand, the terms also tend to be used to distinguish between investigations with different kinds of aims or focus (e.g. reactive investigations to identify the perpetrators of a given offence, in contrast to proactive operations to discover the future plans of known criminal groups), between investigations 'triggered' in different ways (e.g. by a reported crime, as opposed to an intelligence report), and even between different kinds of investigative methods (e.g. forensic examination of crime scenes may be described as a reactive method, covert surveillance as a proactive method). Confusion can be caused when, for example, so-called 'proactive methods' (tasking of informants, surveillance, etc.) are prominent in an apparently 'reactive investigation' (say, a robbery investigation triggered by a 999 call). Overall, while distinctions based on these terms are by no means valueless, it is essential to clarify in each case the sense in which they are employed.



**'Knowledge' and 'evidence'**

A distinction which is arguably more helpful to understanding the variety of forms that investigative practice takes is that between two basic objectives (or tasks): the generation of (police) 'knowledge' and the production of 'evidence'. This has the advantage, first of all, that it draws attention to the centrality of the gathering and manipulation of *information* to detective work – a point stressed in much of the literature (and discussed further below).<sup>5</sup> It also adds a new dimension to the notion of investigation as essentially a process of 'construction'.

*Knowledge* here refers primarily to the conclusions and understandings reached by the police<sup>6</sup> as to what crimes have been (or are likely to be) committed, by whom, how and why. Numerous factors can play a part in shaping this knowledge (the truth of which is often contested), including a host of information sources and the perceptual lenses and prejudices of those receiving them, but one important aspect which will receive particular attention later is the production and use of 'intelligence'.

*Evidence*, of course, refers to material that may be presented in court to help establish whether an alleged criminal offence has been committed, and whether an accused person committed it. The main forms it takes are physical traces linking a person to a particular offence (e.g. fingerprints or DNA), statements by victims or witnesses and responses by suspects to questioning in interviews. Its production requires skill and care and is surrounded by rules designed to ensure that it has been obtained fairly and is presented to the courts in a 'valid' form.

Depending upon the type of inquiry concerned, the production of knowledge and of evidence normally entails a number of the following basic tasks:

*Production of 'knowledge'*

- Determining that one or more criminal offences have been committed.
- Producing a 'narrative' of the circumstances surrounding offences.
- Determining the most promising 'lines of inquiry'.
- Identifying and/or eliminating 'suspects'.
- Exploring the backgrounds, motivations, lifestyles and activities of suspects or 'known offenders' and their associates.
- Gathering intelligence about planned offences.

*Production of 'evidence'*

- Producing evidence that specific offences were committed (or were planned).
- Producing evidence to link suspected persons with particular offences.

These tasks can be undertaken in different orders or different combinations. Investigators will sometimes start with a specific offence and seek to find out (and/or find evidence to 'prove') who committed it. At other times, they will



start by identifying 'suspect' individuals or groups and seek to find out (and/or find evidence to 'prove') what offences they have committed (or are likely to commit in the near future). Often, too, the various tasks will become blurred within the same inquiry.

Individual cases can also vary greatly in the difficulty and complexity of the core tasks involved. For example, most alleged incidents of 'date rape' involve only one suspect who is known to the complainant, so *identification* is not an issue. However, if the suspect claims that the woman gave consent, the production of sufficient evidence to convince a jury that *an offence has taken place* may be an extremely difficult task. Moreover – especially in the days before guidance was given that people claiming to be victims of sexual crime should be believed in the first instance (Home Office Circular 69/1986; see also Harris and Grace 1999) – the amount of effort put into this task may be greatly influenced by police 'knowledge', in the shape of the judgements of investigating officers as to who is telling the truth.<sup>7</sup> By contrast, in a 'hit and run' incident it is normally clear that an offence has occurred, and once a suspect is found it may be quite easy to prove guilt (for example, from damage to the car), but identifying the driver and the vehicle in the first place may be extremely difficult.

### **Twentieth-century investigative practice: key features and inherent risks**

Many of the general points made in the previous section can now be illustrated through a closer examination of the formal and informal working practices that were developed and carried out by CID officers during most of the twentieth century. The following discussion will be structured simply around the three main organisational units within which such work was (and to a considerable extent, still is) undertaken. It is recognised that uniformed officers also played an important role in investigation over this period (a role which has since grown in importance – see final section), but the focus at this stage is on detective practice only.

#### **The three main organisational structures**

Despite a certain amount of individual variation, the basic pattern – at least until the 1980s – was for forces to maintain a generalist CID office in each division, and a number of dedicated specialist squads (serious crime squads, drugs squads and so on) at headquarters.<sup>8</sup> In addition, if an exceptionally serious crime was reported, an *ad hoc* major inquiry team might be set up to investigate it. The first and third of these organisational units have generally been associated with 'reactive' approaches to investigation, with squads being considered more 'proactive'. However, these associations are not as clear-cut as is often assumed.

#### **'Generalist' CID offices**

The work of local CID offices – which employ the greatest numbers of officers – is the hardest to describe or categorise. Perhaps its clearest feature is that it

has always been structured to some extent by the expectation that detectives will respond promptly to any significant crimes that are reported in their area. Most obviously, if a murder, 'stranger rape' or other major crime is reported, substantial numbers of CID officers (as well as uniformed officers) may be abstracted immediately from other duties to take part in the investigation: in some cases, this might tie them up for several months. To this extent, the work of such units has always been 'driven by events' and can be fairly described as 'reactive'. However, once one begins to look at offences below this level, the picture becomes more complicated.

On the one hand, a common feature of local CID work in the twentieth century (which, again, has by no means disappeared) was the daily reception of the latest crime reports (emanating mainly from members of the public) and their allocation by supervisors as 'cases' to be dealt with by individual detectives. The latter were then expected to undertake some form of investigation into each case – usually, at a minimum, visiting the scene of the crime – and to file a report on progress by a certain date. This appears to reflect an assumption that the basic approach of investigators at all levels should be a reactive one, the aim being to 'solve' each individual 'case' as it appears. Such a view, it should be noted, is further supported by the choice of the 'clear-up rate' – i.e. the percentage of recorded crimes which have been 'detected'<sup>9</sup> – as the key national measure to assess the effectiveness of the police in controlling crime (Burrows and Tarling 1982; Burrows 1986; Maguire 1994; Neyroud and Disley 2007).

On the other hand, it is clear from previous research that CID officers working under this system did not follow through all their individual cases rigorously: if after visiting the scene and talking to victims and witnesses there was no clear indication of the offender's identity, they would commonly 'spike' the case and take no further action unless any other relevant information happened to come to their attention (see, for example, Maguire and Norris 1992). The general difficulty in making any further progress in such cases is evident from findings such as those of Greenwood *et al.* (1977) in California, that unless there was a strong lead on the offender's identity within the first 24 hours, the percentage of burglaries detected was almost negligible; or Steer's (1980) finding in Oxford that matching fingerprints contributed to under one per cent of detections. Maguire *et al.* (1992), too, found very small detection rates among cases allocated to CID officers in which there was no immediate suspect. Moreover, where there *was* a clear early identification of a suspect, this was in the great majority of cases provided by the victim or a direct eye-witness, rather than by any complex form of 'sleuthing' by detectives.

In summary, then, in 'reactive' investigations of offences reported by the public and allocated to individual detectives, the overall picture found by research comprised two main types of cases: those which involved the alleged offender's identity being handed to the police as it were 'on a plate' by the victim or an eye-witness; and those where the identity of the offender was unknown at the outset and (despite the best efforts of detectives) was likely to remain unknown thereafter.

However, two important qualifications need to be made to this picture. First, while the identity of a suspect may be handed to detectives on a plate, this

does not necessarily mean that the case against that suspect can be easily proved in court. On the contrary, in the absence of a confession, the production of valid evidence in such cases may be highly challenging: indeed, as in the 'date rape' example given above, it may be very difficult to prove even that an offence has taken place at all. This is a good illustration of the more general point that, while the skills of Sherlock Holmes in interpreting 'clues' would be a very helpful bonus, among the most important skills required by detectives in their day-to-day work are a combination of legal knowledge (e.g. about what evidence is necessary to prove intent), understanding of technical procedures such as the preservation of physical evidence and competence in conducting formal interviews (Morgan 1990; Maguire *et al.* 1992).

The second qualification is that, in cases where the identity of the offender is not immediately apparent and the scene reveals no obvious 'clues', this is not necessarily the end of the story. If the offence is serious enough, or if it becomes clear from the *modus operandi* (MO) that it is part of a 'series' committed by the same (unknown) offender, much more effort may be put into the task of identification, including the use of methods such as instructing paid informants to make inquiries among their criminal associates. Equally, the offence may come into view again much later as a by-product of another inquiry – as when, for example, an arrested offender is persuaded to 'come clean' about all his or her criminal activity over recent months and (perhaps unexpectedly) admits to this particular offence.

This last point brings us to the other common feature of twentieth-century CID practice at the local level: the fact that, despite the obligation to investigate individual offences reported by the public, most detectives adopted what was earlier referred to as a 'suspect centred' approach to much of their work, in the sense of regularly monitoring and gathering evidence about the activities of a limited group of 'known offenders'. Although this kind of work is more strongly associated with specialist squads at force level (see below), it has always played a significant part also in divisional CID work. For one thing, many local CID offices set up small squads, usually on a temporary basis, to tackle people known to be frequently involved in particular kinds of offence (drugs squads and burglary squads probably being the most common) – though, as Maguire and Norris (1992) point out, their members were often pulled away from this task to help out with reactive investigations of major crimes and other demands on the office.<sup>10</sup> Moreover, many detectives ran their own informants, who would give them information about what local criminal groups were doing. This would allow them, occasionally, to mount successful raids to recover stolen property or even (if the information was good enough) surveillance operations to catch them in the act of committing planned offences. They also made use of routinely stored information (intelligence logs, reporting 'sightings', records of offenders' MOs and so on) in order to, as it were, come at the problem from the other direction: in other words, to try to link up information about reported offences with information about known offenders.

Matza (1969), indeed, saw this process – which he termed the 'bureaucratic' approach, or 'policing by suspicion' – as lying at the heart of the policing of crime in the twentieth century. In short, he argued, it entailed: (1) the routine



collection and storage of information about a pool of local people with criminal records; (2) searches for recent reported offences which in some way 'fitted' this information; and (3) attempts to establish the link through detaining, questioning and seeking other evidence against the most likely 'candidates' for these offences. Seeing criminal investigation – and, in particular, day-to-day investigative work in local CID offices in the late twentieth century – as a dynamic process of this kind is more illuminating than accounts which focus only on the 'case construction through interviewing' element, and fills in an important component that is often missing from the latter – a clear explanation of how the police decide in the first place which suspects to question about which specific offences (rather than assuming that they detain and interview people, as it were, in a vacuum). Put another way, it illustrates how the generation of police 'knowledge' interacts with the production of 'evidence'.

### **Specialist squads**

The main argument for the formation of specialist squads has always been that certain forms of crime, and certain kinds of offenders, cannot be effectively dealt with by routine responses of the kinds described above and hence require special measures. This applies especially to less 'visible' and more 'organised' kinds of crime, including the supply of illegal goods and services through activities like drug dealing and prostitution: such behaviour is only infrequently reported to the police as 'crime' by members of the public, so if the police are to take action they have to generate it proactively. Even so, more conventional crimes such as robbery and vehicle theft have also frequently been tackled through specialist squads. Generally speaking, the aim of squads has been to identify and 'target' key groups or individuals involved in the relevant kinds of offence, gathering both intelligence and evidence about their activities and eventually effecting planned arrests. This kind of work often appears glamorous to outsiders, and certain squads acquired reputations for daring exploits through fictional representations of their work. A classic example from the early 1930s (though its successes were exaggerated by the media) was the Prohibition Bureau, the team of agents led by Elliot Ness which pursued Al Capone and others involved in the supply of illegal alcohol during the prohibition period in Chicago (Hoffman 1993). The 'Flying Squad' also achieved a prominent and mainly positive public profile in London in the 1960s when concerns about organised crime were exceptionally high. At the same time, however (as discussed below), others have been at heart of some of the biggest corruption scandals that have afflicted the police.

In Britain, centrally located squads were particularly common in the 1970s and 1980s. As noted earlier, many divisions set up small local squads, but the focus here is on the larger units operating at force or regional level. These tended to work independently, set their own agendas and, in some cases, retained the same officers for long periods. They usually claimed to work proactively in the sense of focusing on particular categories of offender ('organised', 'serious', 'travelling', and so on) and setting up longer-term operations against 'targets', rather than responding *ad hoc* to individual



reported offences. Such offenders often go to some lengths to conceal their activities, or at least to avoid leaving evidence which will convict them easily in court. To meet this challenge, squad detectives often used unconventional methods of obtaining both knowledge and evidence, including close social interaction with active criminals, either openly (it then being common practice for detectives to drink in the same pubs and clubs as 'villains') or covertly (for example, through surveillance, recruiting group members as participant informants or working undercover). Hobbs (1988) further argues that in this (under)world, information was a valuable commodity and (as suggested by the title of his book, *Doing the Business*) such interactions could be understood as trading in a 'market' in it: for example, 'deals' would be negotiated in which key information would be given to detectives in return for money, the dropping of charges or even confidential police information. As will be discussed shortly, associations of these kinds contain some serious risks.

Even so, as Maguire and Norris (1992) found, the extent and sophistication of strategic planning and intelligence gathering and analysis that squads employed were often exaggerated, and they quite often acted in a sense in a 'reactive' manner: for example, it was quite common to respond to, say, a 'tip off' from an informant that a house contained stolen property by simply arranging an immediate raid and gaining the 'quick win' of an arrest, rather than exploring the possibilities of setting up a wider-ranging operation to explore the ramifications of the information and possibly to capture a bigger network of offenders.

### **Major inquiry teams**

The third main mode of criminal investigation developed during the twentieth century is the 'major inquiry'. Clearly a 'reactive' form of investigation, this refers to the formation of an *ad hoc* team of detectives (often assisted by uniformed officers) and the setting up of an incident room, under the direction of a senior investigating officer (SIO), in response to an apparent murder or other very serious offence or series of offences.

Although, as will be discussed later, the way in which such investigations are managed has changed considerably over time (especially through the development of computer systems and standardised organisational models), the core elements of the situation have always remained basically the same. The decision to set up a major inquiry is determined by a number of factors, including the seriousness of the offence, whether a 'series' is involved (as where a 'serial rapist' appears to be active), the likelihood of major media attention and the likely difficulty of identifying the offender. In his study of murder investigations, Innes (2003, 2007) distinguishes between 'whodunits' and 'self-solvers': the latter, where the identity of the offenders appears certain from the outset, may be dealt with by a much smaller-scale response. One of the main differences between major inquiries and investigations of less serious crimes is that, whereas the difficulty of identifying a clear suspect for, say, a burglary often leads to an early reduction in investigative effort, large numbers of detectives may continue to work on a 'hard-to-solve' murder for many months or even years.

**Risks, failures and a crisis in legitimacy**

The above three kinds of unit, then – generalist local CID offices, specialist squads and *ad hoc* major inquiry teams – together formed what might be called the ‘tripartite’ structure on which police investigative responses to crime, particularly in the mid to late twentieth century, were largely built. However, both the CID in general, and the different approaches that each unit employed, came in for serious criticism at intervals over many years, culminating in a growing crisis in legitimacy between the late 1970s and 1990 which led to some significant changes in regulation and practice. This crisis, it will be argued, arose out of risks that were inherently attached to the standard ways of operating that had developed in the CID over many years: practices, it should be emphasised, that had originated to some extent as attempts to solve some of the fundamental problems of responding effectively to crime.

*A history of scandal and failure?*

The principal concerns about crime control practice that have arisen repeatedly over the years can be summarised crudely as follows:

1. Ineffectiveness in ‘catching criminals’ (both in general, and in individual high-profile cases).
2. Miscarriages of justice (especially arresting and charging the ‘wrong person’).
3. Abuses of power, corruption and perversion of criminal justice.
4. Erosions of civil liberties (especially through the use of intrusive methods of investigation).
5. Lack of transparency and accountability.

These concerns have been reflected in numerous ways, ranging from ongoing criticisms of day-to-day CID practice and performance (by academics, lawyers and, in some cases, senior police officers, politicians or the media) to major scandals in individual cases resulting in headline news coverage, high-level inquiries and/or significant policy or legislative changes. For example, one recurring theme throughout the twentieth century was the isolation of the CID from mainstream policing, and hence from many of the disciplinary controls exercised by uniform supervisors. Concerns about this became so great in the early part of the twentieth century that a leading police historian (admittedly, a strong supporter of the uniform branch) felt able to write that ‘by 1922 the CID had become a thoroughly venal private army’ (Ascoli 1979: 210). Similar accusations abounded in the 1970s, when the CID was frequently described as a ‘firm within a firm’. This period was also blighted by a series of corruption scandals which eventually prompted the Commissioner of the Metropolitan Police, Robert Mark, to demand the resignation of many CID officers and to introduce institutional reforms to realign the ‘balance of power’ towards the uniform branch (Cox *et al.* 1977; Mark 1978; Hobbs 1988; Morris 2007).

Concerns about CID ineffectiveness (either in failing to bring *anyone* to justice or in bringing the *wrong people* to justice) have also emerged periodically. These have generally grown at times of rising crime rates and were prominent in the late 1970s and early 1980s, fuelled by research studies which suggested that detectives were wasting too much time in simply 'processing' minor cases or on routine visits to scenes of crimes with little hope of a detection (Greenwood *et al.* 1977; Steer 1980; Eck 1983; Clarke and Hough 1984; Burrows 1986; Hough 1987). Probably most damaging, however, have been spectacular failures in major cases, from the inability of investigators to catch 'Jack the Ripper' in the late nineteenth century to the blunders evident in the 'Yorkshire Ripper' case in the 1980s (Byford Report 1981) and the Stephen Lawrence case in the 1990s (Macpherson 1999). Such failures, it should be said, have sometimes had the beneficial result of stimulating improvements following official inquiries. This applies to all the above cases, as well as to a highly critical general report on CID weaknesses by the Detective Committee in 1938, which led to a major rationalisation of detective resources, more systematic training, improved forensic and laboratory facilities, and a revamping of systems of communication (Emsley 2002: 218).

#### *Specific risk factors*

To gain a better understanding of why the above kinds of problem have been so recurrent, and especially to throw light on the sustained 'crisis' surrounding the CID that began in the mid-1970s, it is helpful to identify key risk factors associated with specific aspects of, or approaches to, criminal investigation. While these were present to some degree in all three kinds of detective unit described (and, it could be argued, will always exist in criminal investigation however it is organised), the patterns and degrees of risk varied with their different environments and working practices. In order to illustrate this, let us begin by briefly reiterating the most salient features of the work of each unit. Although (as has already been made clear) the picture has never been so neat in practice, these may be characterised as in Table 17.1.

At least four major 'risk factors' can be identified which are linked directly to the various working practices and sources of evidence outlined. These relate to 'pressure to perform'; to the tendency for over-reliance on interview evidence; to the need for close dealings with 'known criminals' outside the police station; and to the increasing use of covert and deceptive methods of investigation.

*Pressure to perform:* Pressure to 'perform' has virtually always been an integral element of CID work and its influence has been strong in all three kinds of detective unit described. Where local CID offices were concerned, Maguire and Norris (1992) found in interviews with detectives that it was generally understood that those who failed to generate sufficient numbers of arrests or show other overt evidence of productivity were at risk of being 'put back in uniform' – seen by many as a sign of failure and almost a form of demotion. This was symbolised in a note pinned up on an office wall: 'A sus a day keeps the helmet away'.

In addition to pressure from senior officers, many detectives generated pressure on themselves. The culture in some offices encouraged 'workaholic'

**Table 17.1** Investigative units: key features

	<i>Working environment</i>	<i>Standard procedures</i>	<i>Common working practices</i>	<i>Main sources of evidence</i>	<i>Main skills employed</i>
Local CID offices	Dominated by unpredictable daily demands.	Allocation to officers of individual 'cases' (usually crimes reported by the public) requiring preliminary investigation and report.	<ol style="list-style-type: none"> <li>1. Visits to scenes of crimes and some local inquiries, but most investigative time spent 'processing' those cases with a clear suspect from the outset.</li> <li>2. Monitoring of 'known offenders' in the hope of linking them to specific crimes (either already reported or coming to light through the monitoring process).</li> </ol>	<p>Statements by victims and witnesses.</p> <p>Admissions in interviews.</p>	<ol style="list-style-type: none"> <li>1. Use of legal knowledge, production of valid evidence, competence in formal interviewing.</li> <li>2. Ability to communicate with regular offenders, find out what they are doing, and 'get them to talk'.</li> </ol>
Specialist squads	Closed, relatively autonomous, less pressure of immediate events.	Targeting of individuals and groups; collection and analysis of intelligence; planning and execution of 'operations'.	<ol style="list-style-type: none"> <li>1. Use of covert methods (informants, surveillance, etc.).</li> <li>2. Willingness to consider methods of crime control beyond arrest and conviction, and to 'use a sprat to catch a mackerel'.</li> </ol>	<p>Surveillance; documentary material (e.g. bank transactions); statements by offenders persuaded to give evidence against associates; planned 'raids'.</p>	<p>Individual initiative, handling of informants, 'negotiation'.</p>
Major inquiry teams	Hierarchical to consultative, depending on style of SIO. Often strong background pressure for an 'early result'.	Systematic collection of evidence, determination of lines of inquiry, identification and elimination of suspects.	Officers divided into groups and allocated specific tasks. All information pooled and collated.	<p>Forensic, witness statements, interviews with suspects.</p>	<p>SIOs: personnel and resource management, dealing with external pressure, handling of large amounts of evidence, clear thought about lines of inquiry.</p>

tendencies and driving ambition among individuals to increase their numbers of arrests or to put certain offenders 'behind bars'. While desirable in some respects, this contained a risk of some officers coming to believe that 'the end justifies the means', hence opening up a slippery slope in which suspects' rights are increasingly by-passed, and terms like 'bending the rules', 'cutting corners', 'using the Ways and Means Act' or 'gilding the lily' become part of the language.

However, pressures to perform (and their consequences) could be much more highly magnified in both central squads and major inquiry teams. In the case of squads, the criminal groups targeted tended to be more sophisticated and resourceful than most offenders pursued at local level, making successful arrests more difficult and putting more pressure for 'results' on the whole team. In the close-knit squads that were revealed as having breached rules and broken the law on a major scale in the 1970s, it was clear that the 'rot' had often permeated the whole team, rather than being restricted to individual 'bad apples'. In some cases, the malpractice took the form of financial corruption and was clearly driven by greed, but in others pressure to perform was a strong factor: the term 'noble cause corruption' was sometimes used to identify instances in which an almost obsessive desire to 'convict criminals' drove officers to widespread rule-breaking and fabrication of evidence (for discussion of the seminal case of Lundy, see Short 1992).

Where major inquiries are concerned, the 'pressure for a result' has tended to come from both external and internal sources. Certain kinds of murder – especially sexually motivated murders of women or children – can stimulate massive media coverage and create an atmosphere of fear in the surrounding area, so the SIO, in particular, faces daily pressure to demonstrate progress with the investigation and to make an early arrest. At the same time, such inquiries can be extremely expensive and can tie up police officers for long periods, so the SIO also tends to face increasing pressure from senior officers to expedite the inquiry. Traditionally, SIOs tended to be given complete responsibility for and control over major inquiries, with little external assistance. The obvious risks were, first, poor decisions on which 'lines of inquiry' to follow, potentially resulting in a major waste of resources and the investigation being led up a blind alley, and, secondly, miscarriages of justice arising from a blinkered notion that a particular person is guilty, combined with the above pressures to 'wrap up' the case as quickly as possible (Woffinden 1988; Maguire and Norris 1992; Walker 2002; Savage and Milne 2007).

*Reliance on interview evidence:* One of the most prominent features of 'generalist' investigative work as described above was its heavy reliance (and often over-reliance) on interview evidence. Major inquiries, too, quite often produced insufficient evidence to convict without some form of admission from the main suspects. In both cases, the need for this kind of evidence in itself created a temptation for investigators to treat interviewing as nothing more than a vehicle for obtaining a 'confession', closing their minds to anything said that contradicted their 'knowledge' of the situation. This attitude was further encouraged by the prevailing police culture, the 'crime control' (as opposed to 'due process') orientation of most police officers and the institutional pressures

on investigators referred to above. At the same time the fact that, until 1984 and the introduction of PACE, people could be detained in police stations for considerable (and unspecified) lengths of time, without contact with relatives or a solicitor, produced an essentially coercive situation, which detained persons often experienced as frightening and psychologically disorienting (Irving and Hilgendorf 1980; Irving and McKenzie 1989; Gudjonsson 1992, 2007).

In the light of all the above circumstances, there were clearly in-built risks that: (1) police officers might become oppressive in their questioning; (2) people might be unfairly persuaded to make or sign self-incriminating statements (for example, in response to hints that 'co-operation' would bring quicker release); (3) some suspects (especially those with mental disabilities) might become so disoriented and vulnerable to suggestion that they would make entirely false confessions to crimes mentioned by interviewers; or (4) some police officers would, in their records of interviews, distort or embellish what had been said or even invent it entirely.

These kinds of risks were seen to be all too real and came to public and political attention in England and Wales in spectacular fashion in the late 1970s through a high-profile inquiry into the clearly wrongful conviction of three adolescents for the murder of Henry Confait, based on false confessions made under oppressive questioning (Fisher 1977). Several other major miscarriages of justice dating from this period and arising partly or wholly from unsafe confession evidence did not come to light until the late 1980s, when they caused further serious questioning of the integrity of police investigations (Rozenberg 1992; Walker and Starmer 1999; Morris 2007; Savage and Milne 2007).

*Close dealings with criminals:* If (as was the case with most 'squads') a core objective of investigators is to find out as much as possible about the lifestyles, activities and plans of selected 'targets', it is necessary in some way to 'get close to them'. In some of the major squads operating in the 1970s and 1980s, close proximity to criminal groups with considerable power and resources, combined with the closed and autonomous nature of the squads and poorly regulated operating methods, clearly carried major risks and almost inevitably led to some serious and deeply embedded forms of malpractice. These included the straightforward corruption of officers who were tempted by offers of shares in the proceeds of crime, or who in some cases fell victim to blackmail or other pressures put on them by resourceful criminals. They also included malpractice which was encouraged by the risks inherent in the cultivation of informants. One such risk was 'the tail wagging the dog': informants using their relationship with detectives to further their own criminal interests, in some cases being given almost 'carte blanche' to continue their activities in return for information about others. Some also 'set up' rival criminals by giving false information or acting as agents provocateurs.<sup>11</sup>

Among the most notorious examples of endemic and enduring malpractice were the activities of several detective units in London in the 1970s (Cox *et al.* 1977; Mark 1978; Morris 2007) and the West Midlands Serious Crimes Squad (Kaye 1991). A later example from continental Europe involved a Dutch police team, ostensibly under the direction of lawyers but in reality out of control,



which became involved in a series of large deliveries of drugs into the country. This eventually led to a major scandal, a parliamentary inquiry and several high-level resignations (Fijnaut and Huberts 2002).

*Covert, intrusive and deceptive methods:* The final risk factor concerns the use of covert, intrusive or deceptive methods of investigation, in particular the interception of communications, 'bugging', the use of undercover officers or participating informants and 'sting' operations. These pose a potential threat to basic civil liberties, especially privacy, as well as a risk of unfair prosecutions and convictions. The employment of such methods was for many years associated with high-level specialist squads, although it has become increasingly common at all levels of policing. Apart from telephone tapping, for which rules were established under the Interception of Communications Act 1985, there was no statutory regulation of intrusive surveillance methods in England and Wales until the late 1990s. In its absence, determining the acceptability of various means of obtaining evidence was largely left to internal police rules and the discretion of senior officers, together with the occasional judgement in the British courts or the European Court of Human Rights, but neither provided consistent principles or guidance to investigators, nor effective controls on an increasing disregard of civil liberties (see, for example, Maguire and John 1996; Colvin and Noorlander 1998). Marx (1988) drew attention to the phenomenon of 'surveillance creep', whereby the police slowly but persistently push at the boundaries of what methods are considered acceptable by the courts and the public, each individual shift in practice being relatively insignificant in itself, but producing the cumulative effect that individual rights which were taken for granted 20 years ago are breached routinely today almost without anyone noticing.

As well as police disregard for rights to privacy, an issue of growing concern in the 1990s was the lack of clear limits on the use of deceptive methods such as 'sting' operations, whereby people are tricked or tempted by undercover officers or police informants into taking part in some form of criminal activity and subsequently arrested. These range from fairly passive operations such as leaving a lorry full of goods unattended to see if anyone will steal from it, to those in which a 'known offender' may be actively persuaded to take part in a crime – an example being an attempt to persuade a known drug trafficker to buy and smuggle a large consignment of heroin. The latter is clearly a case of 'entrapment' by an agent provocateur, and the case would almost certainly be dismissed if the facts came to light in court. However, concerns were expressed about cases in which the involvement of an informant was hidden from the courts (and the defendant). Moreover, the limits of entrapment-like behaviour were defined only through case law, which left them unclear. An important illustrative case was that of Colin Stagg, a suspect in a high-profile murder case, who was befriended by a female police officer who repeatedly tried to trap him into admissions by pretending that she found it stimulating to listen to talk about violence against women (*R v. Stagg* (1994) *The Times* 15 September). In this case, the evidence was excluded and the police officers involved were strongly criticised, although it was pointed out in their defence that there had been no clear law or legal precedent preventing the use of this

kind of tactic (for further discussion of regulatory issues around covert and deceptive methods, see Maguire and John 1996; Field and Pelser 1998; Sharpe 2002; Clark 2007).

**Responses to the crisis: glimpses of a radically different future?**

The various scandals, recurrent criticisms and growing awareness of the risk factors outlined above led eventually to a number of legislative and policy initiatives, organisational reforms and shifts in thinking, particularly over the 1980s and 1990s, which between them have already contributed to some substantial changes in the ways that police investigations are regulated, managed and carried out. In this final section, the most important of these changes will be summarised, and the question will be posed whether they represent merely a number of superficial reforms aimed at taking the steam out of the persistent criticisms of CID practice, or whether they signal a much more radical shift in approaches to crime control.

**Responses to concerns about integrity**

The concerns about police interviewing raised by the Confait case (Fisher 1977) led to the setting up of the Royal Commission on Criminal Procedure (1981) and, eventually, following its recommendations, to a key piece of legislation to monitor the integrity of evidence production, the Police and Criminal Evidence Act (PACE) 1984: in particular the codes of practice for the detention and questioning of suspects in police stations. The main safeguards introduced were the appointment of a 'custody officer', who decides whether detention is justified, maintains a written record of what happens (the 'custody record') and is responsible for suspects' welfare while in custody; limits on the length of time for which suspects can be detained; a right of access to legal advice during questioning; and the obligation to make a contemporaneous (normally tape recorded) record of what is said in interviews (Zander 1985; Home Office 1995). The impact of this system has been the subject of a great deal of empirical research and vigorous academic debate, opinions ranging from those who conclude that it has had little effect on police attitudes and that they have found it relatively easy to circumvent the rules, to those who argue that it has transformed attitudes and virtually eliminated the risk of mistreatment or oppressive interviewing in police custody (for a flavour of these debates, see McConville *et al.* 1991; Dixon 1995; Morgan 1995; for recent overviews, see Maguire 2002; Sanders and Young, this volume).

However, concerns about integrity continued to emerge, and matters again came to a head in 1991 after another series of major miscarriages of justice (most dating back to pre-PACE days), with the setting up of the Royal Commission on Criminal Justice, supported by several specially commissioned pieces of research. While the new commission's report (1993) was disappointing to those who sought greater statutory controls over police investigations, the inquiry certainly focused the minds of senior police managers and sparked off some important internal reforms. These included significant reductions in

the numbers of specialist squads (particularly at police-force level) and limitations on the length of time for which officers could be members of particular teams or how long they could remain in the CID without a temporary return to uniform; in some forces, indeed, the CID was virtually disbanded for a period and, in most, new arrangements were made to facilitate closer joint working with uniform staff. There was also an increase in the emphasis put upon integrity in training courses, including the introduction of concepts such as 'ethical interviewing' (sometimes also called 'investigative interviewing') aimed at teaching officers to keep a more open mind and also to behave less aggressively when questioning suspects (Williamson 1996, 2006; Gudjonsson 2007).

Where the problem of 'getting too close to criminals' is concerned, the practice of detectives routinely drinking in pubs and clubs with 'villains' (Hobbs 1988) was generally forbidden. By the mid-1990s, too, many forces also claimed to have greatly reduced the risks of corruption or the perversion of justice by improving their systems of informant handling. However, doubts were cast on this claim in a highly critical study by Dunnighan and Norris (1996), which found many instances of informants not being registered, unrecorded payments being made and the prior involvement of informants being concealed from court cases. Strong national guidelines have since been produced by the Association of Chief Police Officers (ACPO). These underline the principle that informants (now officially referred to as 'covert human intelligence sources', or CHISs) are 'owned' by the police force, not by the individual officer, and stipulate that that they should always be officially registered, that two 'handlers' should be appointed (under the supervision of a 'controller' who is responsible for all informant management in the area) and that a record should be kept of all meetings (see Clark 2007). The extent to which practice now matches the aspirations is a question that requires new research (for a review of research on preventing corruption more generally, see Newburn 1999).

More recent legislation has tended to reflect concerns about the protection of civil liberties (and possible breaches of the European Convention on Human Rights, which was incorporated into English law via the Human Rights Act 1998), and hence to focus on the regulation of covert forms of evidence or intelligence gathering. In particular, the Police Act 1997 required the formulation of clear rules to govern the authorisation of 'bugging' (Home Office 1998), and the Regulation of Investigatory Powers Act 2000 introduced for the first time statutory guidelines on the use and handling of CHISs. Critics have argued that these Acts do little more than legitimise pre-existing police rules and practices, as well as protecting the police from challenges under the Human Rights Act, but the creation of statutory rules in these areas is surely preferable to the uncertain position that existed previously (for further discussion, see John and Maguire 1998; Neville 2000; Sharpe 2002; Clark 2007).

### ***Efforts to improve effectiveness***

As well as responding to concerns about integrity, from the mid-1980s onwards police managers were increasingly faced with the challenge of how

to improve their effectiveness in terms of crime control. Already on the defensive over rising crime rates and falling detection rates, they began also to come under the general spotlight that was shone on the performance of the public services by the Thatcher government through its Financial Management Initiative and its focus on the 'three Es' (economy, efficiency, effectiveness). Ironically, it appeared to many, the more effective they became in ensuring integrity, the bigger this second challenge became. In particular, the new regulation of post-arrest procedures under PACE – even though not as restrictive as many first feared – made it increasingly clear to the more far-sighted that the ingrained habit of reliance on confession evidence to secure the bulk of convictions had to be confronted, and it was time to grasp the nettle of implementing new investigative strategies across the whole police service. Indeed, the whole 'reactive', case-based approach (whereby CID officers were expected to make some effort at investigating each individual crime as it was reported) began to come under serious questioning. Two complementary concepts were particularly prominent in discussions of the 'way forward': 'crime management' and 'proactive' approaches.

The idea that the flow of crime should be 'managed', rather than allowing officers' working days to be dominated by the need to respond to increasingly large numbers of individual crime reports, became widely accepted during the 1980s. It was manifested in a number of organisational changes that took place in many police forces. One was the setting up of 'crime management units' (or units with similar names) at divisional level, acting as a 'one-stop shop' and co-ordinating centre of investigative activities. Many operated a system of 'crime screening' (Eck 1983), whereby reports of crimes were sifted on the basis of what had been found by the uniformed officers who conducted the initial visit to the scene: for example, if the offence appeared to be fairly minor, and there was no clear evidence of who had been responsible, the case might be immediately 'screened out' and not allocated to a CID officer for further investigation. Such systems were sometimes based on discretion, though in other cases they used a formal scoring system whereby points were awarded on the basis of indicators of 'detectability', such as whether there were fingerprints, eye witnesses and so on.

A further aspect of crime management was an increasing trend towards specialisation of tasks within CID offices. Rather than expect individual detectives to follow through their own cases 'from the cradle to the grave', it became much more common for small groups of officers to take on specific tasks such as interviewing arrested persons or preparing court papers for all cases flowing through the office. In the early 2000s, this concept was extended further to involve large numbers of uniformed officers – guided at key points in the process by detective supervisors – through the development of a formal operational model, the Volume Crime Management Model (VCMM). Primarily a response to governmental concerns about falling clear-up rates and the introduction of national performance targets to increase the numbers of cases 'brought to justice' (Criminal Justice Services 2001), the VCMM offers a systematic approach for processing large numbers of relatively minor cases which might otherwise be neglected. The system is governed by a crime management unit which oversees key functions carried out by a number of

specialist units (e.g. call handling, initial scene attendance, crime screening, forensics, suspect handling and evidence review), aiming both to improve the quality of each individually and to co-ordinate them into a more effective whole (NCPE 2004; Jones and Maguire 2005).

The 1990s also saw increasingly wide support for the use of more 'proactive' approaches or methods of investigation. This was given a major boost by the Audit Commission's (1993) report, *Helping with Enquiries: Tackling Crime Effectively*, which criticised traditional case-based methods of working and urged police forces to 'target the criminal, not just the crime': in other words, to focus on groups and individuals known to be actively involved in crime and to collect intelligence and evidence about their movements and activities. This might include attempts to link them (e.g. through forensic evidence or their *modus operandi*) to previously recorded offences or series of offences, but might also be aimed at discovering their future intentions and ideally at catching and arresting them 'in the act'. The report also advocated much greater use of informants, which it deemed to be the most 'cost-effective' source of intelligence (though this was strongly disputed later by Dunnighan and Norris 1999). Such approaches were hardly new – as already discussed, they were common in specialist squads, and local CID units used them spasmodically – but the intention was to apply them in a much more systematic manner than in the past, with greater organisational resources and support, and, importantly, drawing in the uniform branch as well as the CID.<sup>12</sup>

One of the pioneering police forces in this respect was Kent, where the Chief Constable, David Phillips, experimented by introducing a holistic 'intelligence led' system of policing into two police stations (see Maguire and John 1995; Amey *et al.* 1996). This entailed a major reorganisation of existing roles and functions, the idea being that everyone on the staff would contribute in some way to the achievement of a clear set of goals. The main units set up were an intelligence cell, a tactical arrest team and a case preparation team. Most existing CID staff were reallocated to one of these specialised units, only a small number remaining as a 'reactive' investigative team to deal with day-to-day offences reported by the public (though the majority of these offences were 'screened out' so that the team could focus on the most serious). The intelligence cell played a key role in collecting and analysing information and identifying 'targets', its director meeting regularly with senior operational officers as part of the 'Tasking and Control Group' that made all the main decisions about how resources would be deployed. All activity was highly focused, the objective being to identify the most prolific offenders (at one point, a 'top 40' list was constructed) and then to collect information and evidence about them in a systematic way, including giving patrol officers specific tasks relating to them, paying informants to find out more about them and setting up surveillance operations. Arrests were usually planned in advance and carried out by the tactical team. While the system experienced some significant practical problems – especially blockages in the flow of intelligence, delays in processing cases after arrest, failures in communication and losses of morale among officers not selected for their preferred roles – it was seen by most officers as a successful experiment in terms of tackling the main crime problems in the area. Moreover, few victims complained once it



was explained to them why a crime they had reported would not be directly investigated (Maguire and John 1995).

Although many other police forces also paid lip-service to an intention of practising 'intelligence-led policing' (ILP), and although some set up one or more of the necessary tools for doing so (such as improving intelligence systems or introducing dedicated surveillance teams), the number of 'proactive' operations implemented was generally small and there were few signs of major changes to the traditional reactive patterns of working, Kent remaining more the exception than the rule. As Maguire and John (1995) showed, if a local police division was really to be 'intelligence led', it had both to undertake significant reorganisation in order to establish a genuinely integrated system and to address deep-seated cultural resistance (see also Barton and Evans 1999; HMIC 1999; Heaton 2000). It will be argued below that, in the wake of the national implementation of the National Intelligence Model (NIM), a more fundamental change of this kind may finally be imminent. However, it is first necessary to complete the picture of police managers' responses to the 'crisis' by charting recent reforms in the crucial area of major inquiries.

### **Improvements to major inquiries**

In terms of the attention of the media, politicians and the public, concerns about other aspects of crime control tend to grow cumulatively, but mistakes in one high-profile major inquiry can suddenly take on a huge significance that remains in the public mind for many years. As noted earlier, two inquiries in particular have received more media and public attention and have had a greater influence on police reforms in this area than any other: the 'Yorkshire Ripper' case in the early 1980s and the Stephen Lawrence case in the mid-1990s.

The 'Ripper' case was notable not just for the public fear it caused while the murders continued but also for the highly publicised misjudgements made by the inquiry team, in particular in putting 'all their eggs in one basket' in pursuing a fruitless line of inquiry and in failing to spot several strong indications of the identity of the murderer within the huge volume of material generated by the inquiry. The concerns raised by the case led eventually to some important reforms in the organisation of major inquiries, notably the introduction of a computer system, the Home Office Large Major Inquiry System (HOLMES, later updated to HOLMES 2), to facilitate the systematic storage and analysis of investigative material, and various mechanisms to reduce the burden and pressure on SIOs. The latter included devolving some responsibilities to other members of teams and the introduction of a system of formal external reviews in cases which still remained undetected after a set period of time – the objective being for the case to be examined through a 'fresh pair of eyes' (Maguire and Norris 1992; Berry *et al.* 1995; Innes 2003, 2007).

Despite these reforms, the investigation of the murder of Stephen Lawrence in 1993 demonstrated that by no means all the lessons of previous mistakes had been learnt, as well as drawing attention to the influence of racial prejudice on the conduct and outcome of a major inquiry, including on the



important early stages when evidence should be preserved by the first officers on the scene (Macpherson 1999). The ramifications of the case went far beyond the mechanics of investigative practice (see, for example, Stanley 1999; see also Bowling *et al.*, this volume), but in relation to procedures in major inquiries, subsequent developments have included the production of comprehensive guidance to investigators in the form of the 'Murder Investigation Manual' (Innes 2003; ACPO Centrex 2006) and the *Major Incident Room Standardised Administrative Procedures* or 'MIRSAP' (Centrex 2005; Brookman 2005; Neyroud and Disley 2007), as well as more honest recognition of major skills deficits among SIOs, leading to a search for new ways of assessing and improving their quality (Smith and Flanagan 2000).

### **Signs of more fundamental change: NIM, partnership and beyond**

Returning finally to the 'bigger picture', it is interesting to speculate in this final section whether what was earlier referred to as the 'modern' approach to crime control – embodied, as far as the police contribution is concerned, in the investigative practices of the three kinds of units through which CID work was organised for most of the twentieth century (generalist offices, squads and major inquiry teams) – may be in the early stages of a radical transformation. Writers such as Garland (1996, 2001) and Rose (2000) have argued that, in the complex, individualised and deracinated communities that are coming to characterise 'late modern' societies, not only has concern about crime risks become a constant preoccupation of government, media, public and private agencies, communities and individuals alike, but at the same time there is a growing belief that crime can no longer be effectively controlled by the traditional responses of the central state and the core criminal justice institutions. This, they argue has set in motion major shifts in thinking which are creating new kinds of response to crime (or as Garland puts it, new forms of 'penality') and have implications for investigative practice in its broadest sense.

One important feature of these shifts has been a growing focus on the *identification and management of risk* as an organising principle of the work of all the main criminal justice agencies.<sup>13</sup> Thinking in terms of risk naturally encourages responses to criminal activity that seek more than the standard criminal justice outcomes of the arrest, conviction and punishment of individual offenders, looking instead for more lasting solutions which reduce the likelihood of the behaviour in question being repeated in the same location or by the same offender(s) or his/her associates. Another key trend that has been identified is the development of new forms of 'governance', whereby central government has encouraged wider dispersal of responsibility for crime control, away from the major criminal justice institutions towards a spread of other statutory, voluntary and private organisations, local communities, and, ultimately, the 'responsibilised' individual (Johnston 2000; Rose 2000; for a more sceptical view, see Jones and Newburn 2002). One obvious manifestation of this is the growth of formal multi-agency *partnerships* aimed at reducing or 'managing' crime or reducing re-offending, and built around data sharing and joint working (Hughes 1998; Hughes and Edwards 2002; Crawford 2007).

As these new ways of thinking and working take hold, the role of 'criminal investigation' (and even the descriptive usefulness of the term) becomes increasingly blurred. For example, police may respond to reports of a high level of drug-dealing and shoplifting in a particular area, not by launching standard investigations of individual offences, but by analysing the situation in terms of the presence of a persisting local criminal 'market' in drugs and stolen goods. As a consequence an inter-agency solution may be sought which sets out instead to 'disrupt' the market, combining the use of (say) a housing authority's eviction powers alongside targeted police operations against key dealers, and health initiatives to remove some potential customers from the picture (examples of such initiatives are described in Kock *et al.* 1995; Clarke 1999; Sutton *et al.* 2001). Only some of these actions may have as their goal the securing of a court conviction, this being secondary to the core objective of criminal market reduction.

In the UK, while interest in, and the use of, such problem-solving approaches has been growing steadily over a number of years, it has recently been given significant new momentum by the linking up of two major policy initiatives which had previously been pursued largely in isolation from each other: the implementation of the National Intelligence Model (NIM) and the development of Crime and Disorder Reduction Partnerships (CDRPs – known in Wales as Community Safety Partnerships, or CSPs). The NIM is essentially a blueprint for a whole new 'business model' for the organisation of responses to crime (and, indeed, of disorder and antisocial behaviour). It is based primarily on the notion that the core business of policing – and by extension, of other agencies engaged in crime control or community safety work – is to collect relevant information to allow clear and accurate identification and analysis of current and likely future 'problems'; to prioritise the most important of these problems and plan responses to them; to implement the plans; and, finally, to evaluate what has been done and to feed back the experience and knowledge. At its heart is the preparation of a comprehensive 'strategic assessment' of current and predicted crime threats in the relevant area and of 'tactical assessments' to identify particular targets – which may be people, places or activities – on which it will be most profitable to focus any interventions. It is used in the context of Tasking and Co-ordination Group (TCG) meetings, attended by managers, where evidence from NIM analyses should drive the allocation of investigative and other operational resources (for more details, see NCIS 2000; John and Maguire 2003, 2007). The NIM's early history was handicapped by its close association with the secretive world of intelligence officers (it was 'owned' initially by the National Criminal Intelligence Service): this led to its nature and purpose being widely misunderstood among police officers, who saw it mainly as a tool for analysing police intelligence to assist CID operations. However, since it has been 'mainstreamed' throughout the police service, recognition has set in that it can incorporate open source and non-police material as well as criminal intelligence, and that it can be used to analyse and respond to non-crime problems as well as to crime.

Perhaps the most important 'breakthrough', however, has been the extension of the NIM into CDRP/CSP work. Until 2008, most CDRPs remained outside the police NIM structures, basing partnership plans on their own

'crime audits', which were produced only every three years by a variety of people in a wide variety of forms and were rarely used in a systematic fashion to plan responses. However, crime audits have now been replaced by annual strategic assessments, backed up by other NIM products such as tactical assessments and problem profiles, in many cases prepared by analysts who are directly employed by the partnerships and trained in NIM techniques. The analysts are increasingly encouraged to use both open-source material and confidential data from a range of agencies including the police (obtained under data sharing protocols). Moreover, these products are increasingly being used within NIM-compliant organisational structures. In some areas, non-police partners attend police TCG meetings and participate in decisions about resource allocation, but the future seems to lie in the setting up of fully partnership-run TCGs, to which all relevant agencies, including the police, contribute data, ideas, resources and decision-making. An important prototype of this approach was the 'G-MAC' system in Greater Manchester, which appears from early evaluation to have operated successfully, with partners playing a full part rather than – as has been a common concern in CDRP work generally – the prioritisation and decision-making processes being dominated by police agendas which can often be comparatively narrow, target-driven and focused mainly on the short term (see Maguire and John 2006; John and Maguire 2007). While it is still early days, this system has the potential for aligning the work of police and other agencies much more effectively than in the past, at the same time embedding 'problem-solving' approaches to crime control more deeply into police practice.

In conclusion, it can be argued that the incorporation of the NIM into mainstream police practice, together with its potential for coordinating CDRP and police responses to local crime problems much more closely than in the past, is likely to take the police considerably further down the route away from the traditional, individualistic, case-based approach to criminal investigation described in the first part of this chapter. The routine use of the NIM also represents a major advance from early attempts to rationalise the use of investigative resources, such as the introduction of crime management units and crime screening in the 1980s, and indeed from the under resourced and often token efforts to practise 'proactive' or 'intelligence led' policing at local level in the 1990s. Like the specialist squads of the 1980s, few of those ostensibly involved in ILP researched their problems or planned their strategies with any analytical depth, and, as Gill (2000) argues, such approaches often amounted in practice to little more than a more focused 'rounding up of the usual suspects': put another way, it could be argued that, despite their aspirations, most investigative units remained (in the broadest sense of the word) 'reactive' in character.

## Notes

- 1 For broader discussions of the concept of 'modernity' and its expression in the growth of bureaucratic, 'scientific' and classificatory systems of social control, see, for example, Foucault (1977) and Garland (1990, 2001).

- 2 In England and Wales, prosecution decisions remained a police function until the establishment of the independent Crown Prosecution System in 1985 (see Sanders 2002; Sanders and Young 2007).
- 3 This squad remained operational afterwards, and formed the nucleus of the Special Branch, which has continued ever since to deal with offences against state security.
- 4 Though note, of course, that Sherlock Holmes was an 'amateur' who regularly made a fool of the slower-witted and incompetent professional detectives who appear in the stories (especially Inspector Lestrade). This theme reflects the scepticism about the effectiveness of the police as investigators which remained strong throughout the nineteenth century. Twentieth-century detective fiction (including films and television series) is much more likely to portray police officers as experts in 'solving' crime (Morgan 1990; for broader discussions of the police in fiction, see Sparks 1992; Reiner *et al.* 2001; Reiner 2007).
- 5 Indeed, many writers have characterised information as the 'lifeblood', the 'essential raw material' or the 'currency' of investigative work, and the trade of the detective as revolving around its acquisition, analysis and interpretation (see, for example, Hobbs 1988; Ericson 1993; Innes 2003).
- 6 Although this chapter focuses on the (public) police, they are not the only agency which investigates crime, and the same would apply to, for example, Customs officers investigating drugs importation or revenue officers investigating tax fraud.
- 7 These, in turn, may be influenced not just by their impressions of the individuals concerned but also by their own previous experience of such cases, personal prejudices, the police 'culture' and so on.
- 8 As discussed later, divisions also often set up their own specialist squads (e.g. focusing on street offences or local burglars) but these were generally temporary in duration and officers were frequently 'borrowed' to undertake other work (see for example, Maguire and Norris 1992).
- 9 More precisely, the clear-up rate shows the percentage of officially recorded crimes for which one or more people have been charged, summonsed, cautioned or otherwise dealt with on the basis of an admission or reasonable evidence that they were the perpetrator(s). This includes admissions to additional offences which convicted offenders agree to have 'taken into consideration' by the court without extra charges being laid, and later admissions in prison ('prison write-offs') – both of which are usually referred to as 'secondary detections'. It also includes offences in which, for example, the offender was too young, elderly or ill for charges to be laid. A 'not guilty' verdict does not negate a 'detection'.
- 10 In recent years, uniformed officers have been increasingly involved in the formation and running of such squads (see later).
- 11 For further discussion of the risks relating to informants, see Reuter (1983), Marx (1985), Hobbs (1988), Maguire and Norris (1992), Maguire and John (1996), Stelfox (1998), Dunnighan and Norris (1996, 1999), Billingsley *et al.* (2001), Sharpe (2002).
- 12 It could be argued that, in one sense, local CID offices had a long tradition (pre-PACE) of 'targeting the offender, not just the crime', through the 'suspect centred' or 'fishing expedition' approach of frequently pulling in local offenders for questioning. However, the essential difference between this and the emerging 'intelligence led' approaches lies in the shift from reliance on interview evidence to the systematic gathering and use of intelligence prior to arrest and questioning.
- 13 For general discussions of this issue, see Ericson and Haggerty (1997), Kemshall (1998), Maguire (2000), Kemshall and Maguire (2001), Hudson (2002), Loader and Sparks (2002).

### Selected further reading

The most comprehensive book on criminal investigation published in recent years is the *Handbook of Criminal Investigation* (ed. Newburn, Williamson and Wright 2007). This has chapters on many of the themes mentioned here, including the history and changing context of criminal investigation, forensic methods and techniques, investigative processes, the development of the National Intelligence Model, and issues around the governance and accountability of investigative practice. To understand more about the thinking behind some of the most important changes in policy and practice that have taken place since the early 1990s, it is well worth reading the Audit Commission's highly influential report, *Helping with Enquiries: Tackling Crime Effectively* (1993). This strongly advocated a shift from 'reactive' to 'proactive' approaches and greater use of informants.

Innes' *Investigating Murder: Detective Work and the Police Response to Criminal Homicide* (2003) is a detailed and up-to-date study of murder investigations, based on analysis of case files and interviews with detectives. It provides a useful typology of investigations and applies theories of 'narrative' to the construction of cases. It also covers wider theories about detective work. Maguire's 'Policing by risks and targets: some dimensions and implications of intelligence-led crime control' (2000) is a brief overview of contemporary developments in crime control and criminal investigation, summarising recent literature on risk and policing, and considering some of the implications of what appears to be a broad shift away from the traditional focus on individual cases and reliance on the criminal justice system, towards more strategic, 'problem-solving' and risk-focused approaches. Some of the ideas put forward there were revisited in the light of major new developments (including neighbourhood policing and the NIM) in Maguire and John's 2006 paper, 'Intelligence led policing, managerialism and community engagement: competing priorities and the role of the National Intelligence Model in the UK'.

Maguire and Norris' *The Conduct and Supervision of Criminal Investigations* (1992) is one of the main research reports commissioned by the Royal Commission on Criminal Justice in the area of the regulation of detective practice. It examines in some detail problems and risks inherent in routine CID work, the activities of proactive squads and major inquiries. McConville *et al.*'s *The Case for the Prosecution* (1991) is a controversial and highly influential book which revived Packer's concepts of 'crime control' and 'due process', questioned the impact of PACE and framed 1990s academic debate on the regulation of police behaviour. Finally, Wright's *Policing: An Introduction to Concepts and Practice* (2002) is a highly recommended overview of recent issues in policing, combining sociological theory with practical knowledge and experience, and including an excellent chapter on crime investigation.

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