

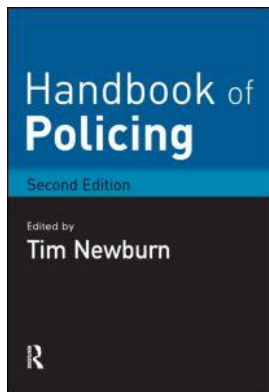
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Daniel Donnelly, Kenneth Scott

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Chapter 8

Policing in Scotland

Daniel Donnelly and Kenneth Scott

In the policing systems of the United Kingdom Scottish policing has always had a problem with its own identity. Is it part of a 'British' model of policing? Is it a regional variation of that model? Does it possess sufficient characteristics of its own to define it as a distinctive approach to policing? The relatively small number of commentators on policing in Scotland have varied in the answers given to these questions. Some, whilst recognising a distinctive legal framework, have argued that policing in Scotland 'consists of a distinctive but broadly familiar set of social practices informed by a distinctive but broadly familiar pattern of historical development' (Walker 1999: 94). Some would say that, particularly in the context of Scottish devolution, policing in Scotland has gained a degree of distinctiveness which was not apparent before the coming of a Scottish Parliament and Executive/Government¹ (Donnelly and Scott 2005). Others would point to the tendency for policing policies to be 'tartanised', that is for a Scottish version to be created of ideas coming from the larger neighbour down south (see Donnelly and Wilkie 2002). In some instances, studies analysing 'British' policing have ignored or sidestepped the existence of parts of the UK other than England and Wales. Yet the first serious academic study of policing in Britain was conducted in Edinburgh by Michael Banton (1964), who then used his ethnographic material on *The Policeman in the Community* from that Scottish context to make comparisons with policing in the United States. One of the criticisms of Banton's work, however, was that a study of the *Scottish* police could not be taken as representative of *British* policing in general (Skolnick 1966).

This chapter therefore seeks to achieve a number of purposes in describing and discussing policing in Scotland. It will consider some of the aspects of the historical, legal and social context which have shaped the way in which Scottish policing has developed into the twenty-first century. In considering those aspects which are fundamental to policing anywhere, such as governance and accountability, strategies and approaches, and the nature of police work and its relationship to citizens, attention will be drawn particularly to those ways in which Scottish policing differs from that found in England and Wales. Finally, there will be reference to a number of current and emerging debates about how policing in Scotland should move forward into the future and how these relate to the debates on policing in Britain as a whole.



The contexts of Scottish policing

Understanding policing in Scotland requires some knowledge of those broader historical, cultural and political aspects of Scotland which have contributed to the nation's distinctiveness. Some of these aspects arise from the past, from the historical evolution of Scottish society and its institutions, particularly legal ones; others are more modern, but nonetheless definitive, such as the creation of a devolved constitutional system.

Historical context

It has been argued that the development of a formal system of policing in Scotland was driven by significantly different factors from those operating in England (Dinsmor and Goldsmith 2005). Whereas south of the border the introduction of the 'new' police was an attempt to move away from the need to call out the military to maintain public order and to deal with crime and disorder in another way (see chapters by Emsley and Rawlings, this volume), in Scotland the intention was the much broader one of acting for the public good and in the public interest, even if in the nineteenth century the term 'public' still referred to only a small percentage of the population. 'Policing in Scotland was seen as a proactive deterrent to criminal activity rather than a reaction to problems of order after the event' (Dinsmor and Goldsmith 2005: 42). This 'public service' approach was to become a significant feature of the historical development of the police in Scotland and was reflected in the manner in which 'new' police organisations were created.

The first major police force created in Scotland was in Glasgow under the Glasgow Police Act 1800, almost 30 years earlier than the establishment of the Metropolitan Police. As well as providing for a police force of three sergeants, nine day-officers and 68 watchmen under the command of a master of police, the Act contained a number of other significant features:

- The force was paid for out of a local government rate levied on all citizens specifically for that purpose, as Fisher (1994: 92) expressed it: 'it brought into being the Glasgow rate-payer'.
- The force was under the direction of commissioners, comprising the Lord Provost and three baillies from the city council plus nine others, directly elected annually from the city's traders and merchants.
- The officers of the force were given a range of duties including street patrol, the detection of crime, dealing with environmental nuisance and 'suppressing riots, squabbles, begging and singing songs' (Glasgow City Archives 1788: 142).
- The Act also included provision for the police commissioners to have responsibility for arranging the paving, cleansing and lighting of the streets, aligning police functions with more general social improvements.

Glasgow's example in setting up a police force was followed, first, by other cities and burghs throughout Scotland and regularised by a General Police Act

of 1833, and then by the rural counties under the Police (Scotland) Act 1839. Moreover, the general principles and infrastructure which in Glasgow made for what Devine (1994: 188) described as 'an autonomous police system with unprecedented power' were also available and copied elsewhere. The similarities in the structures of Scottish local government facilitated these transitions. The system of police boards recognised the importance of the involvement of active citizens from local communities in supporting the police and the financial underpinning from local rates gave the electorate a strong vested interest in making policing work. Policing itself was rooted in a public perception that it was more than simply about tackling crime and maintaining public order, but also embraced a wider responsibility for the welfare of local communities.

Consequently, while policing in Scotland shared in the general line of development with the history of policing elsewhere in the UK, there were some particular, if often subtle, differences. These included a greater openness by police forces to cultivating relationships with the local community, relationships which were based largely on the concept of the 'common good'. In the larger cities in particular, policing was seen as a response by local councils to the social and public order problems created by industrialisation rather than as an imposition from distant central government, and in Victorian Scotland local Police Committees played a wider preventative role in key areas of social improvement than their title suggested.

As police work became more organised the status of the police constable rose considerably and by the start of the twentieth century a real sense of positive co-operation with the Scottish public had been established. Major contributions to policing on a broader front came in the 1930s with a major reorganisation of the City of Glasgow Police. Under a dynamic new chief constable, Sir Percy Sillitoe, significant innovations were introduced, including: a major restructuring of the senior command; the introduction of new technologies, such as the wireless; improvements in force training; the introduction of new specialist units, such as traffic; and the expansion of the police box system to combat crime. Sillitoe's reforms became a model for the rest of Scotland and beyond (Goldsmith 2002).

The origins of Scottish policing, as Dinsmor and Goldsmith (2005: 47) have stated 'were founded basically on altruistic and parochial principles'. It is perhaps unsurprising, therefore, that Scottish Crime Surveys have shown over time a good level of satisfaction with the police in Scotland (Hale and Uglow 2000; MVA 2002; Campbell *et al.* 2004; Brown and Bolling 2007); that part of the continuing tradition of the Scottish police service is 'that the task of policing the community is undertaken in ways that have the consent of the community' (Scottish Home and Health Department 1983); and that partnerships between the police, local government services and community organisations have been relatively commonplace for a considerable time (HM Inspectorate of Constabulary for Scotland 2004).

Legal context

The existence of Scots law, with its own institutions, traditions and procedures, is widely recognised within the UK. The detailed context that this provides for

policing north of the border is much less understood. The laws of Scotland play a determining role in defining the crimes and offences which the police have to enforce and in defining the powers and duties which the police exercise in that role. Scottish criminal procedure defines the involvement of the police in criminal justice processes and the police have to operate alongside various institutions and agencies created by the Scottish criminal justice system. In all of these spheres there can be significant variations from policing in the rest of the UK (see Sanders and Young, this volume).

The Police (Scotland) Act 1967 remains the chief cornerstone of Scottish policing's legal status, with its iconic description of the duty of the constables of a police force as 'to guard, patrol and watch' in order to prevent the commission of offences, preserve order, and protect life and property (Police (Scotland Act) 1967, s. 17). However, historically the investigation of crime in Scotland was the preserve of the sheriff and the procurator fiscal. As Scottish policing developed, this role became increasingly one which police forces took on. It is now normally the police who gather evidence and undertake enquiries on behalf of the procurator fiscal. The Lord Advocate, as head of the Crown Office and Procurator Fiscal Service (COPFS), can issue instructions to chief constables to report on alleged offences and it is their duty to secure compliance. Indeed it is possible, as a matter of law, for investigation as well as prosecution decisions to be undertaken by the Crown with minimal or even no involvement on the part of the police, as HM Inspectorate of Constabulary has pointed out (HMICS 2000). However, because of the comfortable working relationship between police and prosecutors that has developed over time, this seldom happens.

Like Scots law itself, police powers in Scotland arise largely from the common law with some additions from statute. These powers tend to be limited and are often less than clear. It is widely accepted, as elsewhere in Britain, that individual officers have considerable scope for discretion within the framework that the law provides. The main powers relate to arrest, detention and search.

- The power of *arrest* may be effected either with a warrant granted by a justice of the peace or a judge, or without a warrant. The latter depends very much on the particular circumstances of each case, but can be justified upon suspicion of commission of an offence, upon failure to produce required documentation, where necessary 'in the interests of justice', or where the name and address of a suspect cannot be ascertained.
- Powers of *detention* can apply to individuals without their being under arrest and a personal search may be carried out where reasonable grounds exist for believing that s/he is in illegal possession of, for example, controlled drugs, firearms or offensive weapons. Where there are reasonable grounds for suspecting that a person has committed an offence punishable by imprisonment, that person may be fingerprinted and detained for a period of up to six hours, but the person detained is under no obligation to answer any questions other than to give their name and address.
- Powers of *search* tend to follow on from arrest, but there is also a common law power, based on possession of information, to enter private property for

the purpose of ascertaining whether or not an offence is being committed or of stopping the commission of the offence, as well as through application of a search warrant.

The very general nature of these powers continues to raise a number of issues. One issue which has been less contentious than in England and Wales is that of police powers to 'stop and search'.² This is because in Scotland the basic police power under Common Law is that of searching a person who has been arrested. It does not include an entitlement to search persons to discover evidence to determine whether or not to apprehend them. However, there are situations in which a senior officer may give authorisation for search powers to be exercised within a specified area for a specified time. The problem in some parts of Scotland with knife crime has led to legislation in relation to the carrying of knives and other offensive weapons which allows this to happen (Criminal Justice and Public Order Act 1994; Knives Act 1997). This power has been relatively uncontroversial with the Scottish public, except for the criticism that it has not been completely successful in deterring young people from knife-carrying.

The powers relating to arrest also permit the taking of prints and impressions, such as fingerprints, and samples of blood, body fluid and body tissue (Criminal Procedure (Scotland) Act 1995). The importance of these has increased in recent times with the widespread use of DNA techniques. However, there has arisen some controversy around the rules governing the destruction and retention of DNA samples. At present such materials must be destroyed unless a conviction is obtained, although in prosecutions for sexual and violent offences they may be retained for three years. Some police sources have argued strongly for the investigative value of retaining all samples irrespective of whether or not criminal proceedings ensue because it might assist the speedier identification of offenders in subsequent cases. This has become part of a wider debate about the uses, and potential abuses, of DNA evidence and about the desirability or otherwise of a national DNA database for the entire population.

Another matter of great debate has been the impact of the Human Rights Act 1998 on Scottish policing. The European Convention on Human Rights (ECHR) was incorporated into Scots law slightly earlier than in the rest of the UK and there was much speculation about the challenges this would pose to the policing system. In 2005 a study by Pennycook concluded, however, that,

the signs so far are that neither the early fears of the pessimists, who predicted the creation of a compensation culture and a collapse of the criminal justice and legal systems, nor the optimistic hopes of those who foresaw a 'new culture of rights' with a plethora of revolutionary cases being upheld, appear to have been fulfilled. (Pennycook 2005: 245)

The Scottish Executive/Government's approach has been to use legislation to clarify compliance with the ECHR. The Police, Public Order and Criminal Justice (Scotland) Act 2006 is a good example of this. Among other things, the Act deals with police powers in relation to a number of rising issues.

- a. It provides *new powers* in relation to the carrying of offensive weapons or articles with a blade or point in a public place.
- b. It provides a basis in *criminal law* for the power to seize fireworks.
- c. It *extends* police powers to ask suspects not only for their name and address, but also their date and place of birth and nationality.
- d. It *clarifies* the power to take fingerprints and other samples to confirm identity.
- e. It introduces a *mandatory power* of drug testing and assessment in certain instances.

To date it would appear that this approach has allowed the Scottish police to adapt reasonably satisfactorily to the new legal framework involving the ECHR.

Constitutional context

It could be argued that the single most important change in Scotland in recent times has been the Scotland Act 1998, the legislation which brought about constitutional devolution. The creation of a Scottish Parliament with legislative powers has produced a completely new constitutional and political context north of the border, one which now focuses on nearby Holyrood instead of distant Westminster (see Hassan and Warhurst 2001; McFadden and Lazarowicz 2002). As a part of Scotland's domestic affairs, policing indisputably lies within the remit of a devolved parliament and Scottish Executive/Government.

The impact of Scottish devolution on policing has created what Donnelly and Scott (2003) have called 'a moving landscape'. The main features of this impact include the following.

- The existence of a Scottish Parliament in Edinburgh with 129 MSPs, some directly elected from constituencies and some elected by proportional representation from eight regional divisions ('List' MSPs), with oversight of policing in Scotland.
- A Scottish government which includes in the Cabinet a Justice Minister/Secretary³ who has responsibility for policing in Scotland.
- The Scottish Parliament works through a system of committees which not only scrutinise legislation, but can carry out investigations into any topic within their remit. For much of the period since 1999 there were two committees covering justice, including policing, because of the significant amount of criminal justice business to be dealt with. Since 2007 this has been reduced to one.
- The Justice Committees often invite the three police associations – the Association of Chief Police Officers in Scotland (ACPOS), the Association of Scottish Police Superintendents (ASPS) and the Scottish Police Federation –



to give evidence at their hearings and the attendance of police representatives at Holyrood is now quite common.

- In the spirit of transparency, of which the devolved settlement has made great play, the Scottish Executive/Government engages in many consultation exercises about a variety of topics which may be the subject of new legislation. Not only do many of these exercises deal with matters relevant to the police, but police organisations actively respond to many of them.
- The amount of legislation emanating from the Scottish Parliament which impinges upon policing has increased significantly, ranging from regulation of investigatory powers to vulnerable witnesses and from anti-social behaviour to a ban on fox-hunting with dogs.
- With law and order issues high on the list of concerns of voters at Scottish elections and of constituents in between times, matters relating to policing are of great concern to both constituency and list MSPs – not to mention MPs, MEPs and local councillors – who are not slow to raise such issues with their local forces.
- Similarly, the Executive/Government is anxious to be seen to tackle matters relating to crime and disorder which are of public interest and has taken a very ‘hands-on’ approach to policing matters, even although this may not involve legislation. For example, on several occasions First Ministers have called in chief constables to discuss law and order concerns and some have voiced open criticism of the police, for instance, in not making sufficient use of dispersal orders under the anti-social behaviour laws.

Two major events from the Scottish Parliament illustrate the impact which the devolution settlement has made. One is a piece of legislation, the Police, Public Order and Criminal Justice (Scotland) Act 2006. This is arguably the first parliamentary Act since 1967 to deal in a fundamental way with various aspects of the Scottish police. Its main provisions relate to the setting up of a new central service agency, the Scottish Police Services Authority. The SPSA was created to take under its wing various common support services, such as those providing training, criminal record information and IT development strategy. In addition the Act placed on a statutory basis the Scottish Crime and Drug Enforcement Agency (SCDEA) as a replacement for the former Scottish Drug Enforcement Agency (SDEA) and described its relationships to both the SPSA and Scottish Ministers. Some police powers were extended and others were clarified and a new football banning order was introduced for use against those engaging in violence or disorder in relation to a football match. The Act also created a new office of Police Complaints Commissioner for Scotland to act as an independent reviewer of complaints made by the public against the police, including those involving quality of service. In addition, the Act for the first time recognised the ACPOS as having a stated role within Scottish policing.

The second example comes from the committee rooms of Holyrood. Against a background of the 2007 Scottish Parliament elections of promises by the various parties to increase police numbers, the Justice Committee commenced an inquiry into police resources. While this inquiry took as its starting point



the political debate about how many more 'bobbies on the beat' the SNP Government was going to recruit, it very soon broadened out into a wider range of policing issues. The committee's final report (Justice Committee 2008) included recommendations on the role and responsibilities of the police, local police boards, surveys of the public conducted by the police, and the use of civilian staff and others in releasing sworn officers for frontline duties. It is probably the nearest that Scottish policing has come so far to a repeat of the 1960–62 Royal Commission, though on a much smaller scale. It is not entirely surprising that the Justice Committee recommended that the Scottish Government should set up an independent commission to review policing for the new century (Justice Committee 2008).

Devolution has led to a much closer set of linkages between policing and the politicians and reaction to this has been divided. Many strongly oppose any implication that policing plans and priorities should be subject to political scrutiny or interference. On the other hand, MSPs have shown a willingness to engage with some of the more difficult social problems in Scotland, such as prostitution, the effects of alcohol abuse and sectarianism, and have provided the political encouragement to the police to develop strategies for dealing with those kinds of problems.

Organisation and structure

There are eight police forces in Scotland based on the geographical areas covered by the former local government regions established in 1975 (see Mawby and Wright, this volume, Figure 10.1, p. 228). There are around 16,000 police officers in Scotland and a growing number of civilian police staff. The governance of the eight forces is carried out by six separate joint police boards, in which a group of local councils come together and two unitary ones, each covering a single local authority area.

The Scottish forces and the local government areas covered are shown in Table 8.1.

Civilianisation is now an important aspect of police organisation in Scotland. Approximately one-third of all police board employees are not police officers, but police staff. The expansion of such jobs has partly come by transferring tasks that do not have to be done by sworn police officers to support staff, partly reflecting the need for professional roles such as are to be found in any business or public service, but also, and more controversially, by the growth of key support roles in connection with operational policing and the need for non-traditional skills in crime prevention and reduction. Whereas in England and Wales this requirement has been met by the introduction of Police Community Support Officers, the Scottish Executive/Government has turned its face firmly against going down the same road, preferring instead to pursue policies of increasing the number of police officers and promoting further civilianisation, including the use of retired police officers in new roles (Justice Committee 2008).

The increasing role of local government in community safety in Scotland is epitomised in the creation of Community Wardens. Wardens were introduced

Table 8.1 Scottish police forces

<i>Force</i>	<i>Council areas</i>	<i>Headquarters</i>	<i>Number of police officers (approx.)</i>
Central Scotland Police	Clackmannanshire Falkirk Stirling	Stirling	850
Dumfries & Galloway Constabulary	Dumfries and Galloway	Dumfries	500
Fife Constabulary	Fife	Glenrothes	1,020
Grampian Police	Aberdeen City Aberdeenshire Moray	Aberdeen	1,370
Lothian & Borders Police	City of Edinburgh East Lothian Midlothian Scottish Borders West Lothian	Edinburgh	2,820
Northern Constabulary	Highland Orkney Shetland Western Isles	Inverness	700
Strathclyde Police	Argyll & Bute City of Glasgow East Ayrshire East Dunbartonshire East Renfrewshire Inverclyde North Ayrshire North Lanarkshire Renfrewshire South Ayrshire South Lanarkshire West Dunbartonshire	Glasgow	7,770
Tayside Police	Angus Dundee City Perth & Kinross	Dundee	1,160

in 2003 and can now be found in all 32 local authority areas. Wardens do not possess police powers, but they do share common objectives and work closely together. Following tradition in Scotland, the effectiveness of Wardens comes from their regular interface with communities, local partnership groups and public agencies rather than having police powers. Unlike Police Community Support Officers (PCSOs) in England and Wales they are not part of a national

policing strategy of Neighbourhood Policing and their funding is not now 'ring-fenced', so there is no guarantee as to their future funding. However, recent research has shown that Wardens are a success in their communities; that additional powers for Wardens remain controversial; that police, public and councils are supportive of Wardens; and that Wardens are a key link between communities and partner agencies (Donnelly 2007; Scottish Executive 2007). Community Wardens are a response to the constant need for more visible patrolling and enforcement to tackle anti-social behaviour, dog fouling, litter, environmental and noise issues. In the past the police were rarely in a position to address such community problems due to other pressures, 'but as a result of the presence of Community Wardens there is now a proactive group with a specific remit to tackle these issues' (Donnelly 2008).

Central police services

On 1 April 2007 the Scottish Executive/Government launched the Scottish Police Services Authority (SPSA) which provides technical, scientific and training support services to the country's territorial police forces. This brings together three previously separate common police services: the Scottish Criminal Record Office, the Scottish Police Information Strategy and the Scottish Police College at Tulliallan. The three forensic science laboratories in Scotland have also been brought together to form a single Scottish Forensic Service, which is also part of SPSA. Under the Police, Public Order and Criminal Justice (Scotland) Act 2006, SPSA 'provides' these services and also 'maintains' the Scottish Crime and Drug Enforcement Agency (SCDEA). Formed in 2001 as the Scottish Drug Enforcement Agency to deal primarily with drug crime, SCDEA now has a remit which focuses on serious and organised crime, high-tech crime and money laundering, and is a major point of contact between Scottish and European policing (Scott 2008). The SPSA is governed by a Board appointed by Scottish Ministers which mirrors the tripartite system. It is chaired by an independent convener with members drawn from police board conveners, chief constables and independent appointees while operational management is in the hands of a chief executive.

With around 1,300 employees and a budget of £83 million in 2007/2008, the SPSA is a potentially powerful new presence in Scottish policing, especially as the founding legislation allows for other services to be added to the Authority in future. Her Majesty's Chief Inspector of Constabulary for Scotland's annual report for 2006/7 argued that, while most policing in Scotland should be locally based and accountable, there was a small number of police responsibilities for which a 'strong and competent national level of capability is required, so that people in every part of Scotland receive the same level of professional service' (HMCICS 2007). These could include counter-terrorism, specialist firearms support, motorway policing and air support, and the proposal was that the SPSA could be the co-ordinating body for such tasks. However, such a move has been interpreted in some quarters as a 'back door' approach to the merging of police forces and as further fuelling the debate about a single national police service for Scotland.

The debate on structures

The 1967 Act laid out clearly the tripartite structure of police governance in terms of central government in the form of the Secretary of State for Scotland and the Scottish Office, local government (i.e. police authorities composed of elected councillors from local authorities within force areas) and chief constables responsible for the day-to-day operational decisions.

The re-organisation of local government in Scotland brought about by the Local Government (Scotland) Act 1972 dispensed with the old system of town and county councils and replaced it with a two-tier system of regions and districts. In this re-organisation policing became a function of the eight regional councils, creating a small number of larger forces out of the many smaller ones. However, the clear relationship between forces and local authorities remained, with two exceptions – Northern and Lothian & Borders – where joint police boards had to be set up.

In the Conservative Government's police reforms of the 1990s, Scotland emerged relatively unscathed. Although the remit of the Sheehy Inquiry covered Scotland and Northern Ireland as well as England and Wales, the legislation which emerged from it – the 1994 Police and Magistrates' Courts Act (see Newburn, this volume) – applied only in small part to Scotland. This was largely because of the strong defence of the existing constitutional arrangements mounted by the police staff associations, especially ACPOS. There was no direct change in the Scottish tripartite arrangements, although changes elsewhere often did have indirect effects on Scottish policing.

A further re-organisation of Scottish local government took place in 1996 and this had greater effects on policing. The existing regions and districts were replaced by a unitary system of 32 councils, some of which are quite small in size, population and financial base. It was decided, however, to leave the existing police force structure intact. Nonetheless, the fit between the police structures and the local government structures became fragmented, with all the police boards operating on a joint basis, except Dumfries & Galloway and Fife.

This structural arrangement has had a number of consequences for the working of the tripartite system, including attempts to align internal police structures to local council areas, more complex relationships between chief constables and their police boards, some uncertainties over local police budgets and, arguably, a more fragmented approach to local accountability for policing. With a Scottish Parliament and Scottish Ministers in Edinburgh now in place, the role of local government itself has been put in question. The traditional view of Scottish policing as a local service, locally delivered and locally accountable has been increasingly challenged by arguments that go beyond force mergers and look to a single force for the whole country (Donnelly and Scott 2006). These arguments are based to some extent on creating greater efficiencies and consistency of service, and on recognising the expanding policing agenda to which all eight forces have to respond, but there is also already much common infrastructure which Scottish forces share, ranging from mutual aid arrangements through access to other forces' specialist resources to national policies and strategies. Inevitably, the existence of the SPSA is going to push structures even more in a unified national direction.

Approaches to policing in Scotland

Strategies employed by the police in Scotland have reflected both changes in society and changes that have occurred in society's views about policing. Many of the approaches have come from outside Scotland and have been adopted on both sides of the border. However, that has not prevented particular nuances and perspectives from being developed by Scottish police forces in their implementation.

Community policing

In view of the historical links between police and public in Scotland, the heart of Scottish policing has always been community policing. Evidence of formalised community policing in operation emerged as far back as 1957 in Greenock, where chief constable David Gray posted police officers to an area with the remit of supporting residents and statutory agencies in a wide range of structural, environmental and social improvements. Gray's philosophy was that the maintenance of order and the prevention of crime could not be dealt with in isolation, or by one agency, but rather within the wider spectrum of social issues which affected a community and its people. There is no doubt this was the embryo of what is now known as 'community policing' in Scotland (Schaffer 1980).

Later, as HM Chief Inspector of Constabulary for Scotland (HMCICS), Gray continued to propound this philosophy and to warn against over-reliance on modern communications and science: 'More and more one finds the Police officer on the beat being trained to see himself not just as a law enforcement officer, but as an individual who can exercise a great deal of influence for the general good of the community' (HMCICS 1970: 3). Gray's view that the 'policeman' (*sic*) was a member of the community, appointed by the community to share the common task of preserving peace and good order, is impressive, not least because it was developed some time before John Alderson's experiment in Devon and Cornwall and, more specifically, 25 years prior to the recommendations of the Scarman Report in 1981.

Scottish community policing has continued to focus on developing links between the police and local communities, especially in urban areas where relationships can be tenuous and where the ability of the police to fulfil its functions effectively are more difficult, particularly where economic and social deprivation is prevalent. In the 1970s Strathclyde Police set up 'police project areas', with police officers called 'project officers'. These project officers were seen in a leadership role, generating community spirit and servicing self-help groups within communities. They were also responsible for stimulating inter-agency working and for paying particular attention to the needs of young people (Strathclyde Police 1975).

In the early 1980s 'project officers' were replaced by 'community police officers' and a study by Shanks (1980) described the projects as 'situational policing' in selected urban areas, with high crime levels and above average incidence of police problems and anti-social behaviour. He believed that whenever the police made a special effort in such an area it did seem to make

a difference. It also acted as a catalyst in encouraging other agencies to get involved and gave some hope to communities that progress was possible.

By the 1990s community policing was well established across Scotland, fully supported by all the police forces who deployed significant numbers of officers to it – 700 in Strathclyde alone by 1996 – in both urban and rural areas. The concept underpinned many of the subsequent strategies for policing introduced into Scotland, including the development of corporate and co-ordinated approaches by police, local authorities and voluntary agencies to the policing of problem neighbourhoods, for example as expressed in contemporary community planning partnerships.

The key individual in this style of policing has been, and still remains, the foot patrol officer with his/her regular interface with the community. Nonetheless, for Scottish forces the maintenance of traditional community policing poses considerable difficulties, torn between the claims on police resources from the ever-widening policing agenda and the apparently insatiable public demand for high visibility police presence. As a result there is a high rate of abstraction of patrol officers to other duties and there has been a growing critical edge to public views on policing in Scotland, especially in the media. The rise in England and Wales of 'reassurance policing' (Crawford 2007 and this volume) as an approach to dealing with a rising fear of crime and increasing anti-social behaviour has been slower to develop in Scotland. It is only in 2008 that ACPOS published its eight-stage public reassurance strategy as an operational focus for visibility, partnership working and tackling community problems (ACPOS 2008a).

Strategic approaches to policing communities

In the 1980s the Conservative Government's emphasis on 'value for money' and the need for effective and efficient use of resources was not lost on policing in Scotland. It was also the starting-point for a more strategic view of policing and police management which has led to 'significant improvements in strategic thinking and planning in the Scottish police service' (Vine 2005: 95). This kind of thinking has found expression in a number of methodologies already well established in business and in a number of new applications to policing.

- *Policing by Objectives*. The idea of setting objectives that had to be evaluated in terms of resource costs and likely public benefit was quite new to Scottish police forces, although already a well-established technique in other organisations. The use of Management By Objectives, with its emphases on setting goals and priorities, the planning and delivery of activities and the measurement of performance, firmly placed on the agenda the idea of 'managing' policing as opposed to the traditional 'command' approach held by most senior police officers.
- *New Public Sector Management*. Policing by objectives fitted very closely with the market-oriented model of public service reform promoted by the Thatcher government and lay at the heart of the introduction of 'New Public Sector Management' (NPSM) into policing. From the perspective of the

Scottish public, it probably emphasised that the police had to be more selective in what they attended to and signalled a further step in the move away from universal, reactive policing.

- *National Intelligence Model*. The National Intelligence Model (NIM) was launched in 2000 as a key component of the Government's police reform agenda in England and Wales (see Maguire, this volume). As a model for conducting the business of policing, it builds upon a number of earlier approaches to policing, especially problem-solving policing and multi-agency approaches. It lies at the heart of intelligence-led policing by seeking to provide the basis for strategic direction, tactical resourcing decisions and the management of risk. Although not mandatory, NIM has been adopted by all forces in Scotland to a greater or lesser extent and a Scottish strategic tasking and co-ordination group has produced a national analysis of crime and disorder priorities at various levels to which forces are expected to adhere (ACPOS 2008b).

While the tendency in England and Wales has been to promote police reform through legislation, in Scotland the trend since devolution has been for developments originating elsewhere to be integrated into Scottish policing through voluntary initiative and encouragement. There has probably been only one major initiative in recent times which has actually originated within Scotland.

- *The Spotlight Initiative*. Strathclyde Police's *Spotlight* Initiative was launched in 1996. Although specifically *not* describing itself as an example of 'zero tolerance' policing as employed by the New York Police Department under William Bratton, it did share some of the characteristics of that model, focusing on violent crime, minor crimes and maximum presence of officers on the beat. *Spotlight* built on a previous approach of high profile operations targeted at specific crime problems, such as Operation Blade (against knife carrying), Operation Turnkey (against housebreaking) and Operation Eagle (against drug dealers). Despite the success of these in reducing crime rates, fear of crime continued to rise. The chief constable who introduced *Spotlight* explained the thinking thus: 'The time was right for Strathclyde Police to embark on a longer-term strategy which would embrace the principles of partnership with the community . . . and involve every single officer and member of support staff' (Orr 1997: 112).

Based on major public opinion surveys, consultation exercises with local authorities, and backed by an unprecedented television and press public information campaign, *Spotlight* became an umbrella term for a large number of specific campaigns throughout Strathclyde's 15 divisions focused on a variety of concerns. These included carrying of weapons, underage drinking, street robberies, truancy, vandalism, and litter and public nuisance. Many of these were 'broken windows' activities rather than breaches of the criminal law. One of the areas to feature highly in the latter stages of the *Spotlight* Initiative was domestic violence, which had hardly featured on the radar of policing until then. Similarly, the Child Safety Initiative, or



'curfew', piloted in Hamilton, South Lanarkshire, was not, strictly speaking, about crimes by young people, but was about the prevention of anti-social activities and police support for parents in exercising their responsibilities. This trend was to continue with anti-social behaviour becoming a significant issue in Scotland and the subject of legislation by the Scottish Parliament in 2004.

The public impact of *Spotlight* was considerable. Every force in Scotland, and beyond, began to replicate such campaigns against specific problems in their own force areas, as well as acting jointly to deal with issues on a national basis. Contrary to its initial philosophy, however, it did not become a long-term solution to policing problems. Intensive in its demands on officer resources and continually raising public expectations to ever higher levels, it became almost impossible to sustain the *Spotlight* Initiative as time passed. The Hamilton 'curfew', for instance, was never repeated beyond its pilot period, despite public and political demands for it to be copied in other areas, huge media interest, and its incorporation into English legislation.

Governance and accountability

Scotland shares with the rest of Britain a tripartite structure of police governance and accountability, although the precise detail of how the tripartite system operates is different in important respects (for England and Wales see Jones, this volume). Under the Police (Scotland) Act 1967 responsibility for the police service is shared by the tripartite partnership of the chief constable of each force, Scottish Ministers and the police authority in the form of the local police board.

Scottish Ministers are responsible for policing policy and have a variety of powers to enable them to discharge their responsibilities for the Scottish police service. Ministers determine funding levels for the police authorities; approve appointments of chief officers; can amalgamate police forces; request reports from chief constables; and agree force establishments and police numbers. While legislation in England and Wales provides the Home Secretary with considerable opportunities to be proactive in promoting efficiency and effectiveness, Justice Ministers/Secretaries – and civil servants – in Scotland have preferred to use political influence and policy interventions to promote changes in policing, for instance in setting national policing targets.

The statutory responsibility for inspecting the eight Scottish forces and other police services falls to HM Chief Inspector of Constabulary for Scotland (HMCICS). Of increasing significance is HMCICS's role as chief professional adviser to Scottish Ministers, which includes advice on chief constable appointments. Thematic inspections have become an important vehicle for looking at topics across forces and often these are concerned with issues which are defined by their importance to the Executive/Government as much as for policing, in areas such as race relations and workforce modernisation. The current HMCICS has emphasised the importance of scrutinising the areas of policing which may need to be delivered differently in the future and seeking to identify good practice and potential weaknesses much earlier than in the past (Tomkins 2007).



Police boards, unlike England and Wales, have memberships made up solely of elected councillors. A key function of these boards is the selection and appointment of senior police officers – the chief constable, deputy chief constable and assistant chief constable(s). They also have the power, in the interests of efficiency and with the approval of Scottish Ministers, to require a chief police officer to resign or retire, or to dismiss him/her – though this has hardly been used in recent times. The police board controls the force budget and is responsible for providing the chief constable with the resources necessary to police the area. Under the Local Government in Scotland Act 2003 police boards have a duty to secure Best Value in terms of the maintenance of an efficient and effective police force and to work with the chief constable in pursuing continuous improvement in service performance. The legislation also requires local authorities to maintain a process of Community Planning involving key service providers, including the police, to ensure people and communities are involved in decisions made on the public services which affect them most.

Police boards have an important part to play in securing local accountability of police forces, but criticisms have been raised about their capacity to effectively carry out these responsibilities (Donnelly and Scott 2002). Joint boards, in particular, are formed by nominees from the constituent councils who may or may not have an interest in policing. Certainly councillors will not have been elected with a view to their representing their area on the police board, but because of a whole range of issues across the spectrum of local government. There are doubts over the extent to which police boards actually have any real influence over local policing, given that their powers are largely advisory in relation to the authority of the chief constable. Nor do police boards have the resources to properly carry out their tasks and are over-dependent on information from police sources because they do not have sufficient staff to monitor their forces independently.

Constitutionally, a chief constable has responsibility for the 'direction' of a police force (Police (Scotland) Act 1967) and full operational discretion for the delivery of policing in the force area. The requirement for accountability to the public is a core principle of democratic theory and public sector management, especially in requiring the police to justify their operational decisions after they have been taken. The distinctive aspect of police accountability, however, is that the chief constable's discretion is enshrined in law in the doctrine of 'constabulary independence'. Traditionally, chief constables in Scotland have been regarded as being in a very powerful, almost unchallengeable, position.

There are signs that this situation may be shifting. The introduction of fixed-term appointments (Police and Magistrates' Courts Act 1994) at least raises the possibility of a chief's operational independence being compromised. Such fixed-terms are usually for five or seven years and there can be a temptation to pursue policies that are popular rather than effective in order to ensure re-appointment. The increased role of ACPOS in corporate policy-making may be at the expense of individual chief constable's independence of action as there is pressure for the eight forces to co-operate in common activities and common campaigns. The increasing co-operation with other, non-police, agencies may constrain the police role and certainly extends the

accountability of the police to their other partners. The 1994 Act also gave chief constables 'direction and control' over civilian employees. This placed them in charge of a wider range of employees and confirmed their role as 'chief executives' of large work organisations with the consequent broadening of management perspective beyond that required of senior police officers alone.

Although the duties and powers of the three tripartite elements are separately quite clear, the key to the working of police accountability in Scotland comes at the points where these elements interact with each other. It is here that the lines of accountability become less transparent and the extent to which consent has been granted and by whom becomes a grey area. For example, the appointments system for chief officers is not wholly transparent on the roles of unelected persons such as civil servants and HMCICS, although in principle the parts played by local police boards and central government Ministers appears clear enough (Scott and Wilkie 2001).

The 'new' accountabilities

The arrival of the twenty-first century has seen the rise of newer forms of accountability in Scottish policing which transcend the boundaries of the traditional tripartite system and which are based much more on quantitative approaches.

The first of these is review and audit. There are three main players in the world of police force and police authority audit in Scotland. First, the Auditor General secures the audit of the Scottish Executive/Government and most other public bodies, except local authorities, with the main role of ensuring value for money from public spending bodies. Secondly, the Accounts Commission for Scotland investigates whether local authorities spend public money appropriately and efficiently, including police boards. Thirdly, Audit Scotland carries out audits, *inter alia*, on the police service on behalf of the Accounts Commission. Audit Scotland publishes the annual performance indicators (PIs) for each force, including crimes cleared up, racially motivated incidents, drug offences and road traffic casualties. Since 1999 the benchmark for the use of PIs has been Best Value, a clear standard for both cost and quality of service. On the one hand, these auditing bodies have voiced concerns over the lack of robust accountabilities of the partners in the existing tripartite system. This was supported by the Scottish Parliament's Justice Committee inquiry which recommended a strengthening of the existing tripartite arrangements (Justice Committee 2008). On the other, they have introduced a new network of monitoring, auditing and scrutiny into the Scottish police service which has become a routine part of police management, emphasising the police role as a major public service financed primarily from the public purse.

Secondly, the management of performance has become a major theme for the Scottish police service. In 2001 the Justice Department began setting national targets for police forces in areas such as housebreaking, drugs, vehicle crime and serious violent crime and these were reported on by HM Inspectorate (HMCICS 2004). The relatively low-key approach to target-setting could not hide the move, spearheaded by HMICS, towards the development

of performance management in Scottish policing. By 2007 this had blossomed into a Scottish Policing Performance Framework, followed a year later by a more fully developed version (ACPOS/Scottish Government 2008).

The Framework seeks to encapsulate the comprehensive nature of police activities through four areas: service response; public reassurance and community safety; criminal justice and tackling crime; and sound governance and efficiency. Each area identifies high level objectives, a set of performance indicators, and some contextual information. The performance model is a significant achievement as it brings together, for the first time in Scotland, a collection of comprehensive performance indicators for policing – 45 in all – which will allow consistent comparison across time and forces to be made. Of course, the Framework raises issues as well as provides for them: for instance, the link between funding and a force's ability to achieve outcomes; the contribution of the expanding private and public sectors to community safety as separate from the police input; and the clear identification of what makes good practice to be replicated and poor practice to be avoided.

While the Framework is intended to facilitate the measurement and management of police performance in Scotland and to provide a robust basis for performance improvement, great emphasis is laid on the opportunities it provides for improved police accountability at local and national levels. The intention is that by providing consistent and transparent information about performance, which will be available on the Internet, both police boards and the general public will be able to better understand the quality of service provided by the police.

Police complaints

In Scotland chief constables deal with complaints against the police in their own areas, procurator fiscals oversee the investigation of complaints of a criminal nature, and police boards have a statutory duty to keep themselves informed of how chief constables deal with complaints. A recent addition to the 'police complaints framework' is the Police Complaints Commissioner for Scotland (PCCS) established in 2007 (Police, Public Order and Criminal Justice (Scotland) Act 2006) with the primary role of considering and reviewing the way police authorities, police forces and policing agencies handle non-criminal complaints from the public. Pressure for such a post came partly from continuing criticism about the police investigating complaints against themselves, partly because of the growth of independent bodies to investigate police complaints in other parts of the UK.

The PCCS is appointed by the Scottish Ministers and is restricted to reviewing how complaints have been handled by police forces and to ensuring correct procedures are in place. The PCCS can also direct the police to reconsider a complaint. However, debate at the time when the PCCS was created centred on the fact that the proposals would retain the existing system with little change. Police forces remain responsible for investigating complaints from the public against individual officers and fiscals will continue to invite officers from outside forces to undertake criminal investigations. What the PCCS is concerned with is primarily taking over the oversight of

non-criminal complaints, previously the domain of HMICS, and adding a stronger element of focus on quality of service delivery. Whilst it is too early to come to any judgement on the new PCCS system, as it stands Scotland is one of the few developed countries that does not appear to have a fully independent police complaints system.

Conclusions

The motto of the Scottish police service is *Semper Vigilo*, implying a constant vigilance for the safety of Scottish society and the people of Scotland. The significant changes that have taken place in that society, especially in the past half-century, have provided a constant challenge to Scottish policing. That challenge has been met by developing an approach to policing which has been strongly influenced by several strands.

The first strand is that, whilst sharing with other parts of the UK certain fundamental principles and structures, such as policing by consent and the tripartite system, policing in Scotland draws on certain legal and historical traditions which differentiate it significantly. The distinctiveness of Scots law and legal procedure is obvious. The historical tradition of community policing is less so. Probably this was because it was not consciously formulated as a police strategy, but rather emerged from a common understanding of policing as a public good. As community policing became more systematically organised, the Scottish example tended to be overshadowed by the more conspicuous advocacy of the idea in bigger nations. Nonetheless, that closeness to the community can be identified as a defining feature of Scottish policing, even in an age when the concept perhaps requires re-definition.

Second, there are many instances where policing in Scotland has developed along much the same lines as policing in Britain, though usually at one step removed. This is not unexpected in that Scotland has experienced many of the same social and economic changes and problems as England and has been exposed to many of the same ideas about how policing should react to those changes and problems. For example, much of the police reform legislation for England and Wales has not applied to Scotland, but the content of such legislation has often been found in Scottish policing at a later date. Similarly, the move towards more strategic forms of policing developed in various places has been picked up on and eventually developed in Scotland as well.

The third strand in shaping modern policing in Scotland is undoubtedly Scottish devolution. The geographical and political proximity of the Scottish Parliament and Scottish Executive/Government in Edinburgh has had a considerable impact on policing since 1999. The devolved institutions have been instrumental in bringing about many changes. Some of these emanate from the Parliament, through legislation, debates and reports, some have been directed by the Executive/Government in the form of policies and joint working groups. However, some have come from police organisations themselves in response simply to the interest and expectations generated by Holyrood. Policing is no longer a political backwater as it was before devolution. In the 'new' politics of Scotland it is a core issue for voters, and

hence politicians and police leaders are expected to demonstrate their commitment by responding to the demands made of them.

Policing in Scotland has developed along basically eclectic lines to deal with the changes it has faced. That process of change is continuing and how exactly these distinctive strands will contribute in the future remains uncertain. What is certain is that if Scottish policing is going to operate successfully in the twenty-first century it must maintain that constant vigilance which has served it well in the past.

Notes

- 1 The Scotland Act 1998 uses the collective term 'Scottish Ministers' to refer to those holding office in Scottish government. The title 'Scottish Executive' was used by the Labour/Liberal Democrat coalition administrations until 2007 when the new Scottish National Party administration changed the name to 'Scottish Government'.
- 2 Scottish Ministers are considering creating a separate Scottish Transport Police as opposed to the present British Transport Police (BTP) in Scotland. This is in the wake of what is considered to be the BTP's over-zealous use of stop and search powers under section 44 of the UK's Terrorism Act 2000, which is felt to be damaging to police-public relations.
- 3 In line with the change from Scottish Executive to Scottish Government, the SNP administration has adopted the title of Cabinet Secretary for Justice in place of Justice Minister.

Selected further reading

Policing in Scotland does not have an extensive academic literature associated with it, although that is beginning to change as more research is carried out, for instance through the new Scottish Institute for Policing Research (see www.sipr.ac.uk). The most recent and up-to-date text is Donnelly and Scott's *Policing Scotland* (2005) which includes chapters on key areas such as history, organisation, community policing, police management and accountability and takes full account of the impact of Scottish devolution on policing. For a pre-devolution analysis, Walker's *Policing in a Changing Constitutional Order* (2000) includes a chapter (ch. 5) on Scotland. A sound historical perspective on Scottish policing is now provided by Barrie (2008) in *Police in the Age of Improvement: the Origins and Development of Policing in Scotland*. The contemporary position on the policing of Scotland's communities is provided in Donnelly's *Municipal Policing in Scotland* (2008). Accountability issues are scrutinised in Donnelly and Scott's articles in *The Police Journal* (2002) and changes in the police complaints system by Donnelly (2006) at www.cjscotland.org.uk/pdfs/policecomplaints.pdf. A collection of articles on a variety of aspects of policing in Scotland are to be found in the Scottish Centre for Police Studies' occasional paper *Contemporary Issues in Scottish Policing* (2005).

Much useful information about the police in Scotland can be gleaned from official and statutory publications, such as the *Annual Reports* from individual forces or Scottish Executive/Government documents. Amongst the most interesting recent publications of this type is the Justice Committee's report on *Effective Use of Police Resources* (2008) and the written submissions of evidence to that investigation

(www.scottish.Parliament.uk/S3/committees/justice/inquiries/policeRes.pdf), the thematic reports carried out by HM Inspectorate of Constabulary for Scotland and Midwinter's report for the Scottish Police Federation on *Police Funding: A Review of Trends in the Post-Devolution Period* (2007).

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