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strengthen
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democracy
worldwide**

Democr at ic
OVERSIGHT OF
POLICE FORCES

*Mechanisms for Accountability
and Community Policing*



Rule of Law Series Paper

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CHAPTER ONE

Introduction

One of the most important features of the modern democratic state is the tacit agreement between the government and citizens: in exchange for surrendering some of their personal liberty to allow government to develop a binding legal framework for society, citizens are given protection by the government. This public protection is provided by police, who maintain order and enforce laws. Police in democratic countries are generally civilians, even if the organization of police institutions bears many similarities to military forces. Most developed democracies have limited the authority of their militaries to responsibility for protecting the state from foreign invasion and/or actions in a very limited range of internal crises — there is *no* role for the military in policing a democracy.

Historically, many governments or rulers in the process of establishing power over territory have relied on military forces to maintain borders and establish stability. Private forces acting in a mercenary capacity and not directly answerable to those governments have often assisted in this process of creating order, both internal and external. As internal threats to government stability were eliminated or reduced, democratic governments set strict controls on military forces and

Most developed democracies have limited the authority of their militaries to protecting the state from foreign invasion or a limited range of internal crises - there is no role for the military in policing a democracy.

placed operations under civilian control. This measure was a safeguard against the overthrow of civilian government by a military force. It limited the chances that the will of the people, expressed through democratic elections, would be subverted.

The Western Hemisphere's first public police force was established in Great Britain in 1822. The Metropolitan Police Force of London replaced various privately controlled groups that did not answer to elected officials but instead carried out orders from rich landowners. The creation of this force, authorized by government to enforce laws without regard to the social class of the law-breaker, effectively defined policing as a public rather than a private service and was a great step towards providing better security for citizens and establishing state sovereignty in that country.

In recent years, both newly established and older democracies have been giving more attention to best methods for assuring proper conduct and good performance of police forces. The development of a police force, however, is not necessarily an indicator of a democratic government's commitment

Governments that do not control their police forces increase the likelihood of human rights abuses by police against civilians

to society. Police have been central actors in some of the worst crimes against humanity committed during the last century. Without the cooperation of police, it is unlikely that the Nazi, Stalinist or Khmer Rouge regimes would have succeeded to the extent they did in organizing the mass killing of civilians. On a smaller scale, governments that do not control their police forces increase the likelihood of human rights abuses by police against civilians. Thus, citizens must be diligent and active in creating instruments of accountability.

This handbook is a guide for those concerned with what happens *after* democratization takes place and police realize that a new type of government is in power. To whom will police answer? What form will policing take? Some states and societies have taken years to properly answer these questions.

The answer to the first question (to whom will police answer?) has to do with police accountability. The agents or mechanisms that demand accountability can be said to provide police oversight, which is how police are controlled on an organizational and individual basis and made to answer for their actions. The second answer (what form will policing take?) concerns police performance and is related to how efficiently police perform their duties.

The first part of the handbook begins by exploring the different ways in which some democracies have succeeded in establishing mechanisms of police accountability. Legislative and executive bodies in Sweden, Poland, Canada and the Netherlands have all developed ways to oversee police and thus hold them accountable for their actions. Case studies of Sweden and Poland will compare and contrast the different roles of ombudsmen in police oversight. Two case studies from Canada will examine an oversight mechanism developed by Parliament to address a specific problem, as well as the role of an appointed Police Complaints Commissioner. Another case study from the Netherlands will look into how Parliament has decentralized political authority over the police and delegated responsibility for that oversight to local municipalities.

The next section explores a recent trend in oversight: civilian review of police. The case studies are drawn from British Columbia (Canada), the Philippines, San Francisco (United States) and São Paulo (Brazil). The four principal styles of civilian review exemplified by these cases have strengths and weaknesses that influence the degree to which police are held accountable.

Citizen review, however, is not necessarily the most powerful way that the public can be assured that police respect the limits of their authority. An independent media, another characteristic of a democracy, serves as an advocate for police oversight by bringing police practices to the public's attention. Although the media lacks authority over the police, its neutrality gives it credibility. News stories that highlight police corruption or illegal activities, like those in Mozambique during its transition to democracy, often speed up action by

other government bodies or cause citizens to organize and demand that police answer for their actions.

The final section of the first part looks at organizational development of police forces. Police accountability is strengthened by ensuring international democratic standards are met. The main organizational areas that require attention are police recruitment, discipline, training, and policy-making, as demonstrated by case studies from Northern Ireland, Poland, Canada, and Sweden.

Lest the reader believe that successful development of oversight mechanisms has come easily to any of the societies that have created or managed them, this handbook examines challenges to both accountability and superior performance. These challenges include, among others: 1) competition between branches of government for power; 2) resistance by police to any perceived intrusion on their power; 3) the perception by policymakers that crime will be reduced only by allowing police a free hand; 4) the belief by government officials, the public, and the police that professional training and better equipment will bring a police force up to democratic standards.

The second part of the handbook addresses community policing as a comprehensive effort by policymakers and police to change how police form strategies and work in a manner that respects basic democratic principles. Community policing, which

One way to determine the quality of democracy in a country is to examine how accountable police are to the government and the public.

demands collaboration between police and citizens, is not a mechanism of accountability, but rather a demonstration of accountability. When community policing succeeds at ameliorating the difficult social problems that most often cause high crime rates or violence in society, police prove that they are a part of society as much as an agency of government.

In summary, this handbook is about democratic policing. It is intended to help policymakers and others understand the various methods and institutional contributions necessary for linking the work of police with the role of government and interests of society.

Advanced democracies have one or more of these mechanisms that constrain police action. One way to determine the quality of a country's democracy is to examine how accountable police are to the government and the public. In addition to being subject to oversight, the police are part of a justice system that includes courts and prisons. While invested with great powers, police should neither be above government, public, or media scrutiny, nor should the institution of police be more powerful than the rest of the justice system of which they are a part.

CHAPTER TWO

Ensuring Accountability — How Democracies Control Police

MECHANISMS FOR ACCOUNTABILITY

Police accountability requires the use of numerous accountability instruments, including: political, legal, social, and professional. Success depends on linking them in one system of oversight. In the following paragraphs, each of these spheres will be explored to prepare the reader for the in-depth discussion of the agents and mechanisms of accountability that follows. Consideration of the role of the media will conclude this chapter.

Political Accountability

Political accountability is not the same as political control. Police forces should not be controlled by political parties, individuals, or groups that might use police to undermine opposing political, social, or economic interests. While police must give account to political officials, this reporting occurs because a democratic government is ultimately answerable to citizens.

Generally, a democratic police force is an independent institution that manages daily affairs without interference from outsiders - that is, other than their reporting responsibility and the possibility of

corrective actions by outside agents when police fail in their duties. A police force must still answer for its administration, operations and how closely its activities conform to the regulations imposed by legislatures or other oversight bodies.

Generally, a democratic police force is an independent institution that manages daily affairs without interference from outsiders

The way in which political oversight operates varies greatly among democracies. To some extent, the form depends on how a political system is organized. Examples include: an agency's responsibility to report on activities through documentation (e.g. police reports); statements or press conferences intended for keeping the public informed; or corrective measures by outside agents when police fail in their duties.

Legal Accountability

Written laws give legitimacy to the existence of democratic police forces. The authority of police comes not only from the executive branch of government, but also from key documents such as

national constitutions or statutes. The importance of such laws extends beyond the establishment of a police force to the boundaries that determine the allowable activities of police. Administrative laws that regulate police policies and procedures are one such boundary.

Other boundaries that regulate police action are criminal laws and courts. If a police officer steals a man's cow, for example, that officer must be treated like a citizen and stand trial in a tribunal. Furthermore, neutral tribunals review cases brought by police or public prosecutors against citizens. Sometimes a new law is created. For instance, a judge might determine that police did not have a lawful reason to stop and search a citizen, and rule that police must have a valid reason for such actions in the future.

New laws are often created that limit or permit specific types of conduct by police as judges review police actions and demand change or reinforce the status quo. Tribunals play an important role in controlling police in many democracies. Unlike statutes that are created by legislative or administrative bodies, however, such laws usually only evolve over many years and in response to specific problems.

Judicial tribunals are not the only form of legal review to which police may be subjected. In many countries, local and national authorities have established other bodies, such as offices of ombudsmen or oversight boards. These bodies are authorized by statute to critique the policies and operations of domestic law enforcement agencies and, in some instances, to propose modifications and pass judgment on police operations.

Social Accountability

Each of the institutional mechanisms ensuring legal accountability constitute a form of social control, as those who carry out the oversight are citizen peers of the police. Police agencies work in social environments characterized by many different beliefs, values, views, and priorities. The presence or absence of ethnic or religious minorities within the local population adds further complexity to that environment.

Citizens of democratic states have gradually realized that it is their right to review how governments rule.

Citizens of democratic states have gradually realized that it is their right to review how governments rule. They have an interest in assuring that police use appropriate levels of force and maintain certain minimum performance standards through various instruments. This does not mean that police are prevented from performing their duties.

On many occasions, greater interest by the public in exerting some control over police has been viewed skeptically by police institutions, though in other instances it has been welcomed. The establishment of offices where citizens may complain about the policies or conduct of police exemplifies one way in which citizens exercise some social control over police.

Debating how much authority police should have and how that authority will be used is an on-going process, even in very developed democracies. For-

tunately, many democratic governments have recognized the interest of citizens in how police operate; this has allowed for greater public participation in the oversight process.

Professional Accountability

The final perspective that is necessary for establishing effective police oversight concerns the institution of police itself. Mechanisms of professional accountability are those that assure that police behave in accordance with strict standards. Citizens have a role in setting those standards.

Rules, regulations, and norms (which can be defined as regular behavior by a group of people) are transmitted and reinforced within the police organization through several channels: the command structure, recruit training, organizational standards related to conduct, and ongoing training and policies. Each of these areas is essential to understanding police culture and can serve as an entry point

for policymakers concerned about professional accountability. The command structure is the way information (orders, reports, requests, policies) is passed between officers and the chief, ensuring conformity and efficiency by police of all ranks.

A recruit's first exposure to organizational values occurs at the police academy (see Wasserman and Moore 1998). Those values can be described as the knowledge, skills, abilities, and behavior expected of all officers by the police institution. Policies also define how officers will perform their duties by allowing certain types of actions and prohibiting others.

There are two main ways to judge how effective police are at regulating their own work behavior and setting standards. One measure is the degree to which the institution is open to sensible changes urged by citizens or elected officials. The other is how efficiently police perform their job while maintaining public confidence.



POSSE COMITATUS AND THE SUPREMACY OF POLICE ENFORCEMENT OF CIVILIAN LAW IN THE UNITED STATES

“Posse comitatus” is a common law term (based on custom and precedent rather than written code, as practiced in the US) meaning “power of the county”. The term derived from the British practice whereby a high police official could order civilians to assist in keeping the peace or pursuing felons.

In the early days of American democracy, the practice allowed the president to call out federal troops to assist local police. In 1863, for instance, US Army troops that were engaged in a campaign to stop the advance of Southern rebels during the U.S. Civil War were required by the Secretary of War to return to New York City to put down the Draft Riots. A mob had virtually taken control of the city and outnumbered police 500 to 1 (Asbury 1927).

Following the Civil War, Congress discovered that federal troops were executing laws in states that had rebelled despite the lifting of political restrictions. The army was accused of rigging elections to favor one political party and of intimidating state representatives (Doyle 1988). Congress passed a law stating that is unlawful to employ the US Army to execute the laws of the United States unless specifically authorized by an act of Congress.

In many instances, the ineffectiveness of police, coupled with perceptions that command staff and line officers are corrupt, has paved the way for greater involvement by military forces in the provision of internal security. Though police maintain a similar hierarchy and chain-of-command to the military, the objectives of each force should differ in a democracy. Rather than combating an external enemy, which is the purpose and function of a democratic military force, the role of police is law enforcement and public protection.

PROVIDING POLICE OVERSIGHT: THE AGENTS AND INSTRUMENTS

Given this understanding of the four main spheres from which police accountability may derive, the discussion will now analyze the agents and instruments of oversight. Police are ultimately responsible to officials who are either elected or appointed by elected officials. Police work in social environments where customs and laws form boundaries on behavior, which apply to them as well as the public. Democratic police forces should not only obey these constraints on conduct, but must also establish and follow internal regulations. The primary agents that constrain police forces, demand accountability, and conduct oversight are executive, legislative and judicial bodies of government, civil society organizations, police managers, and the media.

Political: Legislative and Executive Bodies

Oversight of public agencies in a democracy, such as the police, can be provided by a variety of political institutions: executive oversight bodies (ombudsmen), committees within or linked to par-

liamentary bodies, and sub-state committees (regional or local) linked to or independent of government.

The first two cases that will be examined are Sweden and Poland. Parliaments in both countries depend on an ombudsman to provide oversight of all public agencies, but the institutional process and authority differ. While the Swedish ombudsman represents an office that is partially independent of the *Riksdag* (Swedish Parliament), there is a strong relationship between oversight activities of that office and follow-up action by Parliament. Conversely, in the Polish case, a nominated Commissioner for Citizens' Rights Protection (CCRP) takes actions, such as bringing cases to the appropriate tribunal, because it does not have broad political support within Parliament.

Canada, the third case to be examined, offers a mixture of legislative and executive oversight authority through an inspector general (executive) and extra-Parliamentary committees. This model has evolved in large part due to the nature of Canadian democracy, a theme that will be discussed further in that section.

The fourth case concerns hybrid oversight authority, as practiced in the Netherlands. In this case, decentralized executive bodies coordinate with local councils of citizens in providing police oversight. The rules that govern oversight are set and maintained by the national legislature. This is not entirely unlike the fifth case, which is again found in Canada. That model exemplifies a mixture of local control through municipal executive bodies linked to a regional office established by legislative act.



FEATURES OF THE SWEDISH OMBUDSMAN MODEL*

- Four officers, including a chief who is responsible for management and administration, who typically have legal backgrounds.
- Officers elected by consensus at plenary session of the *Riksdag* to four-year terms.
- May take complaints directly from the public relating to all public agencies, including security forces, and initiate cases.
- No power to force change upon public agencies; may publish reports.
- Reports to *Riksdag*; Parliament may change rules guiding agency function.
- May forward cases of wrongdoing to administrative or criminal courts.

*Oliver and Drewry 1996

Sweden – Broad Oversight via Parliamentary Appointed Ombudsman

Sweden has one of the most successful oversight arrangements, widely recognized as a model that has been copied at least in part by nearly 200 other governments (see Oliver and Drewry 1996 for a history of the Swedish ombudsman). The power of the ombudsman extends beyond mere review to the practice of ensuring that all state officials, including police, comply with law and respect the basic rights and freedoms found in the constitution of 1809. Some of the key attributes of this model appear in the table above.

Swedish ombudsmen are quasi-autonomous but carry out the will of the unicameral national parliament. Police rules and policies monitored by ombudsmen are designed by a responsible Minister. Because ombudsmen enjoy broad cross-party support within the *Riksdag*, their findings as reported to Parliament are carefully reviewed. Changes in how agencies are administered most often occur because of the work of ombudsmen.

In addition to its important relationship with the *Riksdag*, the Swedish ombudsman also relies on administrative law and courts to determine whether or not a public agency has broken such laws. This ensures that public agencies are held accountable. Ombudsmen may also request assistance from the Office of Audit, which is responsible for reviewing government agencies' use of public funds. This provides the ombudsman with another important mechanism for assuring control over agencies like the police, namely, financial accountability. Sweden exemplifies a democracy that relies on the power of an ombudsman who can invoke several mechanisms to provide effective police oversight.

Poland – Broad Independent Oversight via Commissioner for Citizens' Rights Protection

An adapted version of the Swedish model is found in Poland. The Commissioner for Citizens' Rights Protection (CCRP) was established in 1986 before the collapse of the communist regime and transition to democratic rule (see Elcock 1997). Currently, one house of the bicameral Polish Parliament, the *Sejm* (Chamber of



THE POLISH COMMISSIONER FOR CITIZENS' RIGHTS PROTECTION*

- Commissioner typically has legal background; staff specialize in law associated with various ministerial functions – e.g. finance, security.
- Commissioner elected by the *Sejm* and approved by the Senate to four-year term.
- Mandate based upon constitution guaranteeing civil rights and social justice for citizens.
- Investigates and reports on violations of constitutional guarantees committed by any government organ, organization or institution.
- No power to force change upon public agencies; may only report findings to the *Sejm* for action.
- May bring cases of wrongdoing to the Constitutional Tribunal or Supreme Administrative Court.

* Elcock 1997

Deputies), chooses the commissioner of the CCRP for a four-year term. The nomination must be approved by a Senate vote. Often there is disagreement between parties about who will head the CCRP; in one instance, this led to an extension of the previous commissioner's term as MPs were unable to agree on a candidate.

Poland lacks a tradition of consensual agreement about candidates, unlike Sweden where the *Riksdag* generally selects ombudsmen by a vote of acclamation. However, the CCRP is institutionally independent of Parliament and maintains a strong reputation for neutrality in its investigations and reports to the *Sejm*. This perceived independence is demonstrated by the fact that citizens go to the CCRP with their complaints more often than citizens of other states approach their complaint-making bodies (Ibid, 369). The major features of the CCRP are highlighted in the table above.

Though there are many similarities between the Swedish ombudsman and the CCRP, the amount of legislative oversight offered by the *Riksdag* versus the *Sejm* differs. In Poland, higher levels

of political competition within the *Sejm* limit broad, multi-party consensus on policy issues debated after the CCRP submits its reports. Differences also derive from the status of the ombudsmen and the commissioner relative to Parliament. As parliamentary officials, ombudsmen in Sweden play a supporting role to the *Riksdag*. The Polish commissioner, by contrast, heads an independent institution and does not always find a high level of support within Parliament for legislative action. The lack of support can often be traced to the CCRP's actions to promote social ideals expressed in the Constitution and the loyalties of some MPs to principles from Poland's authoritarian past (Ibid).

To its credit and in the face of high-level challenges to reforming police administration, the CCRP has played its independent role well. One innovation of the CCRP was the establishment of an "Early Warning Principle", whereby CCRP attempts to predict future human rights violations that could occur because of bad administrative policy. Reports under this program are compiled and submitted to the *Sejm* and the Executive, urging immediate policy change or other legislative

action. The information found in such reports is often based upon direct contact with public agencies such as the police, customs service, or border guards at the station level (Ibid). The CCRP's reputation for independence and neutrality has been preserved and advanced through its willingness to investigate public complaints and because it communicates with law enforcement officers at the local level about their problems and working conditions.

Canada – Focused Oversight and Parliamentary Control via Inspector General and Extra-parliamentary Committees

In Canada, where the national police force (the Royal Canadian Mounted Police—RCMP) co-exists alongside provincial and local police, many changes have been made by Parliament to increase its control over these security forces. The differences between the Canadian national model and those of Sweden and Poland are due in part to Canada's Westminster-style parliamentary system inherited from the British. One part of this tradi-

tion has been the historic emphasis on protecting police from political interference, a practice that distinguishes the UK, Canada and the United States from many other countries.

Public outcry related to police abuses of power forced the Canadian Parliament to consider the need to make the RCMP politically accountable.

Public outcry over internal intelligence gathering related to police abuses of power forced the Canadian Parliament to reconsider the need to make the RCMP politically accountable. The result was the Canadian Security Intelligence Services Act of 1985, which established a domestic intelligence service (CSIS) separate from the RCMP. Intelligence operations by the RCMP were widely perceived as contributing to violations of individual and group rights (Farson 1995). The legislation also created an office of inspector general within the Department of the Solicitor General, with reporting required through the deputy minister to the Cabinet. The Cabinet then reports to Parliament, which includes several committees that exercise some authority over law enforcement agencies; for example, the Public Accounts Committee is authorized to review annual reports from the auditor general (Ibid, 189).

The Canadian legislation marked an important effort to protect the constitutional rights of citizens. Unfortunately, the law lacked the muscle to overcome reluctance within the executive branch of government to allow outside officials an opportunity to shape changes in the security forces. But the law did contain provisions that demonstrated that parliamentarians recognized their collective duty to hold security forces accountable.

BUDGET OVERSIGHT OF LAW ENFORCEMENT IN THE U.S. CONGRESS

The importance of spending (or appropriations) powers in guaranteeing political accountability is illustrated by the case of the United States. The executive branch of government might ask the legislative branch (Congress) for more counter-terrorism dollars to be appropriated to the Federal Bureau of Investigation (FBI). Congress, however, must approve such a request. That decision may depend on whether the committee to which the FBI reports is happy with how past appropriations have been spent, how much information the FBI provided in reports to the committee, and the activities of that agency.

The Act also created the Security Intelligence Review Committee (SIRC). Members of the SIRC may not be currently affiliated in any way with the executive branch or be members of Parliament. The Prime Minister nominates officers to the committee but by law must consult with opposition party members before confirming an appointment. Institutionally, the SIRC is based outside parliament and performs duties much like an inspector general. SIRC's powers are broad. For example, its reviews of CSIS permit access to all documents except Cabinet-level confidential files.

SIRC may review both the administration and operation of the CSIS and determine whether or not the intelligence agency has followed the law. SIRC also hears complaints against the CSIS related to a limited range of enforcement actions, such as decisions on citizenship, deportation and security clearances. Finally, the performance of CSIS is analyzed and findings are included in reports to Parliament so that fundamental policy changes can be made if necessary (Ibid, 190). Accountability of Canada's domestic intelligence agency evolved from legislative action to a strong form of parliamentary oversight that is supplemented by law.

SIRC reports to both the Solicitor General and to Parliament, an unusual legislative-executive overlap that has been cause for friction in terms of how much access legislators have to executive agency information. Nonetheless, SIRC is regarded by executive agencies and by those within its ranks as the front-line agent by which Parliament oversees domestic national security forces (Ibid).

A five-year review attempted to solidify SIRC's relationship with Parliament by removing a num-

ber of constraints on its relationship with Parliament – for example, the power of the Solicitor General to determine when SIRC could speak with Parliament. The most important reform was the establishment of a special subcommittee in Parliament with the power to review security and intelligence forces as well as any body (such as the SIRC) with authority to review those forces. This reform established a clear link between elected officials and the primary mechanisms for control of Canadian security forces.

There are, of course, other ways by which governments control public agencies. Each of the previous models has demonstrated how national legislatures create mechanisms that promote greater political and legal accountability of state forces. The differences in the types of mechanisms created owe much to the qualities of individual governments. In Sweden, Poland and Canada, control mechanisms were carefully developed to strengthen oversight of centralized, national police agencies. The range of control exercised by the parliaments of each country varies from great control in Sweden to very little effective control in Poland.

The Netherlands – De-centralized executive authority with legislative controls

While Canada is an example of joint legislative-executive control of national security forces at the central level (national parliament), the Netherlands exemplifies an arrangement whereby control of police is split between the national legislature, the executive Ministry of Interior, and municipal government. A limited number of important controls over police are held by the legislative branch of the central government, while other powers are decentralized and delegated to local government.



**TASK ASSIGNMENT IN A MIXED
POLITICAL ACCOUNTABILITY
POLICE SYSTEM: THE NETHERLANDS**

Mayor

- Hires, fires, and promotes police
- Sets administrative and operational policies of police
- Reports to local council of elected citizens

Legislature

- Determines statutory framework

Executive

- Manages police response in times of crisis
- Appoints local chief, sets police budget and training standards
- Manages police response in time

In the Netherlands, local law enforcement is placed directly under the control of the mayor, who is independently responsible for maintaining order within his/her jurisdiction. An example of these regulations might be setting working hours or determining how much money should be allocated to police for controlling black market activities. Alongside a local council of citizens, mayors adopt the rules and regulations for police administration and operations. The mayor also exercises hiring, firing, and promotional authority over all police officers with the exception of the chief.

The central government holds few responsibilities for administering police services at the local level; exceptions exist for civil disaster or serious disorder incidents, in which case the national government would step in to ensure order. The Minister of Interior establishes how much money each police force will be given, although the mayor and local government control how those funds will be

spent. Additionally, the Minister of Interior selects the chief police officer in each locality, though that decision is often made after consultations with the mayor (Kurian 1998). Much like legislative bodies elsewhere, Parliament enacts the broad guidelines and principles that police must respect. The major features of this arrangement are summarized in the above table.

The Netherlands exemplifies an arrangement whereby control of police is split between the national legislature, the executive Ministry of Interior and municipal government.

The diverse set of control mechanisms in the Dutch system are based upon a governance arrangement that maintains a role for central authority in key areas while giving a great deal of autonomy to local executives. Municipal police in the Netherlands are accountable to local government, the executive branch (through the Interior Minister), and the legislative branch. There is also a national ombudsman in the Netherlands, but that independent office serves principally to investigate public complaints about the central government.

British Columbia – Police Oversight via Office of the Police Complaints Commissioner (PCC) and Local Executives

British Columbia institutionalized oversight in 1998 with the passage of the British Columbia Police Act. One of its main accomplishments was the creation of the Office of the Police Complaint Commissioner.

British Columbia, like other provinces in Canada, has municipal, provincial, and national police forces, each with different jurisdictions and

powers. The PCC was given authority under the Act over municipal and provincial police working in municipalities within British Columbia.

The commissioner, who is appointed by the legislature, serves as an officer of that body. S/he is chosen by a special legislative committee that must give a unanimous vote to appoint the commissioner. The commissioner serves one six-year term and makes annual reports on activities of the PCC to the Speaker of the Legislative Assembly, who then presents the documents to the entire assembly. The duties and powers of the PCC are listed below.

Each body (e.g., police board, office of the public prosecutor) is allowed an opportunity under the Police Act (Part 9, Divisions 4, 5, 6) to satisfy the

complainant, but the PCC must be informed at each stage of the process. Sometimes, the complaint includes an accusation that a police officer committed a crime. In that case, the police can immediately investigate and give the case to prosecutors for judicial action.

The PCC also regulates the complaint process used by citizens, categorizing the complaint as a matter of public trust, internal discipline, or service or policy.

- A public trust complaint accuses a police officer of violating a specific police disciplinary regulation – e.g., using excessive force while making an arrest.
- An internal disciplinary complaint accuses a police officer of an unprofessional act or a



DUTIES AND POWERS OF THE BRITISH COLUMBIA POLICE COMPLAINTS COMMISSIONER*

Duties

- Receive complaints from any source
- Record complaints and dispositions
- Compile statistics related to complaints
- Regularly release complaints/dispositions reports to public
- Educate public about PCC and complaint procedures; assist all parties in facilitating complaint process
- Periodically review complaints process
- Establish and provide mediation services to complaining/accused parties for informal resolution when appropriate
- Make guidelines for municipal police regarding public trust complaints

Powers

- Prepare public informational reports about work of PCC
- Engage in research
- Make recommendations to police boards on policy matters
- Make guidelines for parties receiving complaints
- Make recommendations to civilian Director of Police Services or Attorney General for audit of police so as to overcome training weaknesses revealed by complaints process
- Refer criminal matters to Crown counsel for prosecution
- No limitations on fact-finding in relation to public trust complaint
- Access to all documents relating to complaints
- Final authority on adjudication of complaints

* British Columbia Police Act 1998

failure to act – e.g., not investigating a citizen’s report of a crime.

- A service or policy complaint concerns general police policies, procedures or regulations. One example is when upper-ranking police plan where to station police during a demonstration and whether to authorize the use of certain types of equipment, like riot shields and helmets (Part 9, Division 2, 4, 5, 6).

In British Columbia, any person may file a complaint against a law enforcement officer or municipal police department with the PCC, the disciplinary authority (local police board), or the senior police commander of the station or officer that is the subject of the complaint. (The significance of local police boards in British Columbia will be discussed in the section on citizen oversight.) Citizens may complain to any of these bodies, as each is legally required to make a written report (Part 9, Division 3).

The PCC not only defines the nature of the complaint, but also makes the rules for how those complaints are handled. It requires timely reporting (10 days for public trust complaints and 15 days for policy and service complaints) by either local police commanders or the board (Part 9, Division 4, 5). For all types of complaints, the PCC may order new or further investigations, reclassify the complaint type, or order hearings.

Critics around the world often claim that police are biased and cannot properly investigate fellow officers. However, the Canadian Act requires police to report to both the municipal disciplinary authority and the PCC when conducting their investigations of fellow officers. This is an impor-

tant safeguard: the local authority or the PCC may demand another investigation if either believes the first police criminal investigation was insufficient or improper, while the local authority may demand that police from outside the municipality perform the investigation. The strong reporting requirements are an important mechanism by which many different forms of police accountability are encouraged – political (police to the PCC and municipal leaders), legal (police to the Act), social (police to citizens), and professional (police to internal regulations).

Finally, the PCC is required by law to keep accurate records of its operations, including: any advice or recommendations made to local boards or police forces; information on how complaints are treated and resolved at all levels of the public complaint process; and on-going research into better ways to control police conduct and reduce problems that might trigger public complaints. Those records become part of the annual report that the PCC makes to the provincial legislature, ensuring the PCC is politically accountable. At the same time, its independence lessens opportunities for political manipulation and increases credibility among both police and citizens.

Challenges to Legislative and Executive Oversight

Ensuring the accountability of security forces to legislative and executive bodies is a difficult yet important process. In fact, it is a process that has challenged governments and elected officials in the most stable of countries. The establishment of successful oversight mechanisms is not accomplished overnight. Sometimes challenges are posed by agency heads or bureaucrats within the

executive branch who fear intrusion by another branch of government or its allies on their turf. These challenges, which were illustrated differently in each of the cases outlined above, can nonetheless be overcome.

Countries making the transition to democracy often face the highest barriers to creating an effective system of oversight.

The cases of Sweden and Poland show the importance of ensuring all political parties in government agree on the need for oversight. Ombudsmen report to Parliament in both cases, although actual oversight beyond reviewing the ombudsman's reports is limited in the Polish case. Divisions within the Polish Parliament impede active oversight and sometimes even the nomination of the CCRP. The ombudsman has several other ways to resolve public complaints. Regulatory authorities within the executive branch or courts within the judicial branch help the CCRP in providing oversight. The success of Poland is particularly remarkable given the tendency of states to emphasize security more than accountability during the democratization process.

Countries making the transition to democracy often face the highest barriers to creating an effective system of oversight. Consider how difficult it is to create a new or reform an old police force. The question of who will staff and command a new police force has been the cause of intense debate in recent years in places like Haiti, the new states of the former Yugoslavia, Kosovo, and East Timor. Competing political parties or groups have every right to fear that a small group of officials will organize security forces to protect their own

followers, sponsors, or interests above the needs of the nation. Disagreements and debates about what the new democracy's police will look like usually occur in the midst of social instability.

Also, the new government is often unable to provide routine public services such as education, healthcare, and security. A vacuum of government authority at the local level can threaten, or at least impede, the very process of democratization. In this type of environment, it is difficult for policymakers to remember that accountability is important. Instruments of accountability and actors who will use these instruments to control police power for the good of the nation may not be popular in the early stages among either hardliners or police.

Even in established democracies, the nature of a political system can hinder effective oversight of police by legislative or executive bodies. Originally intended to prevent police from acting as the thugs of corrupt politicians, police were and are insulated from legislative oversight in many Westminster-style democracies. This prevents legislators from exercising oversight authority. Even the ability to set agency budgets as a means of ensuring proper police conduct and efficient performance is limited in this form of government.

The difference between the constitutional separation of power in democratic states has consequences for the regulation and oversight of security forces. However, as the Canadian case demonstrates, it is possible for legislators to take steps when necessary that may promote greater oversight. This occurred when Parliament created a subcommittee to review all aspects of the country's security and intelligence.

Cases where the assurance of police accountability to the executive and legislative branches of government has been achieved demonstrate a willingness among officials to make the laws and policies under which police will operate. To avoid any opportunity for political manipulation, those officials have agreed to leave intact a certain degree of professional autonomy for police as regards day-to-day administration and operation. For example, while the mayor of a Dutch town may fire a police officer who committed an administrative offense, that mayor is unlikely to take action without consulting the police chief. This leaves the police neutral and independent yet still accountable.

The Dutch Crown placed the police under the authority of local government with the express intent that they would operate according to local priorities (Kurian 1998). Thus, the knowledge by a local police chief that the mayor *could* fire an officer under his/her command encourages communica-

tion between the police chief and local officials (mayor and local council) and increases the opportunity for consensual policy-making.

Police oversight through the PCC in British Columbia has many positive characteristics, but is still undergoing changes by Canadian policymakers. In a recent report to the British Columbian legislature (2001, 55), the PCC noted several barriers to more effective oversight: the very nature of the police command structure, which is hierarchical and paramilitary in design, encourages obedience among police officers even when regulations or policies are wrong.

Policymakers should examine the status of the state in its transition to or consolidation of democracy and the capacity of government bodies to implement oversight. Another related consideration concerns the composition of the security force(s) in question and how force resources (human and material) are allocated (nationally, locally, or

JUDICIAL ACTIVISM IN BANGLADESH CURBING POLICE ABUSE*

On 7 April 2003, the High Court ruled that the government must amend the section of the code of criminal procedure permitting police to arrest without a warrant. Previously, the High Court had ordered a district magistrate to pay out-of-pocket damages to a citizen who had been illegally detained by police on his order. The High Court ruled that police should not normally be given custody of prisoners until their case has been heard by a magistrate and persons have received legal representation. While the magistrate may still issue an order placing a person in police custody, that order must still be approved by a judge from a higher court before the police take action.

Other important decisions by the court included:

- Interrogations must take place in glassed enclosures that will allow families or legal council to observe the proceedings;
- Medical certificates must be issued by a doctor prior to a person entering and upon exiting police custody;
- Evidence of torture requires that a competent court immediately open a case against the investigating police officer(s).

both). It is generally easier to provide effective political oversight at the same level at which policing is taking place. In other words, national mechanisms are sometimes stronger when they exercise oversight over national police and local mechanisms over local police.

Though the absence of agreement within or between legislative or executive bodies has the potential to be a serious barrier to establishing effective police oversight, there are other mechanisms and agents that can be used for improving police accountability; it is to those mechanisms that the discussion now turns.

MEDIATION AS A PROBLEM-SOLVING TOOL FOR POLICE OVERSEERS*

The city council of Rochester, New York, has a contract with the Center for Dispute Settlement, an NGO that provides services to courts and training to community residents. The center staffs a panel that reviews complaints against the police. Mediation is frequently recommended to complainants and police, though cases where a complaining party alleges excessive use of force are not eligible for that option.

Complainants and police are generally more satisfied with mediation as a more effective way of resolving differences than sanctions. Many less serious cases are resolved quickly and at less cost, which frees up time and resources for more serious investigations into police misconduct. Mediation is conducted as a private session, and requires only verbal agreement before closing of the case. If the complaint is effectively settled in this manner, there is no further action taken.

*See Finn 2001 and Goldsmith and Lewis 2000.

Legal: Judicial Bodies and Legal Instruments

Police oversight is not just the work of legislative or executive branches of government. The judicial branch also carries out a number of important functions in assuring the legal accountability of police. The role of the judiciary is related to political oversight – for example, when the Polish CCRP brings a case before a tribunal that hears cases related to administrative law. Other tribunals hear cases related to criminal or civil law, each of which provides a type of oversight.

Oversight of police must be based on law. A principal ideal of democracy is equality under the law: every citizen is guaranteed equal treatment by authorities according to written rules to which all are subject. A rich man faces the same penalties as a poor man for the crime of murder. Oversight of police works in a similar way. When a citizen in British Columbia accuses a police officer of taking money from her purse during a search of her property, that case may be heard by a criminal court judge.

Role of Criminal and Civil Courts in Providing Oversight

Judges make decisions about cases based upon different types of law, including the constitution and criminal or civil codes. Each of these is part of a body of rules that is constantly evolving as social values change. The judiciary in a democracy is independent of politics and the other branches of government. Each branch tempers the authority of the other two branches through a “system of checks and balances.”

The courts have played an important role in police oversight in the U.S. by regulating the conduct of police officers. A police force (executive branch agency) brings a case into criminal court through its officers against a suspect accused of a crime. In hearing the case, the court not only examines the criminal case but also reviews the processes used by police in carrying out their investigation. Judges frequently throw cases out of court when police break the rules.

In 1914, the Supreme Court sought to deter violations of constitutional rights by ruling in favor of the “exclusionary rule” (*Weeks v. United States*). This meant that police could not present evidence at trial that a judge determined was gathered illegally through search and seizure in violation of the fourth amendment. While the decision applied to all US federal courts in 1914, the U.S. Supreme Court extended this decision to state criminal proceedings in 1961 (*Mapp v. Ohio*). The adoption of the exclusionary rule marked the beginning of strong judicial oversight of police, strengthening constitutional protections and encouraging police to follow proper procedures.

The availability of civil remedies also plays an important role in protecting the public, especially in the event that a state agent causes unwarranted injury or damage. This may happen, for instance, if police use excessive force against a citizen in the performance of their duties. Although citizen claims have been exaggerated at times to retaliate against police who have acted properly, the claims have merit in many instances.

Challenges to Judicial Oversight

In developing countries, executive authorities frequently seek to control or limit the powers of the



U.S. CONSTITUTION FOURTH AMENDMENT

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

judiciary. If such limitations become part of a country’s basic legal framework, proper oversight will not be possible until changes are made. The strength of judicial oversight rests on the written laws as interpreted and applied by courts. The existence of judicially-imposed penalties provides an incentive for police not to engage in misconduct. The problem with relying *only* on courts to provide oversight, however, is that root problems often remain.

The solutions to resolving systemic problems may not be found in courtrooms, although they play an important role in demanding police accountability when serious cases of misconduct occur. Public inquiries do not force change or impose punishments upon officials who appear to be most guilty. But the research and informal testimony gathered from all levels of society can make important contributions to holding organizations accountable and raising public awareness of problems.

Social: Civil Society and Citizen Oversight

Governmental mechanisms for police accountability may utilize significant human and financial resources to address specific problems; they can

be highly effective as they exercise the power of the state. Oversight mechanisms, such as the increasing use of civilian review in recent decades, enable the public to make government officials aware of police activities. Sometimes that review is limited to observation and public reports; in other cases, a powerful civilian body conducts its own investigation into citizen complaints and presents the case to police, who either act or forward the case to another civilian body.

The cases discussed in the following paragraphs exemplify the four main categories of civilian review practiced in democracies. The first, British Columbia, relies on civilian review *after* a police investigation is completed and on civilian committees to research the possible causes of complaints and policy failures.

The second case involves a much weaker form of civilian review. In the Philippines, civilian boards receive citizen complaints and pass them to the police for investigation; a second civilian body makes disciplinary decisions on appeal.

In the third example, citizens of San Francisco bring all complaints—except those against off-duty police—to a powerful oversight body that conducts its own investigation into police misconduct or policy failures. Complaints are processed through the police department and occasionally are heard by a quasi-judicial civilian commission, which sits above both the police force and the oversight body.

The final example of São Paulo, Brazil, demonstrates civilian review by audit. Dependent to a large extent upon the office of the Minister of Public Security, the auditor has enjoyed wide political support in curbing some of the worst forms

of police abuse against citizens. This is a model frequently employed around the world, though its success often depends upon the character of the auditor and the support given to him/her by other organs of government.

Boards and Committees in British Columbia — Police Investigate Public Complaints with Civilian Review

As part of the package of police oversight reforms passed by the legislature of British Columbia in the Police Act of 1998, municipal police boards and local police committees were created. Each of those bodies was designed to provide every municipality with the same type of oversight that the Police Complaints Commissioner (PCC) gives at the provincial level. The boards and committees are each part of the oversight system managed by the PCC. In this system, police investigate complaints against other police but submit to the authority of local boards or the PCC, which determine whether or not an investigation is adequate.

While the PCC is the final authority in many matters regarding police oversight, the local boards enjoy broad daily oversight powers. Municipal boards are composed of the local mayor, an appointee of the town council, and other civilian appointees of the Lieutenant Governor approved by the Director of Police Services of the Ministry of the Attorney General. In instances where provincial or national police (the Royal Canadian Mounted Police) provide law enforcement services rather than a local police force, appointments to the board are handled differently. In all cases, the civilian board has sole responsibility for setting police standards (British Columbia Police Act 1998,

Part 2).

The municipal boards perform many important functions, including:

- appointing municipal police;
- setting and publishing standards, guidelines and policies for the administration of the municipal police force in cooperation with the local police chief;
- preventing police abuse; and
- promoting police efficiency (Ibid, Part 5).

Although the police carry out the functional exercise of investigating complaints by citizens about police conduct, the board enforces disciplinary regulations and civilians (the board and the PCC) control the public complaints process. If the board is not satisfied with the investigation conducted by a municipal police force due to any type of citizen complaint against an officer, the board may request an external investigation by another municipal police force (Ibid).

The board is the local disciplinary authority. When it decides to enforce a regulation, it first notifies the Director of Police Services of its intended action—which is independent of any municipal executive authority. The board has the power to hold hearings, order investigations, and make reports or studies related to disciplinary violations by the local police.

Unless an internal discipline complaint is made directly to the PCC, a local board must ensure a complaint is addressed—even if the complaint was initially made to a senior police official. When a citizen makes a complaint, the board notifies the PCC and provides copies of its reports if there is disciplinary action (e.g., suspending an offi-

cer who refused to take a crime victim’s statement) (Ibid, Part 9, Division 6). Once reports about disciplinary violations are completed, they are submitted for action to the chief police officer or higher authorities in the executive branch when appropriate.

Should an action or failure to act by a police officer violate a criminal law, those reports or studies may be submitted to the Ministry of the Attorney General for prosecution. At that point, the offending officer would face hearings in criminal and/or civil court.

In addition, local police committees were designed to study systemic problems. The three members, who may not be active judges, are appointed by the Lieutenant Governor following discussions about their profiles with local officials in the municipality.

The duties of the local police committee include:

- promoting positive relationships between the police and citizens;
- informing the minister of the effectiveness of law enforcement in the local community; and
- providing recommendations to law enforcement agencies and the minister related to functions 1 and 2 (Ibid, Chapter 367, Part 6).

Local police committees do not handle specific public complaints about police service or conduct. They do, however, provide an important tool by which officials (local and provincial) can study underlying problems between police and citizens. For instance, police may frequently find that citizens in one neighborhood resist arrest. The committee would study the history of police activities in that area, interview citizens and police officials, and present options to the local government. As a result, local officials might

take action to promote healthier relationships between police and citizens.

Such action could take the form of policy change at the administrative or operational level within the police to affect how police deliver services. Instead of going into the problematic neighborhood only to arrest criminal suspects, police might hold ongoing meetings with residents to explain their actions and request feedback on issues of local concern.

The creation of police committees was an important oversight reform for Canadians living in British Columbia. It established a line of accountability from the local to the provincial level that ends in criminal and civil courts. The main mechanisms for increased legal and social accountability of police are the studies conducted by the local committees, which are capable of creating or changing police or local government policy and regulations. The studies are not just case reviews such as one might find in a tribunal, but proactive efforts to solve the root cause of problems between police and citizens. In short, citizen oversight addresses both the causes and effects of public dissatisfaction with police conduct and performance.

The Philippines – Civilian Appellate Review and Police Fact-Finding

A much weaker version of civilian oversight than the British Columbia model is exemplified by the review of public complaints against police in the Philippines. Civilians work to ensure that citizens' complaints are heard through the Police Law Enforcement Boards (PLEBs) and disciplinary appellate boards.

INDEPENDENT CITIZEN INVESTIGATION AND POLICE REVIEW IN SAN FRANCISCO*

- OCC staff of 15 full-time civilian investigators investigate broad range of citizen/organization complaints
- Police chief holds closed hearing if IAD agrees with OCC findings – OCC acts as prosecutor; assistant chief imposes discipline upon chief's approval.
- Police commission holds public administrative trial for cases alleging serious misconduct – OCC acts as prosecutor; commission deliberates and makes finding, which the officer may appeal through the judicial system

* Finn 2001, 56

PLEBs are designated by statute as one of several bodies that may receive a citizen's complaint against the police. The other bodies are the chief of police and the city or municipal mayor (Republic Act 8551, Title VI). The role of PLEBs, which are found at the local level throughout the country, is to record a complaint and then pass it to police officials for investigation. Once an investigation is complete, the PLEB hears cases in which the regulation violated could result in suspension of the officer's salary, suspension from duty for a period of more than 30 days, or dismissal (Ibid).

If the PLEB disciplines an officer, s/he may appeal the case to a regional or national disciplinary appellate board. These boards are composed of civilians, but also include one police representative. Appellate board decisions are final unless an officer chooses to appeal the case to the Secretary of the Department of National Defense.

The Philippine model is an example of a very limited type of civilian oversight. For example, if the chief does not believe that an officer's misconduct deserves more than a two-week suspension, the PLEB will never hear the case. The police, particularly the chief, control much of the complaint investigation process.

San Francisco, USA - Independent Local Review

Unlike the models in British Columbia or the Philippines models, San Francisco's version of citizen review is not part of a regional system of oversight nor does it depend on police to investigate complaints. It incorporates many of the

same responsibilities divided between British Columbia's local police boards and committees into one body. The San Francisco Office of Citizen Complaints (OCC) is the exclusive body by which police are held socially accountable. It is responsible for settling all citizen complaints against police with the exception of public complaints against off-duty police officers and cases of officers making complaints against other officers. Those complaints are investigated by the San Francisco Police Department's Internal Affairs Division (IAD).

The reforms that led to the creation of the OCC came after citizens demanded greater police ac-



PUBLIC INQUIRIES

A public inquiry is an oversight mechanism that combines a limited amount of powers from executive, legislative, and judicial institutions. The special function of public inquiries means that the type of accountability demanded of a police force is different from the accountability required of administrators, legislators and judges (Roach 1995, 276).

The purpose of a public inquiry is to investigate a suspected wrongdoing by an organization or individuals. This work is carried out by a commission that is appointed by government and composed of individuals of high moral character without any conflicts of interest. Similar to courts, the commission has the legal authority to call witnesses and compel testimony (270) But unlike courts, the purpose of the inquiry is to help the government find a solution to a particular problem rather than to resolve disputes between parties to a conflict. Public inquiries are also similar to legislatures, as they may establish new codes of conduct and use those as guidelines for assessing past events (272). The public inquiry searches for an accounting of past action and attempts to discover the factors that led to the wrongdoing. While it may criticize government officials and stir social debate, the commission has no power to implement action or impose sanctions.

In Canada, the MacDonald Commission was appointed in 1977 to investigate illegal activities by the national police. The commission held public hearings, examined cabinet-level documents and reviewed police policies, guidelines, and operations manuals. During the inquiry, commission members also examined RCMP police stations and observed officers and commanders during working day routines (276-277). The MacDonald Commission published a three-volume report that condemned the separation of the national police from society. The government accepted and followed the commission's recommendation that the Canadian government create an intelligence service independent of the RCMP.

countability following a demonstration in which police beat protestors. City government established the OCC in 1982 at the same time it created a city police commission. San Francisco's mayor appoints the five civilian members of the police commission, which in turn appoints both the Chief of Police and the director of the OCC.

OCC civilian investigators look into any complaint in which a citizen or organization reports police misconduct or failure to act. OCC and IAD jointly investigate any complaint that involves police use of a firearm (Finn 2001).

Though the OCC is an independent body, it works closely with the Office of the Chief of Police and IAD in settling disciplinary matters. OCC investigators have full access to police records and IAD computers and equipment. This working relationship not only permits civilian investigators to finish their inquiries more quickly, but it also assures equal fairness to both police who are the subject of a complaint and the citizen(s) making the complaint.

The San Francisco Police Commission, which has authority over both the police department and the OCC, is a mechanism for social and legal accountability. In the case of serious misconduct by police, the commission has the power to hold an administrative trial. The commission hears any case that: 1) is sent to it by the chief of police; 2) is appealed by an officer after a chief's hearing; 3) may be punished by suspension for more than 10 days; or 4) in which the OCC and chief disagree as to whether discipline is deserved after a chief's hearing. The OCC acts as the prosecutor during commission hearings (Ibid, 59-60). Police officers may appeal a commission decision through the courts, which gives the commission the status of a quasi-judicial body.

In addition to its disciplinary role, the OCC performs another important function: it prepares policy recommendations for the department that are submitted through IAD. (This role is similar to that of the local police committee discussed in the previous section.) The same recommendations, which are often developed after evaluating complaints, are included in OCC's annual report to the police commission. OCC also offers mediation services as an alternative to formal complaint resolution that may begin with a chief's hearing; however, this option is used infrequently (Ibid, 60).

Finally, OCC operates San Francisco's "early warning system" by recording the number of complaints lodged against each police officer. If three or more complaints are made against an officer during a six-month period, or if four or more complaints are made against the same officer in a year, the San Francisco Police Department conducts a performance review. After the second complaint, the officer's file is annotated, which makes it very difficult to be promoted or assigned special duties. The officer is also prohibited from working as a trainer for new officers for five years.

The early warning concept follows the recommendation of the U.S. Commission on Civil Rights, which urged police departments in 1981 to create a mechanism to identify police who were the subject of frequent public complaints. In addition to identifying undisciplined police officers, such a system has also been used in San Francisco to change police regulations and training curricula.

In this model of citizen oversight, the police ensure officer misconduct does not result in unfair punishment, while the OCC and Police Commis-

sion seek to ensure that citizen complaints against police are adequately addressed.

São Paulo, Brazil – Civilian Audit of Police Investigations into Citizen Complaints

São Paulo is the largest city in Brazil and has a long reputation of police brutality, which includes cases of police kidnapping and murdered orphan street children. Civilian oversight via review of police actions only happened as a result of the intensive efforts of more than forty civil society organizations (Neild 2000, 248).

The state government of São Paulo established the office of auditor in November 1995. It followed several recommendations on police oversight that were made by a special council for human security (CONDEP), which is comprised of representatives from various parts of civil society. CONDEP also influences who becomes auditor, as it prepares the list of three candidates from which the state governor makes the final selection.

The auditor is appointed for a two-year term, which may be renewed once. S/he cannot be removed from office once appointed. The auditor is assisted by a small staff and an advisory council. The office is located within the Ministry of Public Security, upon which it depends for its finances.

The auditor receives complaints from the public against the police or military, which also has some police powers (Ibid, 250). Though the police perform the investigation into a citizen's complaint, the auditor can review the results of that inquiry. Police must file a report with the auditor detailing the internal examination of any complaint that concerns serious police misconduct.

The auditor releases several reports a year, includ-

ing an annual report. These reports, over which the government has no control, are released simultaneously to the government and the public. In addition to the review of police investigations into citizen complaints, the reports also include testimony solicited by the auditor during public hearings into major incidents from local organizations, government officials, and police (Ibid, 249).

This model of civilian oversight, which exists in a country where violent crime is high and citizens are often as afraid of police as of criminals, has succeeded in ensuring that many police are disciplined for misconduct or abuses. Unfortunately, popular fear of crime often translates into public support for police heavy-handedness; Brazil is not unique in this regard.

Challenges to Citizen Oversight

While there are several obvious challenges to successful civilian oversight of police, each model requires sufficient financial resources to function properly. Because civilian review bodies often have limited money available within their operating budgets, it can be difficult for them to track complaints fully or ensure adequate police investigations into those complaints. Even strong political support for civilian review could be withdrawn with a change in government leadership or during tough economic times when review looks more like a luxury than a necessity.

There is also the problem of expertise. To ensure quality, fairness, and respect for civilian review, reviewers should receive training. Without a detailed understanding of how police work, the circumstances in which police perform their duties, and the laws and regulations that should be followed, any assessment of police conduct or policy

is likely to fall short.

Another challenge concerns where the review body fits into larger social structures; if it is not part of a larger oversight system, the review body will have little impact on addressing citizen complaints or root problems, even if authorized by law to oversee police activities. Thus, the Philippine and Brazilian models are much weaker than if they had support from the political and legal infrastructure.

In British Columbia, in contrast, the PCC is chosen by the provincial legislature to which s/he also reports. Similarly, the San Francisco Police Commission is appointed by the mayor. In British Columbia and San Francisco, the reviewing bodies (local police boards and the OCC respectively) are just the first stage in a system that can direct cases through courts if necessary.

Furthermore, officials and police in British Columbia and San Francisco have developed professional mechanisms (such as an “Early Warning System”) in response to the presence of local civilian review to help their accountability and civilian oversight. Those mechanisms are still being developed in the Philippines and Brazil. For the time being, police in those countries are more likely to challenge civilian review than welcome it.

Professional Oversight – Institutional Rules and the Development of Internal Controls

The final key part of an oversight system involves the professional integrity of law enforcement institutions and police officers. As hierarchical organizations that exercise great power over the liberty of citizens, it is very important that police forces

have and follow internal rules that guide decision-making. A police institution, for example, should have rules prohibiting officers from accepting gifts from public officials. But setting moral and legal standards can become more complicated when there does not appear to be a single set of standards for society (Bayley 1995). This is often the case when a society contains many different religious or ethnic groups; nevertheless, policymakers must still find and define a common set of princi-

A review body that is not part of a larger oversight system will have little impact on addressing citizen problems

ples to guide police in daily operations.

There are several ways that policymakers can influence the development of self-regulation by the police, of which internal discipline is only one. Others include recruitment, training standards, and the development of written regulations and policies. The sub-sections discuss cases where new mechanisms have been developed that promote greater police accountability in key areas: recruitment procedures (Northern Ireland), internal discipline (Poland), and training curricula and standards (Sweden).

Recruitment – Balancing Minority Representation and Diverse Social Values

The question of who will police the public should be as important a consideration for policymakers as how that policing will be performed. Recruitment of police officers can be controversial in advanced democracies, but it is even more of an issue in societies that have recently experienced conflict.

In Northern Ireland, the minority Catholic population has long-standing grievances about the role and behavior of the British-mandated and historically Protestant-dominated police force, the Royal Ulster Constabulary (RUC). As part of the peace process, it was important to change the RUC by—among other things— reforming the process of police officer recruitment. The goal was a more balanced police force that would include a higher number of Catholics who could work in Catholic neighborhoods.

Northern Ireland's Police Act of 2000 proposed a number of reforms designed to increase the legitimacy of police in the eyes of the minority Catholic population. Changing the recruitment policy of the RUC, which was renamed the Northern Ireland Police Service as part of the reforms, made a significant impact. The Act (Sections 42-46) created the Northern Ireland Policing Board and authorized it to select police trainees for appointment. Though selections must be approved by the Chief Constable and technically the Secretary of State (UK Government), the legislation demands that the Chief Constable maintain a force that is 50% Catholic and 50% Protestant to replace a force that at one time was 90% Protestant (Hoge 2003). The Police Board also selects the Chief Constable, who must be approved by the Secretary of State, and other senior police. The Board works with the Chief Constable to select staff for his/her office (Act 2000, Section 35).

The establishment of recruitment standards that encourage minorities and women to become police officers was an important first step towards increasing police legitimacy in Northern Ireland. The complementary reform of allowing civilians to join the police board and help pick the chief of-

ficer and senior staff, using local priorities rather than those determined by civil servants in a distant capital, also made it possible for citizens to determine who polices Northern Ireland. The fact that there is a role for the police in the improved recruitment process promotes professional responsibility by serving the needs of police in hiring good officers and the needs of citizens in recruiting a range of candidates from different backgrounds.

Setting High Standards for Internal Discipline of Police Officers

Promoting discipline within the ranks of police institutions poses a universal challenge to policy-makers and commanders within the police. External oversight that is provided by citizens and government is one way to improve police discipline. But it is also important for police as an institution to have ways to control the behavior and conduct of members. The professional accountability of Polish police to internal guidelines and standards resulted from the hard work of non-police policy-makers, who recognized at an early stage that police commanders must have a mechanism by which to promote discipline within the national force.

In Poland, this took the form of national law that contains the instruments of police accountability. The Law on the Police (Police Act), which passed in the Parliament on 6 April 1990, directed the Minister of Internal Affairs to reorganize the national police and set forth the discipline and criminal codes that the new police would follow. Articles 132-145 and 231 established the conditions and procedures by which police would face criminal or administrative hearings for certain types of misconduct and the penalties if found guilty.

In this model, police officers and units must give account for their actions and decisions to regional

and central inspectorates of the force. The Inspection Department at Central Police Headquarters, which is staffed by more than three hundred experienced police officers, investigates any criminal offenses or serious disciplinary infractions referred to it by regional inspectors.

At times, the central inspectorate may refer difficult or very serious cases of corruption or police criminal activity to a unit that reports directly to the head of the Polish National Police. At the regional level, inspectors receive public complaints about police conduct and policy and provide timely responses – 14 days for simple complaints and one month for those requiring more examination (Uildriks 2001).

Critics of oversight systems that make police responsible for investigating violations of disciplinary regulations or criminal codes often claim that such arrangements merely promote impunity. However, the practice of ignoring and even deliberately violating rules and laws without fear of any punishment does not characterize the Polish model. It is clear to Polish police officers that their hierarchy will not tolerate police abuses, which is supported by the fact that police are routinely penalized with loss of pay, suspension, and even dismissal (Ibid, 287).

National law has established clear guidelines for police behavior. These guidelines are enforced by the police hierarchy, which answers to the (civilian) Minister of Interior. The appeals process allows a complainant to taken his/her problem to that minister if police inspectors do not provide a satisfactory resolution to an alleged case of police misbehavior or misconduct. Additionally, the Commissioner for Citizens' Rights Protection provides an alternative route for citizens who do not

wish to bring their complaints to the police.

Training Police and Developing Institutional Standards of Excellence

A third important area that promotes the professional accountability of police is training and agency standards. Police sometimes legitimately argue that only they as professionals understand what type of training a new recruit should receive in order to have the knowledge and skills for police work. But policymakers in some countries have also played an important role in setting high standards for both new and veteran officers. Two models that exemplify progressive development of better standards for police forces are found in Brit-

MAJOR DISCIPLINARY REGULATIONS IN NATIONAL LAW REGARDING POLISH POLICE*

- Article 144 - Police who believe they are executing a lawful order cannot be held liable.
- Article 145 - Police supervisors who give unlawful orders or instructions may be sentenced to five years imprisonment.
- Article 237 - Police who commit acts against the public interest may be found criminally at fault.
- Article 247 - Police who use violence against a lawfully detained suspect may be imprisoned for three to five years, which is subject to enhancement if the act is particularly cruel.

* Uildriks 2001

ish Columbia and Sweden.

In British Columbia, the Office of the Police Complaints Commissioner (PCC) formed a professional standards advisory committee. This committee, which was composed of representatives from various municipal police departments and

guided by a recognized national ethicist, created practice directives and posted them for police departments on the PCC website (www.opcc.bc.ca). The practice directives help British Columbia's police and local officials develop fair measures by which to assess police conduct and design better training programs. The PCC also provides training to police commanders and officers, which is an effort to reduce the number of complaints by educating on their roles in solving problems that contribute to conflict with citizens (Police Complaint Commissioner 2001, 55).

In Sweden, the National Police Board (NPB) has gone one step further. It is composed of representatives from six political parties and is chaired by a representative of the Ministry of Justice, who has the rank of Director General. This powerful board approves or denies applications from people who want to serve as police officers. The board is also the overall administrator of the Swedish National Police, the police college, the forensics laboratory, and the force's training program.

Under the NPB in the chain of authority is the National Police Headquarters and its various divisions. There are 118 police districts in the country, each of which is administered by a police board. The district police boards are composed of a local police commander in addition to several commissioners, who are recruited from law schools. The local police board is advised by a committee composed of civilian representatives from the municipalities in the police district (Kurian 1998).

The NPB establishes standards for training new police and veteran officers who wish to be promoted (see Lord 1998). Although the training programs are intense, applications to become a police

officer far exceed vacancies within the force. In the initial training phase, which lasts two years and requires full-time study at the university level, recruits study a wide range of subjects. Course offerings include jurisprudence, criminal and civil law, psychology, physical training, forensics, foreign languages, social policy, driving, traffic management, criminal investigations, and public order. Recruits spend many hours role-playing and participating in individual and group problem-solving activities. The goal of the first phase is to prepare officers for the situations they will encounter as they perform their duties.

Following academy training, police recruits are assigned to local police stations for 18 months and partnered with a senior officer who is responsible for ongoing field training and evaluation. After completing the field training phase, the new officers return to the police college for 20 weeks. During this second academic training phase, experienced instructors review the performance of recruit officers. Those who receive poor reviews because they were unable to perform to the high standards of the police are expelled from the college and not hired as officers.

In-service training of veteran officers or those being promoted is also quite rigorous. The range of training varies from several months, in the case of a sergeant's promotion, to more than two years for a commissioner's promotion. All police chiefs must have a law degree. In addition, Sweden's NPB sponsors leadership and other staff development training sessions that are open to police during the course of their careers (www.policen.se).

Civilians in British Columbia and Sweden have succeeded in organizing better education and

training for police recruits. Through high quality education and training of police, citizens can expect improved police performances. When police performance falls short of these high standards, other mechanisms, such as the ombudsman in Sweden or the PCC in Canada, provide ways of holding police accountable.

Challenges to the Development of Self-Regulating Police Institutions

It is common for government officials, members of the police, and occasionally the public to believe that professionalization of a police force is the surest way to make it accountable. If the police could only be given high quality weapons and training in the latest patrol or crowd control techniques, they would do a better job at maintaining order, enforcing laws, and keeping the peace. This view imagines that police behave poorly and do not do their jobs well because of their frustration at being under-gunned and poorly trained. In many cases, citizens and government officials have accepted this argument.

This is not necessarily the case, however. One might easily argue that peasant patrols, which were developed in some rural areas of Peru during the late 1970s as a result of police unresponsiveness, were created with limited resources. Village peasant patrols respected the authority of local leaders, had some limited anti-crime powers, behaved properly and, by performing their duties well, allowed people to sleep at night. These patrols protected the public and its property without any of the high-tech weapons or tools of a US or European police force. Instead, the citizens who “policed” their villages used machetes, were self-taught, and patrolled on foot or pony (Diaz 1988).

Police reactions, at least in the short term, are likely to be confrontational or defensive towards efforts by outsiders (e.g., parliamentarians, legal scholars or human rights advocates) to make increased accountability part of a reform package.

Media as Advocates for Police Accountability

In addition to the roles played by government and citizens, an independent media—often called the “fourth pillar” of democracy—offers an important contribution to police accountability. When free from government control and held to professional standards, journalists can provide the public with unbiased information that is not available in societies ruled by authoritarian governments.

Because the media can provide information to neighborhoods, cities, and villages about events that would otherwise only be known to people living nearby, it comprises a powerful professional group. It also provides a public forum for debate that compels the reform of police.

Creating a Public Forum for Citizens and Government

The liberation of media from government control and supervision in Mozambique was a result of the nation’s 1990 constitution, which guaranteed freedom of the press and a right to information for citizens. These new freedoms resulted in many new radio stations and newspapers (Seleti 2000, 357). If the first step towards oversight is writing a constitution that sets forth the basic rights and freedoms of the public, the second is the protection of those rights and freedoms by government.

For a number of years after the development and adoption of Mozambique's constitution, police interfered with journalists who reported frequently on police corruption and ineffectiveness. Despite being beaten and jailed, journalists continued to release stories to the public. Sometimes these stories reported on police misconduct through satire. For example, an entire town began calling police by a local word meaning "has a tendency to steal" (Ibid, 359). Any time a citizen used that word out loud to a police officer, s/he was arrested on the order of the provincial police commander.

At other times, news stories would be made into radio dramas. In one such drama on a station with a wide listening audience, a journalist reported on police abuses on certain train routes. The dramatic story re-enacted scenes of police demanding bribes from passengers and stealing their possessions (Ibid, 358). Through this form of radio entertainment, the media publicized police practices about which only train riders would have previously known. The journalist who created the drama was arrested by police but immediately released due to widespread protests by the public and a campaign by a large journalist's union.

After months of nearly continuous reporting on the bad practices of Mozambican police, journalists began to criticize the Minister of Interior, who had done nothing to curb police abuses or implement reforms. At one point, MediaFax conducted a survey that found a majority of the public would favor the firing of the minister. These survey results were published along with reports that the minister had ties to a large car theft organization (Ibid, 360). Meanwhile, the public began to contact journalists with information about police tor-

ture of family and friends and these stories made national headlines. These incidents highlight only a few cases in which the Mozambican media provided a mechanism through which social demand for police reform was voiced.

By mid-July 1996, other civil society organizations (such as the Human Rights League) had joined forces while the media's advocacy for change had been so effective that public anger reached fever pitch. The Legal Affairs and Human Rights Commission of Parliament subsequently called an inquiry. The parliamentary commission summoned the Minister of Interior to answer questions about the operations of the police force under his authority, and heard numerous cases of police brutality. As a result, several legal cases were brought against police officers, the commission demanded the Minister of Interior's resignation, and the president declared the need for a new police force (Ibid).

CONSTITUTION OF MOZAMBIQUE*

1. All citizens shall have the right to freedom of expression and to freedom of the press as well as the right to information.
2. Freedom of expression, which includes the right to disseminate one's opinion by all legal means, and the right to information, shall not be limited by censorship.
3. Freedom of the press shall include in particular the freedom of journalistic expression and creativity, access to sources of information, protection of professional independence and confidentiality, and the right to publish newspapers and other publications.
4. The exercise of the rights and freedoms referred to in this article shall be regulated by law based on the necessary respect for the Constitution, for the dignity of the human person, and for the mandates of foreign policy and national defense.

* Seleti 2000

Some Challenges to Media's Potential Role as Public Advocate

The success of the Mozambican media led not only to increased police accountability but also to better democratic practice. However, there are many barriers to the media playing a similar role elsewhere. As shown by the case study, police may react defensively to reports about their misconduct. Before government steps in to protect journalists and citizens, which could take months or years, many innocent people may suffer imprisonment or physical abuse by authorities.

Media can be an indirect source of police oversight when playing the role of public advocate. As

illustrated, journalists do so by bringing examples of police misconduct and unprofessional behavior to the attention of citizens. In many societies, however, media act less to advocate for social good and more out of its own interest to sell more newspapers or acquire more radio listeners or television viewers. The emphasis on making money in a competitive marketplace often leads to sensational, not substantive, stories. For example, more attention will often be given by journalists to stories that include sex or violence than to conditions for prisoners at a local jail. News reports in these environments focus on the results and victims of crime, such as robbery or rape victims. This causes fear in society, and does not necessarily provide citizens with a better understanding of the necessary steps to solve social problems.

CHAPTER THREE

Community or “Problem-Solving” Policing

Community policing is one of the approaches used by democratic governments to maintain order within society. The practice is relatively new, developing and spreading over the last quarter century. However, it incorporates many principles that date back to the ideals first articulated by Sir Robert Peel, the founder of the Western Hemisphere’s first public police force – the London Metropolitan Police.

The basic premise of community policing is that police work in partnership with local communities to solve the problems that matter most to citizens. In such a partnership, the police do not rely as heavily on traditional enforcement options such as arrest. Instead, citizens who work in fields besides law enforcement – i.e., education, healthcare, housing – work with police and share resources for the common good of the community. In the US, for example, this practice developed within uniformed police services but not in national law enforcement agencies (i.e., Federal Bureau of Investigation) that engage in plainclothes police activities and are primarily concerned with counterterrorism or transnational crime.

Even though community policing has been tried in many countries, it has not always succeeded.

These experiences have highlighted common qualities of successful operations: 1) police are effective at maintaining order and enforcing laws, which is the purpose of internal security forces in a democracy; 2) police respect basic civil and political rights; 3) police encourage ongoing civic participation to help decide how resources (human and material) should be used; and 4) police create strategies in partnership with other agencies and community organizations to address basic social problems that can often lead to criminal behavior.

Unfortunately, it is not always easy to measure the success of community policing until years later. For example, it is impossible to know after only three months whether a police program that provides education to youth from a neighborhood with high unemployment and crime is successful. Regrettably, budget pressures or lack of commitment on the part of public officials and citizens often results in programs ending too quickly without an understanding of their possible benefits.

Community policing associates the benefit of greater institutional commitment by police to solving local problems (as determined by local citizens) with the risks of increased discretion at lower levels of authority. In order for community

policing to work, line officers—the police who work on the street—and their immediate supervisors must be authorized by the police institution to solve problems informally within their work areas. This allows for faster solutions to problems and more independence for police officers, who do not have to constantly check with upper-ranking officers before making decisions.

Discretion as a part of policing requires further consideration. Generally, police regulations are more useful as “do not” restrictions than as “do” guides for officers and their supervisors. When a police officer uses his/her discretion, that officer is exercising personal judgment in a situation where legal or procedural rules do not definitively apply. Thus, a police officer might be able to apply one of several options in a particular case. Each of those options might be correct, but which would be best and how does the officer determine that?

For example, a police officer finds a 15-year old boy smoking marijuana behind an abandoned building with several friends. The officer could a) arrest the teenager for possessing a controlled substance (a drug or narcotic banned by law); b) take the marijuana and tell the boys to go home; or c) not arrest the boy but bring him to a parent or other responsible adult and release him without charge.

The officer in this example must make a decision that is based on his/her discretion. There are a variety of factors that could influence the decision, including the officer’s understanding of the drug laws, knowledge of the neighborhood or familiarity with local residents, or even whether or not the violation would be viewed seriously enough by courts to be worth the time required to make a formal arrest. Thus, a police officer in Singapore

might deal more forcefully with the boy than his colleague in San Francisco. Even though an officer’s discretion might be used in both places, the results could be different.

Questions then arise about how officers should use their discretion, and what type of controls are available for policymakers so that police use discretion properly. As the preceding sections explained, many instruments of accountability may be developed. Even though community policing is a form of police accountability to society, it is *not* a mechanism for oversight. Policymakers should not view community policing as a way to control police conduct or performance. Community policing *can* be viewed as the result of successful oversight through a combination of the mechanisms discussed in previous sections.

United States Experiment: Houston’s Community Policing Project

While some municipalities have attempted to evaluate the effects of a change from traditional to community policing, few have been as in-depth as the evaluation performed by the police department in Houston, Texas. Houston’s evaluation of its “Neighborhood Oriented Policing” test project has provided the most in-depth research findings related to any of the new, similarly styled community policing projects of the early 1980s. In the United States, the evaluations found that in neighborhoods where police and citizens were experimenting with a community policing style, both groups felt that the change was worthwhile (Wycoff and Oettmeier 1994, Appendix).

“Neighborhood Oriented Policing”, a term created by the Houston Police Department, was defined by

police as “an interaction between officers and citizens for the purpose of identifying and addressing crime and non-crime problems” (Ibid, 6). In order to address such problems, the police were forced to re-structure their administration and change their operating plans.

Police tried to bring about changes in several important areas: management style, the decision-making capacity of line officers, and citizens’ perceptions of the quality of police services. This resulted in focusing on better training (recruits and in-service), more efficient management of public requests, development of a comprehensive performance review system, better management of patrol and investigations, an improved system of discipline, and increased citizen involvement in policy-making and planning (Ibid, 7).

The department’s five-year evolution to a new policing style was conducted in two phases. During Phase I, the police requested greater public participation and understanding of operational strategies.

At the same time, the police made program changes in recruitment, training, performance evaluation, and discipline. Phase II marked the complete change of the Houston Police Department’s policing style (Brown 1989). Evaluation of the experiment in community policing took place three times during a six-month period and again at the project’s conclusion. In several neighborhoods, a “control group” was told by its supervisors to continue working as they always had and were evaluated using the old performance evaluation system.

Internally, police commanders reviewed evaluations of police effectiveness in the neighborhoods where tests were taking place to determine how street supervisors were keeping patrol officers accountable to police regulations given the greater level of discretion available.

Conducting an in-depth evaluation of the community policing experiment had two purposes. One was to reinforce the goals of community policing

IMPLEMENTATION OF HOUSTON’S “NEIGHBORHOOD ORIENTED POLICING”*

PHASE I

- Assigned patrol area (beats) changed to reflect neighborhood boundaries;
- Officers permanently assigned to beats and responsible for solving neighborhood problems;
- Investigations focus on problem solving;
- Management mobilizes resources to assist beat officers (training, coaching, facilitating);
- Basic officer training includes instruction in community dynamics, mobilization and leadership;
- Alternative techniques for complaint-taking.

PHASE II

- Ensure cooperation and interaction between departmental divisions and units;
- Find consensus for problem solving through frequent review of police-citizen interactions;
- Integrate citizen priorities with police operations;
- Evaluate operations against plans;
- Define management’s responsibilities;
- Establish internal chain of accountability for progress in delivering better services and reporting on results.

* Brown 1989

among officers by frequently critiquing their performance. The other purpose was to find out whether citizens noticed any change in the quality of policing (Wycoff and Oettmeier 1994). The table below lists some of the major findings related to implementation of “Neighborhood Oriented Policing” in pilot areas versus the use of traditional policing tactics in control areas.

While evaluation instruments are never perfect, they are still a useful way to determine whether a project is accomplishing its goals. The Houston Police Department’s evaluation of “Neighborhood Oriented Policing” relied on several types of reports: patrol officers’ bi-annual assessment reports, patrol officers’ monthly worksheets, community information forms, citizen feedback forms on calls for police assistance, investigator ques-

tionnaires, and officers’ immediate-supervisor assessment forms (Ibid, Appendix A).

The Houston experiment verified the findings of earlier experiments. Citizens and police improved their abilities to communicate with each other and to design creative solutions to ongoing problems. These solutions were often a better use of limited resources than historical police solutions that were both time and labor intensive and failed to address the root causes of many problems encountered by police on a daily basis.

A New United States Model: Ending Gang Violence in Boston

The city of Boston experienced a rapid rise in violent crime by youths during the 1980s and 1990s that generated loud public outcry and forced city

SURVEY FINDINGS:

Houston’s “Neighborhood Oriented Policing”*

Police in pilot areas:

- believed that foot patrol aided performance of new duties;
- felt supervisors appeared to show greater interest in how line officers used time when not on an assignment;
- engaged in problem-solving more often;
- noted great satisfaction when engaged in planning sessions;
- often discussed problems with police from other units of the department;
- appeared more satisfied with supervision, performance evaluation process, and recognition for accomplishments;
- were more likely to hold favorable views of the public.

Citizens in pilot areas:

- scored conduct, concern and willingness of officers to listen at highest possible level;
- noted no difference in the level of interest shown by officers about problems in their neighborhood;
- more frequently remembered the names of offices responding to a complaint;
- discussed the case with officers and were given crime safety tips by the officer.

* Wycoff and Oettmeier 1994, 9-12

officials to admit that something needed to be done to tackle the problem. Between 1985 and 1995, the number of homicides committed by youth under the age of 18 had risen by 145% even as the number of homicides committed by adults had dropped 30% (Harden 1997). Furthermore, innocent bystanders were often shot by stray bullets during gun battles between gang members. It was not until city officials, police and the public realized that isolated responses by government, law enforcement or local organizations would only fail in the long term that a viable strategy was created (McDevitt, Braga, Nurge, and Buerger 2003).

Boston’s strategy may be the best model of problem-solving policing ever developed in the United States; it was so successful that the National Institute of Justice funded programs to copy the model in other U.S. cities experiencing similar problems. In 1990 the Boston Police Department coordinated a broad multi-agency attack on youth violence, first creating and maintaining a number of relationships (see table). Internally, the police changed one unit’s assignment from fighting gangs to participating in a Youth Violence Strike Force. This program facilitated communication and dialogue where none had formerly existed. City probation officers, who maintained contact with gang members who had already entered the formal justice system, knew a great deal about gang activity (Ibid).

Until Boston police began talking with probation workers, there was no institutional mechanism within either the police force or the probation agency for sharing information between the two agencies. Police patrolled the most violent

**EXTRA-INSTITUTIONAL
RELATIONSHIPS OF
BOSTON POLICE***

- Federal Bureau of Alcohol Tobacco and Firearms (disrupted and tracked gun trafficking);
- City Courts (probation officers managed case files of youth offenders and worked directly with police);
- Black church leaders (ministers formed Ten Point Coalition and took ministries to the street);
- US Attorney’s Office (prosecutions resulted in longer jail sentences in out-of-state prisons for certain categories of offender);
- Youth Service Providers Network (provided education, job-skills training, counseling, job placement);
- Department of Youth Services (corrections workers tracked cases of juvenile offenders);
- Alternative to Incarceration Network (provided range of social services).

* McDevitt, Braga, Nurge and Buerger 2003

neighborhoods with probation officers to enforce probation restrictions – i.e., curfews and “stay-away” orders (given by a judge to an offender making it an offense to go near a person or property).

This part of the strategy was so successful that the police department and the probation agency implemented a joint program called “Operation Night Light,” which targeted the most violent criminals who were on probation from the courts. Using new curfew rules, the teams arrested any of the violent criminals on the street after the curfew and brought them to court for probation revocation. If probation was revoked by a judge, the person would be put in jail.

In addition, federal prosecutors from the U.S. Attorney's Office agreed to prosecute youth gang members who committed violent offenses. Normally, the local city prosecutor would bring these cases to court. But the involvement of federal authorities meant that convicted criminals faced longer sentences in prisons located far from their friends and families in Boston (Ibid).

These stricter punishments were reserved for gang members who simply would not change their behavior. For other gang members, the community policing strategy provided many incentives for good behavior. Police tried to find jobs for youth who were likely to participate in gang activities.

Once the program had been running for some time, a group of city agencies coordinated job placement efforts with local government and private businesses. Police often recommended gang youth for job skills training and employment programs. Social workers who were sent by the mayor into violent neighborhoods and schools also helped get gang members off the street and into work programs. By the end of 1997, the city of Boston was providing teenagers with 10,000 jobs a year—mostly at local businesses.

In addition to counseling and educational services, social workers created a sports league and promoted inter-gang competition on the basketball court in neutral locations where good behavior was enforced (Ibid). Neighborhood gymnasiums, boys' and girls' clubs, and churches were encouraged to keep their doors open late and to run programs that would keep youth indoors at night. Police and social workers actively searched for youths who were skipping school, and spoke to those with low grades. Older, former gang members, many of whom had spent time in jail, were

paid to counsel youths who were considering membership in a gang (Harden 1997).

Finally, Boston police and the other city agencies and non-governmental associations described above participated in a sustained information outreach effort. Part of the effort was to explain to young people why the city wanted to stop youth violence. The outreach brought gang members into face-to-face contact with police and probation officers, social workers and local clergy. (The local clergy from 54 churches had formed Boston's Ten Points Coalition in 1992 after members of rival gangs fought inside a church during the funeral ceremony for a gang member killed in a gunfight.)

During these meetings gang members also learned about the opportunities and services that the city was making available to them. Attendance was not always optional, as many gang members were forced to attend by their probation officers or corrections workers. Social workers and church leaders recruited other youth who had not yet been arrested to attend the meetings. Police explained their activities on the street, and gang members were given the opportunity to ask questions of any of the speakers. These meetings were held in public places, often community centers that had been set up to provide recreation for neighborhood residents (McDevitt, Braga, Nurge, Buerger 2003).

Community policing in Boston became a city priority because the heavily centralized, traditional approach of police and other government agencies could not stop violent crime. Boston police accomplished their goal of reducing violent crime by working with several other government agencies and collaborating with citizens. Such cooperation required information sharing, dialogue, good faith, and a set of common goals for all groups involved.

Democratic Development in Japan: Neighborhood Policing and Public Service

Japan's national police were organized during the democratic transition after the end of World War II, and have since followed basic community policing principles. Police work remains viewed as a lifelong commitment.

The role of police in Japanese society takes several forms. The police are administered by national and regional commands, while daily operations are managed by prefectures that supervise police stations. In Japan police stations are merely locations where prisoners are held, equipment is maintained, and assignments are handed out during shift changes (Bayley 1976).

In cities, officers staff fixed police posts (*koban*) that handle incidents occurring within a one-quarter square mile area. Most citizen reports or calls for service occur through one of the approximately 6,600 police posts. As vehicle patrols are limited due to traffic congestion, officers often ride bicycles and conduct foot patrols.

In rural areas, one or two officers live in quarters attached to a fixed police post (*chuzai-sho*) that is responsible for delivering police services to an area not greater than 20 square miles. As in urban areas, the police post is where officers conduct daily work, take complaints, or request other services (Alarid and Wang 1997). There were approximately 9,000 rural police posts as of 2003.

Other services that have been requested of and provided by police highlight Japan's commitment to community policing. These include: creating a traffic safety video in response to a growing number of traffic accidents and then showing it to area

businesses or residents; providing public service announcements via a public address system at the *koban*; rewarding youths who find money in local parks and give it to police who operate a special fund for lost money; and providing directions and even family counseling (Bayley 1976).

Because police are often busy with these community non-law enforcement activities, they often do not have time for criminal investigations or many other "so called" police activities. As a result, criminal investigations and crime prevention are specialty services that are managed at a regional level. This prevents line officers from being overburdened during the workday. When citizens require a police response, they may call in to the police post, file an electronic request, go to the police post, or use one of the public call boxes.

Citizens often form voluntary civilian patrols or take part in crime prevention associations to assist police in public education about crime. Voluntary patrol members also teach the public the importance of keeping crime scenes secure until police specialists arrive. Police informally monitor these voluntary patrols, discussing police priorities with members to prevent the patrols from engaging in vigilante activities or obstructing police operations.

As part of National Headquarters' policing plan, officers are also required to complete a public survey twice a year (*Junkai-ren*) by visiting all residences and business establishments within the *koban's* work area. Every residence in Japan receives a visit from a uniformed police officer twice a year. Sample survey questions may be found in the text box.

Survey results are kept locked in a box at the *koban* and are not shared with other government

agencies. Moreover, citizens are not required to respond. The answers to the surveys help police design new programs, strengthen their relationships with the public, and increase their knowledge of the communities in which they work (Ibid).

Another aspect of Japanese community-oriented policing is its inclusion of a mechanism by which the public may complain about a particular police service, seek advice about crime victimization, or learn about a particular case. Known as Citizen's Corner, offices are established at the prefecture level. They are staffed by police who answer public questions or receive citizens' complaints. As the police force considers this an important assignment, officers working at Citizen's Corner increase their chances for promotion (Ibid).

Many of the services provided by Japanese police exceed what police forces usually require of officers; for example, family counseling for citizens is not in the job descriptions of most police. However, this daily contact is one of the demands that Japanese citizens make of their government. The police response, which is separate from their other functions of enforcing laws and maintaining order, is one of the ideals of community policing.

National Development and Community Policing: Singapore's Adaptation of the Japanese Model

Community policing in the tradition of the Japanese model described above was adopted by Singaporean authorities in 1981. Neighborhood police posts, foot patrols, relationships with community organizations, and efforts to promote public safety

POLICE SURVEY OF ALL RESIDENCES AND BUSINESSES IN JAPAN (SEMI-ANNUAL)*

- How many people live here? What are their ages and gender? What are their relationships?
- Who is employed and what type of work does that person do?
- Does anyone own a vehicle? What is the license plate, make and model?
- Do you have any comments about the neighborhood?
- Has anyone new moved into the neighborhood?
- Have you noticed anything suspicious lately?
- What crimes have occurred recently?
- What are the problems in this neighborhood – e.g., bad sewers, loud partying?
- If a business, what are your hours of operation?
- If a business, who are your employees and what are their details?
- If a business, does anyone sleep on the premises?

* Bayley 1976

through education are all traits of Singaporean policing that were based upon the Japanese model but tailored for a different environment. Despite a markedly different form of police organization than Japan—one that is highly centralized—police actively solicit feedback from citizens, engage in public dialogues about the concerns of neighborhood residents, and provide information about police activities (Hui and How 1992).

Singaporean authorities sought to establish a process enabling representative government to monitor the performance of the Republic of Singapore Police (RSP) in accomplishing the objectives of community policing. This process was marked by participation and input from the immediate supervisors of officers working on the street as well as

from commanders throughout the force. Together, high and low-ranking commanders discussed and agreed upon a comprehensive police strategy that was called the RSP Master Plan. A central planning office published this strategy in the form of a final planning document.

If police officers have a good understanding of where they are working and of larger social issues, police response will be more effective at solving problems of crime and disorder. This same understanding also serves police commanders, who must decide how to deploy officers and use police resources most effectively (Ibid, 86-87).

RSP planning for community policing focuses on the environment in which police operations are carried out. Police concentrate on understanding all of the factors related to past criminal incidents and instances of public disorder, such as riots or demonstrations (Ibid, 88-890).

Police are also interested in social and economic development, particularly whether there is any re-

lationship between that development and crime and disorder. The Master Plan, which is discussed and slightly altered every five years, is submitted to the Minister of Home Affairs. The Master Plan is the foundation strategy upon which the police force builds its yearly strategies, and includes a section that sets forth the vision of the force. Copies of the plan are given to other government agencies and RSP officers, ensuring both government officials outside of the police and all members of the RSP are aware of the police's goals and priorities. Each time police units make operating plans, commanders refer to the Master Plan; this allows for coordination between units.

The Master and yearly plans contain budget guides for division commanders. Because the plans contain statements about long- and short-term goals, commanders are encouraged to evaluate the effectiveness of their subordinates in carrying out community policing.

Police strategies are formed at all levels of the organization. Particular emphasis is placed upon en-

**SARA MODEL:
A TOOL FOR DESIGNING COMMUNITY POLICING PROGRAMS**

SARA stands for Scanning, Analysis, Response and Assessment. In the SARA model, the process matters and considerable weight is given to collecting accurate data and making decisions through working groups.

- Scanning – identification of problems in a neighborhood or community;
- Analysis – jointly conducted between various police units, government agencies and community organizations; objective is to understand the causes and features of specific problems;
- Response – based upon a strategy that is created through analysis, including increased social services as well as tougher sanctions; targets elements of a problem (e.g., problem groups, individuals);
- Assessment – evaluation of strategy implementation.

Two important considerations in effectively using SARA are 1) the proficiency and ability of police to carry out the response strategy, and 2) the presence of local community-based organizations that are recognized as community leaders and that will remain committed and interested.

suring officers have a good understanding of the environment in which they are working. Thus, if juvenile delinquency is threatening a particular neighborhood, police might organize activities for youth, work more closely with teachers or social workers, and in the last instance step up enforcement activities.

While the RSP model of community policing may seem heavily centralized, there is ample opportunity for line officers to participate in policy development and planning. In fact, dedicated Research and Planning Officers are assigned to each of the various functional units (e.g., patrol, investigations) to provide feedback to principal planners. A central planning and research committee reviews plans submitted by the functional units. These plans take the form of proposals and are submitted through the unit commanders for discussion at planning meetings. The proposals form the basis for new initiatives that accomplish a goal of the Master Plan. Although planning is centralized, operations are not—which is why the RSP officers work from neighborhood police posts.

Community policing in Singapore is not experimental. Instead, it is the response of government civilians at the highest level (Ministry of Home Affairs) and police officials to the needs of local communities for law enforcement and order maintenance. That response is based upon a relationship between police and citizens that becomes part of planning at all levels.

Singapore has succeeded in overcoming the major barriers to effective implementation of community policing experienced by policymakers and police in many democratic states. It has done so in several ways: 1) planning for police administration and operations is frequently reviewed both within and outside of the force; 2) planning includes local priorities that become known to police through meetings with the public; 3) plans are drawn up on the basis of available resources, which are directly committed to initiatives. In combination, these characteristics assist the police in providing a high standard of service to the public.

**FAILING AT COMMUNITY POLICING:
DEMOCRATIZATION PRESSURES IN THE CASE OF SOUTH AFRICA**

Reform of the South African Police (SAP) became a top priority of the African National Congress (ANC), which assumed the reigns of government after the 1994 election and sought to move the SAP from the previous era of political policing to law and order policing. In addition to several attempts to establish mechanisms of accountability, the government pushed the SAP to change its policing style to one that would be community-based and therefore more legitimate in the eyes of the public. The ANC also recognized the need to reconstitute other components of the justice system, courts and prisons, as well as the civil service and army. According to ANC representative Penuel Madun, this was done by “infusing them with new, humane and democratic values [as well as] personnel” (Cawthra 1993, 167).

Reforms of the national police took place on several levels and were based upon agreements reached under the National Peace Accord of 1991 and policy guidelines drawn up at a national conference in May 1992. A National Police Board was established; it was given responsibility to research and make public reports to the Minister of Law and Order related to training policies and operational effectiveness of the police. In coordination with top police officials, a community policing strategy was developed. Civilian secretariats were also set up at the regional and local levels; government officials expected that they would function as a resource for citizens with complaints, government oversight of police, and mechanisms of dispute resolution (Shaw 2002 and Cawthra 1993).

But because oversight mechanisms were weak or non-existent, police were not held politically, legally, socially or professionally accountable in any meaningful way, and the police reforms that were implemented had little effect. Many of the same police who had served during the apartheid regime were still in charge of key operations. The historic relationship of police to black residents of townships provided little foundation for police-community problem solving. The SAP’s attempted change of working style had little impact on underlying community problems that were causing crime rates to rise quickly. A subsequent switch from community policing to crime suppression further damaged the police’s image in the eyes of an untrusting public.

The government’s lack of responsiveness in terms of the crime problem fueled a surge in vigilantism and in the use of private security groups (Shaw 2002). Government officials, who had responded to pressures to combat crime by encouraging vigilante groups to work with police against crime, were unwilling to force police compliance with the law in carrying out their work. The public demand for crime control and the fear among elected officials that citizens would perceive them as tolerant of crime added to the crisis. Government officials feared that this perception would result in few votes during the next elections unless they gave police wide flexibility in how they fought crime.

CHAPTER FOUR

Conclusion

The task of creating a system of oversight is not an easy one. Anyone who has seen what happens to a community or society when police do their work poorly or behave violently understands the importance of establishing mechanisms of accountability. Even after some effective methods have been created, further efforts may be needed to create a broader culture of accessibility. The efforts necessary for such progress to be made must be long-term, as change will not take place overnight.

That culture of accountability is promoted by attention to the various spheres of accountability and their relationship to each other. When considering the relationship between social and legal forms of accountability, for instance, it is clear that the public's support for laws that guide police behavior is important in encouraging political officials to draft strong oversight legislation. Similarly, internal accountability mechanisms are rarely established without support from agents at the political level, greater social consciousness and activism, and/or a legal mandate.

The box on the right summarizes some of the principal qualities of a successful oversight system that have been discussed in this report.

A successful oversight system has a foundation. Laying that foundation requires a long-term strategy by public officials, incorporating financial planning, public discussion, and a basic agreement between different political parties about the value of police oversight. It also necessitates a clear understanding that even when all of those tasks have been accomplished, the organizational culture of police may still stand in the way of progress; thus, officials must focus on police training, recruitment, discipline, and policy-making to support plans for making police accountable.



QUALITIES OF A SUCCESSFUL OVERSIGHT SYSTEM

- Basic political consensus for need;
- Specific statutory language and clear mandate;
- Understanding within police organization of position within the control hierarchy;
- Method of evaluation;
- Accessibility to the public;
- Thorough, impartial, timely action;
- Long-term financial planning;
- Effective remedies for policy shortcomings and police misconduct.

Encouraging or forcing change on a professional body that is itself an interest group invested with a great deal of power in terms of its authority over citizens is inherently difficult. Hierarchical organizations usually do not encourage strong relationships between their members and external agents or the public; this is particularly true for police forces, where strong loyalty between officers is reinforced by the nature of the work. The answering by police forces or officers for actions taken, which is the objective of oversight systems, must be based on something much broader than the institutional base of the police.

A great change in police style has resulted from increased police accountability in some societies. Community policing, as demonstrated by the South Africa case, is not a universal solution, especially if not reinforced by various mechanisms of accountability. Simply asking a previously cor-

rupt police force to work closely with citizens is unlikely to succeed. It is impossible to know whether a change or reform in police style is appropriate without evaluating the environment in which the work will be carried out and the institution that will have primary responsibility for the work.

The adoption of a community policing style requires reform in police administration and operating strategies, but it also requires social change. If citizens do not believe that police will protect them or be neutral problem solvers, it is unlikely they will be willing to cooperate with police. Like any project that can only be realized in the long-term, policymakers must also evaluate progress against goals once the project has begun and make small changes if necessary. All parties must understand, however, that changes in institutions like the police and their relationship to society do not happen immediately.

Appendix 1

Sweden: A Case Study in Improving Performance

Sweden’s National Police Board (NPB) launched a “Total Quality Management Project” in 1998 in an effort to promote broad public sector reform by evaluating how agencies like the police manage resources and conduct operations. Information from the evaluation was placed into different categories on a scorecard, which allowed evaluators to rank priorities and then compare police performance to those priorities.

The NPB project was tested in nine different police districts with the following goals (Elefalk 2001, 958):

- Improve police management and policy-making at all levels;
- Simplify evaluation of police work product;
- Improve communications between ranks and improve learning from experience;.
- Increase understanding of how causes of problems determine police response;
- Develop police commitments to unit and institutional goals and design ways to measure quality and performance;
- Link organizational and strategic goals to unit/individual decision-making;
- Promote understanding of government directives and how they can be translated into action.

As part of the project, Swedish officials organized dialogues between police officers, units and commanders. The dialogues helped officials to develop production goals – e.g., making a goal to reduce the number of accidents in a particular neighborhood by enforcing strict laws against driving a car while drunk. The discussion included the larger social problems that the production goals were designed to address.

The scorecard concept required the local police authorities in the testing areas to analyze local problems and the priorities of citizens so as to develop a clear understanding of public opinion (Ibid 960). Local police authorities also looked at police resources and the history of police operations in the test areas. The scorecard looked like this:

	PAST	PRESENT	FUTURE
OPERATIONAL	Crime & response		
STAFF		Attitudes	Evaluation of progress
CITIZEN		Priorities	Opinion re: police & improvement
RESOURCE		Budget & staffing	Projected budget & staffing

In the test locations, the police used the scorecard to make concrete, daily operational decisions. Local officials were then responsible for evaluating how police strategy accomplished or failed to achieve the larger goals that had been set – i.e., whether stricter enforcement of driving laws resulted in safer neighborhoods.

Public opinion was an important factor in completing the scorecard. Swedish police were encouraged to develop their own surveys and gather information on public opinions about local problems. The main local problems that the police were interested in included crime, being a victim of crime, and how police respond to crime. In addition to the surveys, police also organized dialogues with community residents in the test areas. This opened the door to greater public input into how police develop their operating procedures (Ibid, 963)..

In the past, performance critiques of police might have been limited to how quickly police completed their investigations or arrived at the scene of an incident. But the test program helped to develop better measurements in order to find out all of the factors by which to judge police performance.

One of the early results of this project included better communications between police officers and units and with commanders. Input by low-ranking police officers led to a greater sense of individual and unit responsibility for actions. A greater willingness by police to be accountable for their actions was correctly seen as the cause of higher job satisfaction (fewer good officers quitting) and higher approval for the professional conduct of police among citizens (fewer complaints).

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