

**ANALYSIS:**

# Policing by consent: Austerity has eroded police legitimacy

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[Peter Joyce, Visiting Professor, Wrexham University](#)

**The police service has faced a prolonged period of unprecedented cuts. Visiting Professor in Criminology at the University of Glyndŵr Peter Joyce and Senior Lecturer in Criminology at Manchester Metropolitan University Dr Wendy Laverick argue that this level of austerity risks undermining police legitimacy.**

The recent report by the Home Affairs Select Committee, [\*Policing for the Future\*](#), highlighted a number of contemporary problems faced by police forces in England and Wales. In particular, it drew attention to the increase of traditional forms of criminality and the emergence of new issues on the police agenda to which the service needed to respond. Cyber crime (especially online fraud), child sexual abuse and dealing with persons with mental health illnesses were highlighted in this latter respect.

These forms of criminality, old and new, had arisen in a time of financial reductions which commenced with the 2010 Coalition government's austerity measures. Although additional money has sometimes been provided to deal with issues such as counter-terrorism, today's police service has lost a considerable amount of resources since 2010, which, the Select Committee stated, amounted to an 18% funding reduction in real terms since 2010-11. This has resulted in a reduction in the number of police officers from 143, 743 in March 2010 to 122, 404 in March 2018: including PCSOs and police support staff, the overall police workforce shrunk by around 18% in this period.

This has thus posed a considerable dilemma for the service as to how a vastly growing and increasingly complex workload can be managed with less resources available to tackle it.

### **Austerity and the delivery of police services**

The Select Committee drew attention to considerable deficiencies affecting the delivery of contemporary police services. It was pointed out that between 2015 and 2018, there was a 32% increase in recorded crime but a 26% decrease in the number of charges or summons, with over 153,000 fewer criminals being brought to justice.

In connection with new forms of criminality, it was reported by the Committee that the proportion of fraud cases being investigated was 'shockingly low' with as little as 3% of cases reported to the centralised reporting facility, Action Fraud, resulting in charges or summons.

In connection with online child sexual abuse (which the Committee stated had reached 'epidemic levels'), it was asserted that the police response was 'nowhere near the scale needed'.

In terms of older forms of criminality, the Committee pointed out that three quarters of theft offences were closed without a suspect being identified and deficiencies in response times were also identified.

There are various reasons to explain this situation (in particular, the complicated nature of many instances of crime of this nature – online fraud, for example, often being transnational in nature) but the overall impression is of policing in crisis – a situation that justified the Select Committee calling for a ‘a transparent, root-and-branch review of policing’ to be conducted by the Home Office which, the Committee argued, was thus far responsible for ‘a complete failure of leadership’. One key area that this review needs to take into account is the impact that performance exerts on its police legitimacy.

## **Police legitimacy**

When professional policing was introduced across England and Wales in the first half of the nineteenth century (commencing with the creation of the Metropolitan Police in 1829), considerable emphasis was placed on ensuring that the ‘new’ police secured legitimacy with the general public.

An important reason for this was a fairly widespread view that professional policing was an undesirable development. This was so for reasons of cost (the old Parish Constable system which professional policing replaced being based on a no-cost voluntary principle) but, especially, a perception that professional policing would adopt the practices of the ‘Bourbon’ police system in France and trample roughshod over the rights and liberties of English (and Welsh) people. The need to ensure that the new development in policing secured widespread popular legitimacy was therefore an important political imperative.

Legitimacy entails acceptance of the right and justification to exert power. In connection with policing, this means that the public accept that police officers have the right to give instructions to members of the public which they are required to obey, even in scenarios where they do not agree with what they are being told to do.

In order to achieve legitimacy, policing in England and Wales was constructed on the principle of policing by consent. This approach was derived (in relation to government) from the English political philosopher, John Locke, whereby police legitimacy was built on the consent of the

people. It was thus believed that the greater the degree of consent given to the police, the more they would be viewed by the general public as a legitimate civil force.

## **Policing by consent**

The principle of policing by consent was a cardinal aspect of the Common Law model of policing that was adopted in England and Wales. This was in contrast to the Roman Law model used in many European Countries where the police comprise servants of the government as opposed to being servants of the people. This approach was spelled out in what are sometimes referred to as Peel's Nine Principles of Policing (although it is more likely that the initial Commissioners of the Metropolitan Police in London, Sir Charles Rowan and Richard Mayne actually drafted them).

These principles were translated into practical measures to secure policing by consent which initially included local control and accountability (outside of London), the absence of a discrete raft of bespoke police powers, the requirement that police officers would act in accordance with the law, the use of minimum force, an emphasis on the prevention of crime, a deliberate policy of recruiting from the working class and the performance by the police of a range of functions not directly associated with law enforcement, termed the 'service role' of policing.

These measures constituted the pillars on which policing by consent was constructed whose aim was to ensure that the police possessed the trust and confidence of the general public. They were subsequently built upon in the early twenty-first century by initiatives that aimed to promote policing by cooperation and empower citizens to engage in order to beat crime.

However, if the police relinquish popular trust and confidence, policing by consent is undermined and a significant threat is thereby posed to police legitimacy.

## **The contemporary threat to police legitimacy**

In order to deal with the increased workloads posed by increases in traditional forms of crime and the emergence of new forms of criminality, the police service – in conjunction with Police and Crime Commissioners and related officials in London and Greater Manchester – has been forced to make tough choices. These have included re-directing resources and prioritising the response given to various forms of crime.

In terms of re-directing resources, perhaps the biggest contemporary loser has been neighbourhood policing. This reform to the policing of local communities was rolled out across England and Wales in 2008 and exemplified a pro-active style of preventive policing. It was regarded as key to mobilising community involvement, responsiveness, accessibility, detection and enforcement – employing proactive problem-solving to deal with public safety issues such as fear of crime and reassurance.

However, to many financially over-stretched police forces, this form of neighbourhood policing is a luxury that can no longer be afforded.

Although the concept of neighbourhood policing remains, it has increasingly become reactive in nature, responding to problems as and when they arise – an approach which emphasises the law enforcement role of policing and further undermines the ability of the police to deliver functions embraced within the service role of policing. For this reason, the Home Affairs Committee report urged the Service to start re-investing in ‘community-capacity building’, arguing that ‘, without local engagement, policing is at risk of becoming irrelevant to most people, particularly in the context of low rates of investigation for many crimes’.

However, policing local communities in a reactive manner serves to distance the police from their local publics and makes for a style of policing that may be unacceptable to many, especially when it embraces the random use of police powers such as stop and search based upon stereotypical assumptions about a community or the people who live within it of which the police have no first-hand knowledge.

The 1981 riots and the resultant Scarman Report (1981) bear adequate testimony to how policing of this nature serves to undermine the trust and confidence of communities in the police service and how this can have riotous consequences.

A second way in which financially over-stretched police forces have sought to square the circle of being required to perform more work on diminishing resources has been to prioritise what aspects of crime receive attention.

One consequence of this is that volume crime is downgraded and the perpetrators are rarely apprehended. One measure of this is that crime outcomes published by the Home Office indicate that in the year ending 2018, police forces closed almost half (48%) of offences with no

suspect identified, a similar proportion to last year. It reported that 'this proportion varied by crime type. Three quarters (75%) of theft offences were closed with no suspect identified, compared with around 7 per cent of rape offences and 2 per cent of drugs offences'.

Although concentrating police resources on a murder or serious sexual assault at the expense of a household burglary may appear to be a common sense decision, it fails to sufficiently acknowledge that volume crime constitutes the form of crime that most members of the general public are likely to encounter and that a general perception that the police are not interested in dealing with it further undermines public trust and confidence – 'the police are never there when you need them'.

A further aspect of this is for the service not to take on work which, although worthy in itself, is not viewed as a pressing task of policing. The chair of the National Police Chiefs' Council, Sara Thornton, put forward such a view recently in 2018 when she argued that although 'investigating gender-based hate crime or investigating allegations against those who have died are not necessarily bad things...they cannot be priorities for a service that is over-stretched'.

In an era of insufficient resources, similar comments could be made regarding the provision of services to victims of serious crime or those who are persistently targeted and intimidated and also to much of the preventive work undertaken by neighbourhood policing teams such as education, awareness-raising and training, early intervention and target hardening. Work of this nature could be dismissed as low priority for a service constrained to focus on more serious forms of criminality.

The difficulty with this perspective is that minor incidents that may not even constitute a crime, if unchallenged by authority, may encourage perpetrators to commit more serious offences in the belief that as they have got away with it in the past, they will continue to do so in the future.

For example, spitting at a victim is a fairly common aspect of hate crime. Lack of response may encourage perpetrators to pursue more aggressive forms of behaviour, culminating in a racially-motivated murder.

Additionally, if the response to low-level crime and anti-social behaviour is downgraded, actions of this nature are likely to escalate with a subsequent decline in community confidence and cohesion which creates conditions that are conducive to more serious criminal activities blighting a neighbourhood.

### **Consequences of the decline in police legitimacy**

If public trust and confidence in the police diminishes, one development that may stem from this is neighbourhood self policing.

Although initiatives such as Neighbourhood Watch have a long pedigree in England and Wales, the widespread use of social media makes it possible for residents to use facilities such as Facebook groups as a means of sharing knowledge and information about local crime.

If there is a widespread belief that there is no point in reporting such matters to the police as they will not deliver an adequate response, the absence of trust and confidence could well resort to vigilante action in which residents sort out crime problems themselves and deal with the perpetrators in a manner akin to frontier justice associated with the American Wild West.

Additionally, police officers function in a different manner in situations where the trust and confidence of the general public diminishes. One important consequence of police legitimacy was the manner in which the police inter-acted with their local publics.

When policing is seen as a legitimate function, police officers are able to secure compliance with their instructions because of the authority they wield by virtue of their occupancy of the office of constable. The nineteenth / early twentieth century sociologist, Max Weber, termed this 'legal-bureaucratic' authority.

While obedience to all forms of authority has diminished in post-war society (especially in relation to the consumerist society of the 1980s onwards), the reduced reliance of police officers on authority results in the need instead for officers to rely on power to ensure that they are able to enforce their control over a situation. This then becomes ingrained within the police culture.

The exercise of power may entail the use of coercive forms of police powers as well as the initiation and deployment of other forms of weaponry that includes CS Spray and tasers.

However, the increased reliance on the use of some form of sanction as a means to secure obedience from members of the public can exert an adverse impact on the image of the police, especially in situations in which a police intervention was seen as disproportionate, aggressive and unwarranted.

The use of social media gives a wide audience to perceived abuses of power of this nature: for example, the attempt by four British Transport Police officers to apply a spit hood to a suspect at London Bridge Railway Station in 2016 was alleged to have had more than 7,000 shares and 500,00 views in a period of 8 days following the incident.

It is highly likely that most of those who viewed the incident would have perceived it as an unwarranted and aggressive action on the part of the police, compatible with policing by coercion rather than policing by consent and which served to undermine public trust and confidence in the police and threaten its legitimacy.

## **Equality and Diversity**

The need for the police workforce to be socially representative of those it serves was appreciated at the outset of professional policing when a deliberate attempt was made to recruit police officers from the same social category as the urban communities on which the bulk of police work was focused.

In connection with recruitment from minority ethnic communities, Lord Scarman made the observation in 1981 that 'the composition of our police forces must reflect the make-up of society they serve'. A key consideration underpinning these actions was a perception that police legitimacy could be undermined if communities were policed by officers who had no social relationship or empathy and understanding with those they were policing.

In more recent years, the equality and diversity agenda has extended beyond a focus on police-public relationships to attempts by the service to put its own house in order. This has embraced efforts to remove discrimination and enhance equal opportunities within the service which has been advanced in various ways that have aimed to implement enhanced workforce flexibility.

However, this approach has been undermined by workforce reductions, spending cuts and shift pattern alterations. Equality and diversity training has also been scaled down, dedicated



Equality and Diversity Units have been considerably reduced and the work has been mainstreamed, resulting in the loss of strategic direction and accountability.

Failings by the service to treat its own workforce fairly will impact on the quality of service provided to the public and will also inevitably harm the image of the police, and ultimately its legitimacy, within communities which feel excluded from police membership.

## **Police ethics**

A further aspect of the decline of police legitimacy relates to ethical policing. This is placed at the heart of the National Decision Model serving as the touchstone for all decision making within the police service and requiring officers to think ethically in connection with all situations that they face.

Ethical policing has become an important aspect of advancing police legitimacy but is under threat because it requires a certain element of thinking time before an action is taken. Hard pressed and over-worked officers lack the time to assess situations in the manner proscribed by the National Decision Model and may, out of necessity, resort to spur of the moment decisions that in hindsight are inappropriate and serve to undermine both consent and legitimacy.

## **What next?**

Many of the problems faced by police forces in England and Wales are not of their own doing but have become created by governments since 2010 whose insistence on austerity has undermined the ability of the police to deliver a service that secures the trust and confidence of the general public.

Police forces have undertaken numerous measures to cope with financial cuts – initiating developments that include reducing the degree of bureaucratisation, outsourcing functions to the private sector, introducing collaboration and strategic alliances to secure inter-force working cooperation, making enhanced use of digital technology to save officers' time, participating in a wide range of partnership work, undertaking various forms of estate rationalisation and making attempts to offset the reductions in the level of central government financial support by increasing the police precept component of Council Tax. Evidence-based policing has also sought to ensure an efficient use is made of police resources.

While, as the Home Affairs Select Committee argued in its 2018 report, there is a need to examine the allocation of functions (and perhaps to re-visit the topic of police force mergers as originally put forward in Denis O'Connor's report in 2005, *A Review of the 'fitness for purpose' of the current structure of policing in England and Wales*'), there is also the need to examine the issue of the public funding of police forces, based on a recognition that cuts initiated since 2010 have gone too far and need to be remedied.

As this article has argued, the erosion of the service role of policing and the police role in crime prevention threaten police legitimacy as does its record in tackling volume crime. In particular, there is a need to ensure that the police service becomes equipped to deal with what the Select Committee referred to as 'the challenges of the digital age'.

The government needs, therefore, to provide adequate funding for the police service in order to sustain public trust and confidence and ensure the continued vitality of legitimacy for policing.

**Peter Joyce** is Visiting Professor in Criminology at Glyndŵr University. He is widely published in Criminology and Politics, specialising in policing and the policing of protest. He served as a member of the Independent Police Ethics Committee in the Greater Manchester Police Force Area between 2014 and 2018.

**Dr Wendy Laverick** is a senior lecturer in Criminology at Manchester Metropolitan University. She is currently developing an international research profile on transnational crime, hate crime and gender and policing scholarship and is the author of *Global Injustice and Crime Control* (Routledge, 2016).

This article can be found here:

[Policing by consent: Austerity has eroded police legitimacy](#)

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