

Policing, Ethics and Human Rights

PETER NEYROUD AND ALAN BECKLEY



Policing, Ethics and Human Rights

Policing and Society Series

Series editors: Les Johnston, Frank Leishman, Tim Newburn

To Sarah and Diane
Looking forward to the return of weekends!

Policing, Ethics and Human Rights

Peter Neyroud

Alan Beckley

With contributions by

Paul Collier

Julia Clayton

 **Routledge**
Taylor & Francis Group
LONDON AND NEW YORK

First published by Willan Publishing 2001
This edition published by Routledge 2012
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN
711 Third Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

© Peter Neyroud and Alan Beckley, except for:
chapter 6 and chapter 11 © Willan Publishing

All rights reserved; no part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the Publishers or a licence permitting copying in the UK issued by the Copyright Licensing Agency Ltd, 90 Tottenham Court Road, London W1P 9HE.

ISBN 13: 978-1-903240-16-8 (cased)
ISBN 13: 978-1-903240-15-1 (paper)

British Library Cataloguing-in-Publication Data

A catalogue record for this book is available from the British Library.

Set in Palatino and Gill Sans

Table of Contents

<i>List of figures</i>	ix
<i>About the authors and contributors</i>	xi
Foreword by the Rt. Hon. Jack Straw, MP, Home Secretary	xiii
Part 1	
1 Ethics in context: policing and its environment in the twenty-first century	3
Policing, ethics and human rights?	3
A brief history of ethics and policing	5
Transition or crisis?	11
Summary and conclusions	17
Further reading	17
2 The purposes of policing: past, present and future	19
Introduction	19
Policing, government and the citizen	19
A history of the policing mission	22
The present: what do the police actually do?	26
Policing futures	29
The three 'futures'	30
The 'futures' at work	31
The lessons of the 'three futures'	34
Conclusion: which 'future'?	35
Further reading	36

3 From ethics to principles and practice	37
Introduction	37
Ethics and policing	37
Ethical theory	39
Duty, utility, virtue and care	41
The ethics of uncertainty	45
A new ethics for policing?	47
Principles in policing	50
Conclusions	51
Further reading	51
4 From ethics to rights	54
Introduction: human rights as a 'new agenda in policing'	54
Human rights: the history of an idea and its meaning	55
Human rights and international standards in policing	61
ECHR: articles and principles	61
Conclusions: rights and their impact on policing	68
Further reading	70
Part 2	71
5 Personal ethics	73
Introduction	
The professional vocation of policing?	74
The cultures of policing	78
Discretion	82
Citizens in uniform	86
Conclusions	91
Further reading	92
Notes	93
6 Police performance management – an ethical dilemma?	94
Introduction	94
Governance of policing	96
Framework	98
Police performance management	105
Towards a new paradigm	117
Conclusions	120
Further reading	122
Notes	122
7 Operational ethics	124
Introduction	124
Covert policing	125

Ethical and human rights compliant covert policing?	131
Policing dangerousness	135
Police and the use of force	137
Conclusions: towards ethics in operational policing	143
Further reading	143
8 Organisational ethics	145
Introduction	145
‘Operational accountability’	146
Complaints, misconduct and corruption	154
Policing diversity	159
Conclusions	164
Further reading	165
Notes	165
 Part 3	 167
9 Human resource solutions	169
Introduction	169
Recruitment of police officers	170
Training	175
Personnel investigations, operational controls and anti-corruption investigations and audits	181
Personal development of staff	183
Conclusions	186
Further reading	187
Notes	187
10 Decision making, codes and control systems	189
Introduction	189
Ethical codes	189
Decision making	198
Conclusions	202
Further reading	203
11 ‘Auditing’ for compliance: a human rights case study	205
Introduction	189
The UK police service’s response to the Human Rights Act 1998	
ACPO human rights programme: policy audits	207
Results and reality of policy analysis and evaluation	208
Making the link between ethics and human rights explicit	210
Can policy analysis and evaluation promote change?	211

Policing, Ethics and Human Rights

Integrating human rights into performance management and inspections	212
Observations from non-governmental organisations and academics	213
Conclusions: a multiple-impact change programme	214
Further reading	214
Notes	214
12 Towards ethical policing	215
Bibliography	221
Index	236

List of figures

1.1	The 'vicious cycle'	10
2.1	The police role: 1962 Royal Commission	23
2.2	The Statement of Common Purpose and Values	24
2.3	The police role: 1993 White Paper	25
2.4	Overarching aims and objectives (HMIC, 1999)	27
2.5	The 'Four Tracks of Policing'	36
3.1	The 'Four Tracks of Ethics'	49
3.2	Comparisons of prisons	52
4.1	The principal rights of the UN Charter and European Convention	57
4.2	Policing standards in the UN code of conduct for law enforcement officials and the Council of Europe Declaration on the Police	62
4.3	The five elements of proportionality	66
4.4	Flowchart showing the ECHR principles in decision-making sequence	69
5.1	The police 'clinician'	79
5.2	Hierarchical value system of the Western Australia Police Service	80
6.1	The vicious cycle of management control	95
6.2	Principal/agent relationship in policing	100
6.3	Control systems in the police	103
6.4	Stakeholder preference for control mechanisms	103
6.5	National key objectives for policing	108
6.6	Audit Commission performance indicators	109
6.7	Other performance indicators	110
6.8	Best Value performance indicators	111
6.9	Weighting for funding allocation to police forces	114

Policing, Ethics and Human Rights

6.10	Analysis of criminal statistics	115
6.11	Trends in crime and detections per 100 police officers	116
7.1	Model of compliance with ethical and human rights principles	132
7.2	The continuum of force	139
7.3	Approaches to the use of force	142
8.1	The dimensions of police accountability in the UK	148
8.2	Levels of policing and their relationship to government	151
8.3	The Patten model of accountability (Patten, 1999)	
8.4	Eckblom's model of community safety and crime reduction applied to Sherman's analysis of the causal factors in police corruption	157
8.5	SWOT analysis of the use of Stop and Search powers	162
9.1	PDR de-brief model of giving feedback	180
9.2	PDR action planning	180
9.3	Model of performance management	181
10.1	ACPO draft Statement of ethical principles (1992)	191
10.2	Existing ethical standards in the police service in England and Wales and Europe	192
10.3	The headings of the Police Code of Conduct (1999)	192
10.4	Decision making – ACPO in-force audit tool kit	201
12.1	The virtuous circle and its context	219

About the authors and contributors

Peter Neyroud

Peter Neyroud is the Deputy Chief Constable of West Mercia Constabulary. He is the Secretary of the National Committee on the Police Use of Firearms, Vice Chairman of the ACPO Committee on Human Rights and is leading the work on 'ethics in policing'. He is a Fellow of the Royal Society of Arts, a member of the Institute for Public Policy Research's 'Forum on Criminal Justice' and a council member of Justice, the human rights organisation.

Alan Beckley

Alan Beckley is the head of management development training in West Mercia Constabulary. He has written on the personal liability of police officers following major and critical incidents, and is the editor-in-chief of *Police Research and Management*, a quarterly management journal for police officers.

Paul Collier

Paul Collier is a lecturer in management accounting at Aston Business School, Aston University, and was formerly head of training and development at West Mercia Constabulary. He has particular responsibility for chapter 6, 'Police performance management – an ethical dilemma?'

Julia Clayton

Julia Clayton is an inspector in Cheshire Constabulary and was the chief architect of the ACPO audit of compliance. She is currently on secondment to the Audit Commission. She has particular responsibility for chapter 11, 'Auditing' for compliance: a human rights case study'.

Foreword by the Rt. Hon. Jack Straw, MP, Home Secretary

My time as Home Secretary has strongly reinforced my belief in the high ethical standards which are the foundation of policing in the United Kingdom. Citizens expect and trust the police to do the right thing. That trust is rarely misplaced. The police service is rightly subject to the closest scrutiny. Its role at the sharp end of society frequently confronts officers with ethical dilemmas at personal, operational and organisational levels. These must be faced up to, not avoided. I am only too conscious of the hard decisions and choices which can be presented by issues such as the use of force, covert surveillance, community relations and the maintenance of public order.

The publication of this important book coincides with the implementation of the Human Rights Act, one of the most significant constitutional changes since the 1688 Bill of Rights. The Act is fundamentally about standing up for the values of fairness, respect for human dignity and inclusiveness to which the police service aspires. It emphasises the proper balance of rights and responsibilities between the citizen and the state which goes to the heart of policing.

The Act presents a challenge, but it is not a threat. It places a statutory duty on all public authorities, including the police, not to act incompatibly with the European Convention on Human Rights. However, the practice of policing in this country and the legislation governing it is already very substantially in line with the Convention rights and that has been confirmed by a detailed programme of work undertaken in partnership between the Home Office and the Association of Chief Police Officers. The Convention was largely British-inspired and reflects many principles that are long-standing features of our criminal justice system. In addition, milestone statutes such as the Police and Criminal Evidence Act 1984 have improved compliance further. The arrival of the Human Rights Act

therefore confirms what everyone involved in policing already knows. This is that the privilege of providing a service to the public carries with it a special duty of care; a duty to deliver that service in a way which respects the fairness and dignity of the individual.

Striving to act in line with human rights involves the application of fundamental ethical principles which the police service has been standing up for since it came into being, but it can also present conflicts. Few rights are absolute. It is frequently the police who must take responsibility for guarding the boundaries where the actions of one individual have unacceptable consequences for others or for society at large. Long experience of acting in defence of the law is a strong basis for getting the critical choices right on the vast majority of occasions, but there is increasing recognition within policing that there is real value in analysing and understanding the ethical justification for decisions. Bringing ethics to the fore will help to build a culture where respect for human rights is a conscious factor in the whole range of police activity. Leadership at every level is essential to that process and all of us involved in or with a responsibility for policing must embrace and apply the ethical standards we want to see reflected throughout the service.

The issues raised in this book are complex and wide-ranging. I do not necessarily agree with all the views expressed! However, what I do endorse very strongly is the need to promote and strengthen the debate about ethics in policing. This timely book fills a gap by providing a framework for that debate and linking it to the developing agenda on human rights. It does so against a background of rapid change in the policing environment and offers a very helpful analysis of approaches to developing and ensuring an ethical policing culture. It benefits greatly from the authors' strong combination of operational and academic experience and their obvious commitment to the practical application of human rights.

Jack Straw

PART I

Chapter I

Ethics in context: policing and its environment in the twenty-first century

Policing, ethics and human rights?

The context of policing is changing and the challenges for policing with it. As we move into the twenty-first century, policing, both domestically and globally is in the midst of transition and crisis. There are a number of dimensions to this transition, which were neatly summed up by the questions posed by Patten (1999) in his report on policing for Northern Ireland:

How can professional police officers best adapt to a world in which their own efforts are only a part of the overall policing of a modern society? ... There is no perfect model for us, no example of a country that, to quote one European police officer, 'has yet finalised the total transformation from force to service'.

(Paragraph 1.5)

It is no accident that the Patten Commission arrived at these dilemmas. They are the dilemmas of a transition which itself is driven by external change and internal turmoil, manifest in:

- Increasing globalisation (Bottoms and Wiles, 1996) and transnationalism (Horsman and Marshall, 1994)
- a 'New World Order' or 'Disorder' (Horsman and Marshall, 1994)
- rapid technological and social change (IPPR, 1993)
- the consequent pressure for 'security' (Bottoms and Wiles, 1996) and 'greying' or privatisation of policing (Newburn and Jones, 1997)
- national governments, under pressure themselves from a critical citizenry, seeking to squeeze more for less and, increasingly,

questioning the traditional model of public policing (Leishman, Loveday and Savage, 1995)

- two decades or more of research which has, increasingly, questioned the effectiveness of public policing (Waddington, 1999)
- a series of 'cause celebres'

All of which have combined to create the context for a renewed debate about the purposes, limits and ethics of 'public' policing. It is a debate that has been intertwined with a debate about human rights. As the Patten Commission report went on to say:

It is a central proposition of this report that the fundamental purpose of policing should be ... the protection and vindication of the human rights of all ... policing means protecting human rights.

(Patten, 1999: 18)

Similar words and sentiments have dominated the reforms of the police forces of the former Soviet Eastern bloc countries, the responses of the New Zealand and Canadian police forces to implementation of Charters of Rights and now are permeating the language of British policing on the eve of the commencement of the Human Rights Act 1998.

This book has been written to help guide the thoughtful practitioner and student of policing through these issues. We will argue, as the Patten report argues, that securing and reconciling human rights – balancing the rights of individuals and communities – provides a way forward for public policing that begins to address some of the questioning of its purposes and functions. Moreover, it may provide a way out of the cycle of 'boom' (such as crime-fighting, zero tolerance and proactive policing) and 'bust' (corruption, miscarriages of justice and scandal), which have characterised recent policing history. This is particularly vital for a police service, which, like the British system as it enters the twenty-first century, has experienced a number of serious blows to its legitimacy and effectiveness.

In this context, understanding 'ethical policing', with human rights at its core, is vital for police leaders, police officers and those concerned with the success of public policing. The final section of the book will, therefore, seek to describe how ethical policing might be achieved. It will do so by drawing on both the literature on this subject and the authors' experience of introducing major strategic change in a British police force and, at a national level, assisting with the preparations for the implementation of the Human Rights Act 1998.

This chapter will concentrate on setting the scene for the debate to come, providing firstly a brief analysis of the previous writing on ethics, human rights and policing, and secondly a discussion of the main elements in the 'crisis' and the transition to 'ethical policing'.

A brief history of ethics and policing

There have been a number of similar watersheds in policing in the past and each has, in its turn, produced debates about the nature and purposes of policing and its ethical base. There has been a history of key books coinciding with such periods of change and challenge in policing domestically and internationally:

- O.W. Wilson was a police chief who sought to set out the agenda for the new police professionalism, at a time when US policing was seeking to set itself free from the dead hand of a fairly corrupt local democracy. Described as a 'moral administrator' (Elliston and Feldberg, 1985) or, less optimistically, a 'snappy bureaucrat' by Klockars (1985), Wilson's vision, which is still very relevant, was of a high-tech, highly trained corps of police officers operating to clear rules, independent of local politics and acting with impartiality and integrity.
- William Westley (1970) and Jerome Skolnick (1975) cast their sceptical eyes over the ability of the police to meet Wilson's professional agenda – observing the problems of corruption with sociologists' eyes at a time when the consensus in US politics was breaking down under the pressures of the Vietnam War and race riots. For Westley, who studied violence by officers, police failure to attain Wilson's vision was a product of a culture of isolation and mutually hostile relationships with the public. Westley argued for more open and accountable policing. For Skolnick it was the inherent tension within the police role that created the problem. Maintaining order and upholding the law he saw as potentially irreconcilable. How could an officer square the circle of a need to maintain order through coercive force and a requirement to respect the law and uphold individual rights? Skolnick's solution was that legality and upholding the law had to come first.
- W.K. Muir (1977) and Herman Goldstein (1977) were both writing against a backdrop of concern about the police use of discretion a decade on from a series of key Supreme Court judgments, such as *Miranda v. Arizona*, which had apparently limited that discretion. Goldstein felt the solutions lay with managers, who should be encouraged to 'formalise the informal' (Goldstein, 1977: 82) and ensure that officers were trained in the proper exercise of discretion. Muir, starting from the other end of the organisational hierarchy, through observation of police officers on the street, saw morality more as a product of police officers' views of human nature. Whilst managers and trainers could influence behaviours, individual officers had 'free will' to exercise choice about their style of policing. Crucially, both Goldstein

and Muir champion 'free will' and moral choice, whether it be of police managers or police officers, in contrast to Skolnick and Westley for whom the structural and social conditions of policing all but predetermined morality.

- For both Elliston and Feldberg (1985) and Gary Marx (1988) the backdrop was the growth of covert policing methods in the US. A series of high profile scandals had raised questions about the policing of privacy and the use of deceptive policing methods. Elliston and Feldberg tried to show that, in debating such issues, the standard approaches to moral philosophy such as utilitarianism were simplistic and flawed. A more complex approach that embraced other academic disciplines, such as law and sociology, needed to be brought to bear. In short, police ethics required 'joined up thinking'. Marx brought such thinking to bear on covert policing and the emerging 'surveillance culture' in society, which he felt was having a damaging impact on privacy, trust and freedom of expression. He argued a distinction between 'ethical deception' – authorised by the citizenry and controlled by law – and 'deceptive ethics', which he characterised as the state doing by stealth what it could not do lawfully. Judging the difference between the two was not just a matter of law, but also needed an awareness of the outcome, the threat and the collateral impacts.
- Edwin Delattre (1989) and Lawrence Sherman (1985) were both attempting to deal with seemingly endemic problems of corruption in policing in the mid 1980s. They returned to some of the themes identified by Muir and Skolnick – free will or the nature of policing and the system. For Delattre the solution was 'character': the way to achieve ethical policing was to recruit and develop people who had the habit of integrity. For Sherman, it was not the character of the recruit so much as the environment of temptation into which they were pitched that was the problem. A slippery slope from small gifts to major graft could only be prevented by police managers being intolerant of minor gratuities.
- Joycelyn Pollock (1998) and John Kleinig (1996a), stimulated by a decade of debate about the role of the police, police brutality (particularly the Rodney King beating), problems with covert policing methods and renewed corruption scandals in major US police forces, sought a solution in a broader definition of policing as 'public servants' rather than 'crime fighters' (Pollock) or 'social peacekeeping' (Kleinig), or a process of building trust and reconciliation in communities.
- Tom Barker (1996), who has had a long-standing focus on police corruption (Barker and Carter, 1986) was stimulated by the resurgence

in corruption in the US and the issues arising from the O.J.Simpson trial. The resultant crisis of public confidence in policing was typified by adverse jury votes and national calls for investigations into policing, which parallel the UK developments around the death of Stephen Lawrence. Barker proposed a 'proactive' approach in order to re-establish the police reputation for integrity: opportunity reduction, undermining peer pressure for unethical activities, deterrence.

All the above authors have been American. This is not coincidental. The American constitutional tradition has viewed police, as agents of the executive, with some suspicion. 'The Police are among the most powerful agents of the state' according to Elliston and Feldberg (1985: 1), while Cohen and Feldberg have this to say:

Furthermore, compared to their counterparts in many other nations, American police officers are more civilianised and heavily restrained by law, constitutional limitations, community expectations and traditions in their exercise of authority and power.

(Cohen and Feldberg, 1991: xii)

In the United Kingdom, police ethics have rarely been treated as a subject for discussion on their own. Where ethics have been discussed it has been through a focus on law, constitution and accountability or culture and the 'canteen'.

- Robert Reiner (1978) first concentrated on culture – in the form of 'police unionism', which was on the ascendant in the 1970s as a result of poor pay and conditions. He next turned to politics and accountability (1985), which had, by then, become a heated national debate focused on the 'democratic deficit' in policing. Reiner's starting point tends to place him firmly in line with Skolnick – police culture and behaviour being a product of the role and external environment. Reiner's most direct treatment of police morality has been in his studies of police images in the media (Reiner, 1994). He drew out the dualism of policing in a similar way to Carl Klockar's use of the *Dirty Harry* film script to illustrate difficult choices in policing.
- Lord Scarman (1982), in his report into the Brixton disturbances, placed great emphasis on the importance of 'consent and balance'. The community, he argued relied on the police to have the skills and common sense to exercise discretion and to do so in a way which balanced maintaining order and upholding the law. The former should always be given a higher priority and, therefore, by implication 'hard policing', which overemphasized enforcement and failed to take

account of community support was not good policing. This approach, which is an apparent reversal of Skolnick's solution to the dilemma, was to become the dominant ideology in British policing by the end of the decade (Reiner, 1991: 120).

- John Alderson (1979 and 1984), who gave evidence to Scarman's Inquiry as a Chief Constable, developed the theory of 'community policing', which he grounded in the concept of contractual government. Implicit in this work was an idea of policing as an activity for the whole community, within which the police role was one of balancing competing rights. This became more explicit in Alderson's later work (1998) where securing and preserving human rights moves to centre stage.
- Andrew Rutherford (1993) concentrated on the values of the leaders in policing and criminal justice agencies at the end of a long period of right-wing government, which had produced an increasingly polarised debate about criminal justice. Rutherford divided them into three 'credos': punishment – believing in the punitive degradation of offenders; efficiency – committed to pragmatic, expedient management; caring – dedicated to the achievement of legality and humanity in society. The latter, whose approach he clearly supports and into which Alderson would no doubt have fitted, he saw being confronted by a constant dilemma caused by the lack of congruence between the formal mission and the informal practice - their challenge being to close that gap. Rutherford suggests that this is not just a simple street cops/management cops divide.
- Michael Zander (1994) was a member of the Royal Commission on Criminal Justice, which was appointed to look into the spate of miscarriages of justice, many of which arose from terrorist trials. Zander argued firmly that police officers should not blame the criminal justice system for 'noble cause corruption'. Actions so motivated could never be right, however 'justified' in the short-term outcome. They were, furthermore, actions of individual choice that should be controlled by better supervision and management.
- Ralph Crawshaw (Crawshaw, Devlin and Williamson, 1999) dealt with the issues of policing and its relationships with human rights at a time when British policing was becoming increasingly exposed to the case law of the European Convention on Human Rights, after a decade of losing cases in the European Court of Human Rights. The distinctively different theme of Crawshaw's work is that policing is to be viewed in a context of international human rights. Its purpose has become to secure

and preserve those rights. Police leaders must be aware of and seek to change their organisations to meet those standards. There are, therefore, absolute standards in policing.

- Waddington (1999) sees policing in a complex relationship with the citizen and the marginalized underclass. Strong citizen rights restrain policing and force it to be more respectable. But policing is always waiting for the next scandal because it 'operates in a nether world just beyond the limits of respectability' (Waddington, 1999: 158). The solution must lie in strong and inclusive citizenship and transparency in policing.

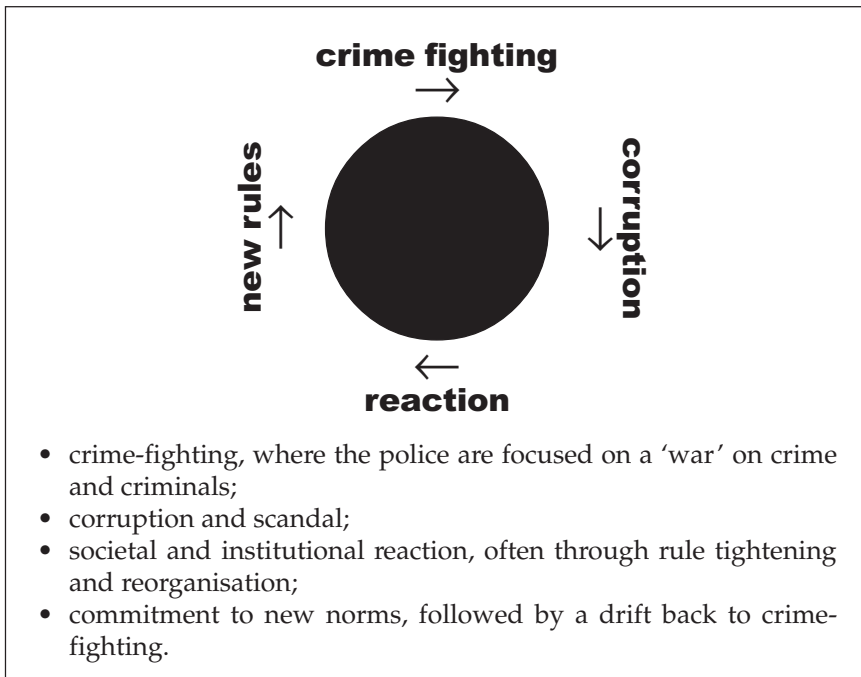
Alongside the US and UK literature, there are also some important Commonwealth contributions from Canada (Ericson and Haggerty, 1998 and Brodeur, 1995), Australia (Miller, Blackeler and Alexandra, 1997 and Chan, 1997) and India (Raghavan, 1999). They share the common theme of transition, crisis and search for renewal. For Ericson and Haggerty policing has become a process of risk communication, blurring neat law enforcement boundaries and challenging concepts of policing as a public good. For Brodeur, like Marx (1988), the risk results from technology and policing creating a 'new surveillance', out of reach of effective democratic control. For both Canadians, therefore, controlling the police is critical. For Miller, Blackeler and Alexandra and Chan the challenge is to reconstruct ethical policing after a series of catastrophic scandals about corruption and racism. Raghavan reflects similar problems in an Indian system, which has failed to achieve independence from a corrupt political system, and has yet to create the professionalism that Wilson hankered after fifty years ago.

This brief analysis has drawn out a number of the issues which will be pursued in this book. Firstly, it suggests that policing has been round a series of 'vicious cycles' over the past decades. These cycles seem to consist of four broad phases ([Figure 1.1](#))

An example of such a cycle can be seen in the events surrounding the Brixton disorders (Scarman, 1982): a heavy emphasis on fighting street robberies; a major community disorder and substantial national concern about police actions and relationships with the ethnic minority community; changes to the legal framework of policing, which produced new consultative arrangements, revisions to the police complaints system and the lay visitors scheme; a gradual return to crime-fighting, cemented by the combination of a Home Secretary determined to revive his party's flagging fortunes by getting tough on crime (Rose, 1996) and an Audit Commission that, disastrously (Neyroud, 1998), turned the accountants' simplistic gaze on covert policing (Audit Commission, 1993).

Each of the authors reviewed above have tended to look at these problems from one side, whether from the point of view of police

Figure 1.1 The 'vicious cycle'



accountability, encouraging ethical standards, preventing corruption or, most recently, from the perspective of human rights (or in the US context, the constitution) and policing. Each have, in their own way, been just as reactive as policing to the crises. No one author has attempted to construct a model of the virtuous cycle, in which there is sufficient built-in correction for policing to avoid the roller coaster boom-and-bust ride.

Secondly, it is clear that the opportunities for reform only come at the bottom of the cycle. When the collective blood is up and moral panic about crime is high on the agenda, concerns about policing and its consequences tend not to be heeded. However, the major constitutional change in the United Kingdom to incorporate the European Convention on Human Rights in British law and the momentum in the emerging Eastern European democracies for a new contract of policing (ICJ, 1999) provide a unique opportunity. It heralds a major 'paradigm' shift for all police officers and practitioners in the criminal justice system (Starmer, 1999). The time is ripe, therefore, for fundamental change in thinking and actions.

So, thirdly, there is the question of how to construct the 'virtuous cycle'? It is certainly more difficult to construct a neat cycle, but it is possible to see some of the features that must be present. A good starting point would be to change the flawed conception that rights are necessarily antithetical to

effective crime prevention and law enforcement. This dualistic approach, which finds favour with several of the authors reviewed, places police and the liberty of the citizen in opposition. This might be a reasonable argument if the only rights that are important and recognised in human rights jurisprudence are those of the citizen as suspect. But this is not the case. The European Court has been developing a far more complex view that encompasses rights for victims, witnesses and communities, as well as suspects and which provides the state with duties and obligations to protect them (Starmer, 1999). This allows us to begin to reconceive policing as the balancing mechanism between competing rights, rather than the problem.

The second element of the 'virtuous cycle' must be a better alignment of the formal mission and the informal and tacitly accepted practice in policing. This, in turn, requires a mission for policing which is broad enough to describe the whole of policing, from emergency service through to social assistance, rather than trying to focus on one or two politically favourable dimensions. Finally, there needs to be a legal and political framework, which supports such a broad mission and does not contradict it by measuring and focusing only on the traditional figures of crime and detection. Each of the elements needs to reinforce the other and need to be supported by a police service committed to the new mission and skilled in handling the dilemmas which it will present. These dilemmas and the 'virtuous cycle' will form an important part of the discussion to follow.

However, it is important to start by understanding where we are in the current cycle. As we have seen in reviewing the previous literature, the environment of policing plays a key part in shaping the terms of the debate about its ethics.

Transition or crisis?

Cause célèbres and causes for concern

There is substantial evidence for a crisis in the series of scandals and 'running sores' that have beset policing over the last few years. In the United States, as has been mentioned above, Barker (1996) has claimed that the American public has lost confidence in the police as a result of high-profile cases such as the O. J. Simpson trial. The effect of this, in Barker's eyes was to create an expectation that police would manufacture evidence and lie on oath – 'testilying'. Other commentators support Barker's analysis. The National Criminal Justice Commission registered concerns about corruption, abuse of force, over-policing and under-protection of minority communities (Donziger, 1996). There have also been the revelations around the handling of the Waco siege and, most