

Collaborative Inquiry and Managing Police Ethics: Towards Better Governance of Policing

Glenn Varona, MPA, Flinders University of South Australia, Bedford Park, SA, Australia
varo0002@flinders.edu.au

Policing is an inseparable part of human social life. It is a formidable public institution (Newburn 2003, p. 1) and the coercive nature of police power as well as the rather large scope of police discretion give the police and policing a degree of power over society that few, if any, other social or public institutions could equal (Settle 1990, p. 10). It is unfortunate, however, that police powers could be misused or abused. What makes this a cause for concern, as well as a valid subject for research, is that police powers are usually exercised without close supervision (Kleinig 2005, p. 597). Thus, if police powers were misused or abused, or if police were to act corruptly, it is also usually done without close supervision. Hence, there is a need to work out a mechanism through which police ethics and better governance of policing could be made possible. This is not to say that police ethics has never been made part of police institutional practice or police professional development. Indeed, according to the International Association of Chiefs of Police (1997) there has been an increasing international trend towards including ethics in the training of police officers. It is critically important enough for the Council of Europe to publish in September 2001 a standard European Code of Police Ethics (Neyroud 2003, p. 578). However, these measures and efforts have largely been at the instance of police agencies or their immediate political superiors. Much of the training, enforcement and management of ethics, which are arguably a significant part of the governance of policing, are usually carried out by the police for themselves. For example, much of police ethics training is usually carried out in police academies by people who are either part of the police or are attached to the police.

If policing is part of society, and it is beyond argument that the police are deeply involved in the lives of people, then could it not be said that the wider society should be considered an inseparable part of police governance? This paper seeks to argue that policing ethics and governance should be an issue of public ownership, which is to say that while it is good to see the police doing something about their institutional problems of ethics and governance, the main effort towards improving ethics and governance in policing should come from society, where the wider public could hopefully learn to develop a sense of ownership over this process. This would arguably require the establishment of a model which could enable meaningful public participation, indeed, even public leadership in the design of the police institution; promote and develop collective and collaborative work; establish mechanisms for reflection and discursive dialogue to enable the capacity for analysis and awareness in how issues are constructed and understood (Rosenberg 2002, Gore 2007 cited in McIntyre-Mills 2008, p. 351); and enable the ordinary person in society, who is arguably the most important stakeholder in policing, to own it and use it for the benefit of everyone. To this end, collaborative inquiry; which is a form of action inquiry that uses rigorous interactive reflection among stakeholders working together in a group (Lovering 2004, p. 1) would be a critical and important instrument.

I. POLICING, POWER, DEMOCRACY AND SOCIETY

The public police is as much a politico-legal institution as it is a social one (Newburn, 2003: 1). As a public institution, it is distinguished in terms of its legitimacy, structure and function. Legitimacy implies

that it can legally exercise certain powers over society that no other social or public institution can. Structure implies that it is an organised institution, while function implies its social role in maintaining law and order and in preventing and detecting crime (Mawby, 2003: 15, 16). It is part of the greater institution of the state, and it is the enforcing arm of the state's criminal justice system. This system is itself an institution that includes two other parts, namely the adjudicatory arm comprising the courts and the correctional arm comprising the prisons and corrections services (Sarre, 2002: 528). Among its formidable powers include those of arrest, detention and the use of force, as indeed, it is one of the very few institutions of the state that have a monopoly on the legitimate use of force. In the exercise of these powers, the police institution is allowed a significant degree of discretion. While these powers are dependent on public consent in principle, it is often difficult to keep to principle during the actual use of police powers in the real world (Sanders & Young, 2003: 228).

This makes police accountability difficult even in the best of times in the most stable of democratic societies. In places where democracy does not exist or is not fully developed because of political and economic instability, effective democratisation and stability must first take place before police can be made publicly accountable (Goldsmith, 2000: 169). Police accountability to society is a necessary prerequisite to effective democratic policing, as there is a significant correlation between police accountability and its effectiveness and legitimacy in the eyes of society (Goldsmith, 2003: 2). Democratic policing needs to be consistent with the democratic criteria that people design institutions through a deliberative process. In turn, such an institution should be accountable to that process (Pino & Wiatrowski 2006, p. 72). Active civic engagement would have to be its foundation, if by active civic engagement is meant the collective, deliberative and collaborative participation of people within an array of interests, institutions and networks, developing civic identity and empowering people in governance (Cooper, Bryer & Meek 2006, p. 76).

The design of the classic police institution, though, can make this challenging. Taking from Goodin (1996: 27), the police institution is an example of one designed by intention. The state normally includes within its enacted laws provisions for the establishment of a policing system and police organisations. These organisations are normally built to be centralised, bureaucratic, rule-oriented and regimented (Grosman, 1975: 15, 52). Police institutional culture, furthermore, tends to foster an attitude of cynicism towards society among police personnel. Most officers also tend to be conservative in their political and moral views and, owing to their self-perception of being different from everyone else they tend to become socially isolated. In this isolation, they form bonds of solidarity among fellow officers, further widening the differences between themselves and the rest of society (Reiner, 1992 cited in Chan, Dewey & Doran, 2003: 8-9).

In turn, public perceptions of the police institution tend to reinforce this institutional bias among police personnel. In a research paper on public perceptions of policing in Britain, Bradley (1998: 7) found that while such perceptions varied according to his respondents' age groups, the common public view is that police are not doing enough to identify with everyday people. Police are thought to lack a deep understanding of varying social situations. As a consequence, police are seen as not adequately serving the general public. The things that people see as important police duties are not necessarily the ones in which they think police are doing well (Behm, 1975: 29). When groups define themselves by their contrast to others, as police organizations do in respect to society, mutual understanding becomes problematic since each side defines itself in opposition to the other, and membership in one group implies marginalisation in another (Wenger, 1998: 168). Police could then become marginalised, making the task of enforcing law and order in society difficult and public accountability of policing more so.

II. COMMUNITY POLICING AND PUBLIC PARTICIPATION IN POLICING

This is not to say that the public police are not trying to bring in more public participation in policing. Many police forces around the world have begun to recognise the increasing complexity of social problems, thereby forcing police to try new methods that are not the norm in the traditional model of policing. These methods are characterised by attempts to involve the public in policing and enabling people

to exercise a reciprocal responsibility for keeping law and order (Directorate of Police-Community Relations 2003, pp. 14-15). Public consultation mechanisms are among these methods, where police forces attempt to identify public concerns, develop partnerships with people and communities, and then act as efficiently as possible to address these concerns (Elliot & Nicholls 1996, p. 6). Community Oriented Policing (COP) is another such mechanism, which normally uses a significant amount of public consultation and a degree of collaboration. COP programs attempt to develop public trust of the police usually through police officers who act as community organisers. This trust, once developed, is supposed to provide better public support and cooperation over police operations (Directorate for Police-Community Relations 2003, pp. 20-21). While such methods have worked well enough, they still involve asymmetric balances of power between so called 'expert' institutions such as the police and 'inexpert' citizens. COP methods employ resources that are normally available only to the police and similar state actors. Furthermore, the language and technical expertise that accompany these resources leave ordinary citizens relatively powerless (Ryan 2008, pp. 85-86). COP appears to support community participation and cooperation, but the police ultimately develop independent plans of action (Pino & Wiatrowski 2006, p. 89). Thus, there may be public support and cooperation, but there is no real civic engagement or public ownership of policing. Power over society still rests with the police rather than society's citizens.

III. THE PHILIPPINE NATIONAL POLICE

In developing societies like the Philippines with its troubled democracy and economic instability, the police institution does not only need reform, it requires a thorough transformation. The problems between society and its police in the stable democracies of the west do not compare with the acute crisis of trust between people in the developing world and their police institutions. To begin with, most police agencies in developing countries are often defined in human rights reports as part of the security forces rather than as police conceptually understood in the west (Goldsmith, 2000: 167). The Philippine National Police is no different. This institution was established along the lines of the Spanish Guardia Civil. This model of policing common among continental European police services has always presented problems for public accountability (Mawby, 2003: 20).

The Philippine police also originated as a colonial institution that the United States established in order to suppress patriotic Filipino resistance to American rule. Using pacified natives under American military officers and training them to fight fellow Filipinos holding out against American colonialism in the hills, this paramilitary organisation with police powers would ultimately become the Philippine Constabulary after Philippine independence in 1946. It retained its main function of suppressing internal resistance to government as a branch of the military forces of the newly independent Filipino state. It also fulfilled the usual crime control functions of traditional police institutions (Baclagon, 1957: 157). This would be the police institution of the country from the American colonial period through to the Marcos dictatorship (1972 to 1986) and the restoration of Philippine democracy in 1986.

It was used during the Marcos dictatorship as the means to suppress democracy and maintain authoritarian rule. Its police powers were used to arrest, detain and even, in some cases, terminate Marcos' political opponents. Its military capabilities were employed to fight the armed resistance that had sprung up in the countryside, as marginalised people, with no democratic opportunities open to them for a redress of grievances, took to armed struggle (Hernandez & Ubarra 1999, pp. 30-31). When democracy was restored in 1986, a new democratic constitution was enacted and ratified. Among its many provisions was a requirement for the abolition of the Philippine Constabulary and the establishment of:

'...one police force, which shall be national in scope and civilian in character to be administered and controlled by a national police commission'

(Constitution of the Philippines, 1987: Article XVI, Section 6).

Thus, the Philippine National Police was born. It is not a new institution from the old constabulary, however. That constabulary was legally abolished, but its personnel were simply reclassified as civilian

police officers, given new tasks, new uniforms, new service symbols and new regulations. The resulting institution is little more than a renamed Philippine Constabulary. Society has as little trust in it as it has had in its predecessor. Like its counterparts in Latin America and the rest of the developing world, it still performs police functions side by side with keeping the peace and dealing with insurgency (Goldsmith, 2000: 167). Its operational doctrine, in fact, still lists 'Internal Security Operations' among its functions. Internal Security Operations are those carried out in support of military counterinsurgency efforts (Philippine National Police, 2002: 34-35), thus requiring military capabilities and organisation.

IV. RESEARCH FINDINGS ON THE PHILIPPINE NATIONAL POLICE AND ITS PROBLEMS

In qualitative research being done on the Philippine National Police at present, it could be seen that it is not only highly militarised, it is also highly political in character. In an initial survey of 100 police officers of all ranks through a 16 point questionnaire and a subsequent interview of nearly 100 persons, both police officers and ordinary citizens, all part of an ongoing PhD thesis, the following main themes and findings have been obtained:

- The approximately 120,000 strong Philippine National Police is under the centralised control and supervision of the national executive authority of the Philippine Government (i.e. The President of the Philippines).
- At the local government levels, however, police units and personnel are placed under the operational control and supervision of local executives (i.e. provincial governors, city mayors and municipal mayors), which means these political leaders are able to control the deployment and functions of Philippine National Police officers assigned to them.
- The Philippine National Police is beset by serious problems of leadership, corruption and unethical conduct among its personnel. These findings were not only established by this research, Transparency International has also found similar issues.
- The Philippine National Police has been trying to reform its institution through top-down institutional approaches such as the Integrated Transformation Program (ITP), which is a 10-year comprehensive reform strategy by the police high command and religious and spiritual approaches towards improving individual police ethical behaviour.

Political control of policing has made it possible for political leaders at both the national and local levels to use police resources and personnel for political purposes rather than for enforcing law and order. This has led to policing becoming a form of political enforcement in many places in the Philippines. In one of the more notorious incidents in November 2009, police officers assigned to the Province on Maguindanao in Mindanao, which is in the Southern Philippines, supporting the private armed retainers of the local political kingpin, became involved in the mass murder of 57 persons, including around 30 journalists and several women and children. These women and children were members and supporters of this politician's opponent in the national and local elections scheduled for May 2010 (SBS World News Australia 2009). Politics in policing in the Philippines could also be found in the fact that political executives, from the President of the country down to the local levels of government could decide the fate of police officers seeking promotion or assignment. Operational control of policing at the local level enables local executives to decide which officers may be assigned to their respective provinces, towns or cities (The Congress of the Philippines 1991). At the national level, the Commission on Appointments, part of the national legislature, confirms or rejects the promotions of officers, from the rank of senior superintendent (equivalent of an army colonel) up to the highest rank of director general (The 1986 Constitutional Commission 1987, p. 13). This has resulted into a form of patronage politics among police officers, as officers seeking promotion or confirmation of appointment seek patrons among politicians who could back them up, thus resulting into corrupt and unethical practices in the police promotions and

appointments system. Furthermore, politicisation in the police is further worsened by the fact that internal security operations against insurgents and other political threats are part of the Philippine National Police's mandate (Philippine National Police 2002). Insurgencies are, by their very nature, political struggles (Girling 1969).

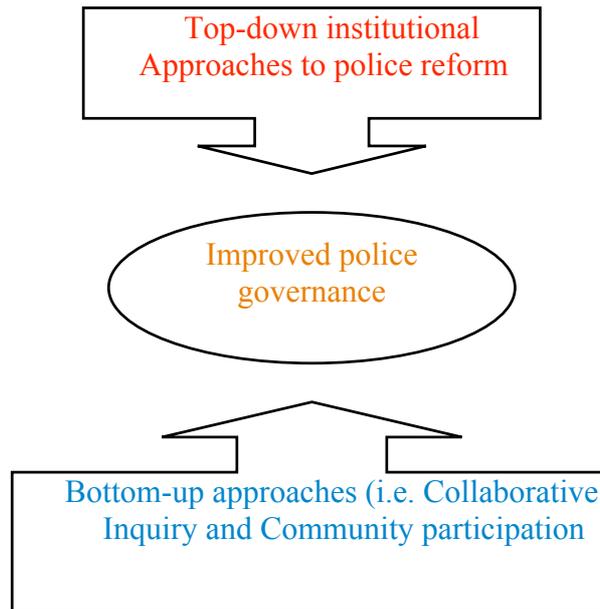
Within the Philippine National Police itself are a number of other issues. Corruption and unethical conduct have been the consequence of internal institutional problems, the environment of policing and the wider social tolerance to corruption that seems to permeate Philippine society. Police corruption is merely a function of a wider social corruption (Kleinig 2005, p. 596). Respondents to this research, both in and out of the police service have commented on the tendency among ordinary citizens to cut corners around legal and administrative processes, to prefer to pay bribes rather than follow established procedure. These arguably promote similar corruption in the police, since it is in this environment where its officers would have to work. This same environment seems to promote unethical police conduct in its own right. Among the police respondents in this study, it has been a constant view that dealing with society's worst members could have a deleterious effect on police ethics. The literature on police culture (Chan 1997, pp. 92-93 cited in Foster 2003, p. 219), support this. The Philippine National Police itself has been known to cut corners around the legal system, especially with the use of torture or coercion against suspects (Amnesty International 2003, pp. 8-9). One of the respondents to this research, in fact, detailed his experience with police torture. As for internal institutional issues, the Philippine National Police has its own unusual internal arrangements that seem to promote unethical police conduct and corruption. Among the police respondents of this study most have stated that as officers, they have had to purchase their own personal firearms, ammunition, uniforms and equipment, pay for their own legal counsel in the event they are sued in court and even buy their own training materials when they go through training courses out of a rather paltry basic salary. These same respondents have blamed what they perceive to be poor leadership in the Philippine National Police for these problems.

V. TRANSFORMATIONAL DESIGN AND THE PHILIPPINE POLICE INSTITUTION

It had been the objective of this research to try to develop a model for police reform and institutional transformation in the Philippines. On the one hand, the Philippine National Police has been trying since 2005 to deal with its problems and transform itself into a more efficient and publicly trusted institution. The Integrated Transformation Program, which had been set for an initial 10-year time frame (2005-2015) is the institutional approach towards dealing with the problems outlined above. It is supposed to improve police ethics, stamp out corruption, improve police capabilities, raise the police standard of living and create an institution that cares for its officers and employees more (Reformag 2009). The approach to ethics development in the Philippine National Police essentially involves employing chaplains, pastors, imams and other religious figures and mechanisms to try to promote a more religious, morally upright and virtuous police officer, since, as this research has found, it is not easy to separate religion and morality from the idea of ethics in Philippine society. As part of the Integrated Transformation Program, these religious and virtue approaches to develop individual police conduct are supposed to function alongside practical methods such as raising police wages, improving living arrangements and developing better police logistical capabilities towards transforming the police institution. On the other hand, these efforts are largely at the instance of the Philippine National Police. What little citizen or community participation there is still, like COP, controlled by the police. The police define the dialogue and mechanisms of public participation in police reform, and therefore, control the power relations within it.

The main premise of this research has been to enable citizens and communities at the lowest possible level of police operations, which in the Philippines is the municipality (The Congress of the Philippines 1991), to become more engaged in promoting police reform through the mechanism of collaborative inquiry, hopefully to make these citizens and communities leaders and movers in transforming policing, rather than being mere incidental participants. Collaborative inquiry is a mechanism of collective discussion, reflection and decision making in which participants could work together towards

understanding and constructing meaning around experiences (Lovering 2004, p. 1 and Kakabadse & Kakabadse 2002, p. 339). As an aspect of police governance, it could be a form of interaction between state and society that could make institutional transformation more meaningful (Kjaer 2004, pp. 6 & 10). It could democratise police reform and enable wider society to achieve a sense of co-ownership and co-production in it (Pino & Wiatrowski 2006, p. 92). If, after all, problems in police governance, such as corruption and unethical behaviour are part of a wider civic corruption as stated previously, then collaboration between police and community could enable both police and citizens to understand each other's issues and needs and possibly arrive at a more effective approach to police governance. This is hopefully the bottom-up component that could complement top-down institutional mechanisms such as the Integrated Transformation Program. The diagram below illustrates these complementary approaches:



In keeping with this intention, the last segment of this research effort involved conducting an exploratory collaborative inquiry discussion which brought together police and community stakeholders around a discussion table in a rural municipality in the central Philippines. For several hours, the participants in this discussion worked together to identify the ethical and governance problems of the local police and of local policing. Several good ideas from the citizen participants were obtained and noted, among them a plan towards creating a joint community-police program for continuing police education in ethics management, more activities involving police and community participation (a continuing series of basketball tournaments was suggested) and a plan for continuing collaborative local level research towards improving policing. Far from being 'inexpert' participants who have to be led by expert police officers, the community participants in this discussion actually displayed a sophistication and competence that characterise citizen empowerment and emancipation (Habermas 1984 cited in Guo & Sheffield 2007, p. 620).

Thus, police institutional reform from the top could start with government policies dealing with training and organisation. The tripartite system of decentralised local policing in England and Wales has never become an issue for British democratic institutions. Indeed, this framework of police governance has been one of the factors behind Britain's democratically accountable police institutions (Jones, 2003: 605). In keeping with existing trends towards decentralisation and participatory democratic governance, the Philippine National Police could assume a more decentralised and less politicised structure. Training can be re-oriented to have a more civilian focus, reducing emphasis on firearms use, reaction to crisis and military regimentation. Officers could be trained for community-oriented, pro-active policing that seeks to

work with community networks, organisations and individual citizens who could be made part of the processes of making policing policy. This approach has been tried and tested successfully in Merseyside, England. It requires a devolved, de-layered, problem oriented police organisation staffed with officers trained accordingly (Barton & Evans, 1999: 18-20). Its focus has been into managing crises rather than simply reacting to them. Also, this devolved police institution has greater accountability to the citizenry, which is what a democratic institution ought to be, instead of remaining accountable only to an elected political office holder. It is also important to remove combat and military-oriented roles from the police institution, even in instances where internal security is at stake. In reading Mawby (2003), it has been found that the more police are involved in military roles, the less democratic they are and the less publicly accountable policing becomes. If police were to be involved in internal security, it may be wise to create a special sub-organisation solely for that purpose, which would not get involved in everyday policing. Even then, that would have to be an extreme measure requiring extensive prior consideration and thought. It should be noted that these are not included in the existing Integrated Transformation Plan of the Philippine National Police.

In the end, though, social forces from the communities at the bottom and their effects may provide the only profound and significant transformation to the Philippine National Police. As society struggles to democratise, its institutions will have to follow suit if they intend to remain relevant. This is where the evolutionary aspect of design transformation comes in. There is little doubt that participatory processes are beginning to assume greater importance all over the world. Indeed, even in regimes that do not normally include public consultation as a regular feature of their policy processes, political pressures are now forcing them to involve the public before policy can be made legitimately (Peters, 2001: 61). However, it is clear that community participation of this kind in implementing better police governance would take time, thus the processes involved would have to be evolutionary. Police-citizen discourse that would allow citizens to become leaders in police governance would require police organisation to become open systems within open, diverse and complex democratic societies. Open systems are those, which interact and transact with other organisational and institutional systems within its environment (Gerloff 1985, p. 23). If the top-down approaches would not sufficiently open the Philippine National Police, then bottom up approaches could do so, but only after a long passage of time. Even so, the establishment of mechanisms that could make a community of practice at the local community level that could involve police and citizens sharing a common set of concerns and problems and working together towards deepening their knowledge and competence at dealing with them through ongoing interaction (Wenger, McDermott & Snyder 2002, p. 4, 5) could be an auspicious beginning. This is the rationale behind the collaborative inquiry discussion carried out as part of this research effort.

In democracies and democratising societies, people must recognise that as citizens, they are the primary office holders (Mathews, 1994: 3). In the Philippines, this recognition is slowly beginning to take root in society, as seen in the increasing levels of civic participation in governance and of civil society activity (Blair 2004: 78, 79 & Rocamora 2004, 149). Thus, public institutions, including the police, can continue to exist with relevance if they allow themselves to evolve in step with the changes occurring in the societies within which they function. Indeed, the intentional design transformations explained above can only happen when the police institution allows itself to evolve democratically. The ideal relationship between police and the community is one of alignment. This occurs when participants in any endeavour become connected through the coordination of their energies, actions and practices (Wenger 1998: 174). Police research supports this in finding that the best outcomes in policing are achieved when police and the community are closely linked (Leigh, Mundy & Tuffin, 1999: 1). This would require a continuous dialogue between police and citizens, making policing a deliberative exercise. Dialogue is an essential element of deliberative democracy and governance (Young, 2002: 6). Unless the public is engaged in a meaningful way in policy making from start to finish, it does not matter how technically sound a plan may be. It will fail (O'Leary cited in Jacobs, 2005: 3). More open-ended policy-making, community networking and allowing community and civil society involvement, perhaps even community leadership through

collaborative efforts in the planning and implementation of policing policies could make this alignment possible. After all, society holds the most important stake in criminal justice policy issues.

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