

The New Face of Police Governance in Australia

Benoit Dupont

Over the past twenty years, Australian police services have been exposed to the scrutiny of royal commissions, which have uncovered a disturbing pattern of corruption and inefficiency. The media have also introduced the public to the most unpalatable aspects of police culture. At the same time, many liberal societies have experienced a political and social paradigm shift: the welfare state has become discredited as the preferred form of government and has been replaced by a more streamlined model, which has in turn fostered a new form of governance. The polymorphous concept of governance encompasses various meanings, which are all concerned with the capacity of the state to govern society. The effectiveness and efficiency of traditional forms of governance relying on hierarchical public structures have been questioned, and alternatives relying on market forces, policy networks and local communities are being advocated.¹ In terms of process, this new governance is characterised by the adoption of managerialist reforms, which are characterised by a belief in the superiority of the market over the state, the introduction of competition between government departments and agencies, a simultaneous process of centralisation and decentralisation, and the fragmentation of public services providers.²

Because of public preoccupations with such issues as corruption and a tainted organisational culture, the implications of managerial reforms for police functions and the governance of law enforcement have largely been neglected. I will argue that, far from being trivial, these changes have far-reaching repercussions. They redefine how Australian communities are being policed, discarding the legal obligation to enforce the law and maintain the peace for the public good, and replacing it with a more pragmatic approach, which consists of managing the risks posed by the 'dangerous classes'. This trend is reinforced by the politics of law and order that are being played in Australia by all parties during election campaigns. Before we can see how the new discourse of police managerialism has led to substantial reforms in the fields of budget allocation, performance evaluation and contractualisation, it is essential to contextualise these changes at the international and national levels, and to highlight their political and social significance.

International and national public sector reforms

The reform of Australian police services since the early 1980s is part of a broader phenomenon that has engulfed the majority of public services in the western world. The dominance of the neo-liberal ideology triggered a movement of public sector reform focused on cost-cutting and downsizing. The underlying postulate was that centralised administrative interventions in the social and economic environment were inefficient and needed to be curtailed. In Australia, Canada,

New Zealand, the United States and Great Britain, the notion of public administration was replaced by the concept of public management, and private sector recipes were deemed to be the solution to this crisis of confidence. This transformation in the perceived role of the state resulted from the convergence of economic, political and ideological factors.

The energy crisis of the 1970s and the incapacity of public administrations to shelter the population from its destructive social consequences clearly showed the limits of the Keynesian welfare state. High inflation and unemployment rates led to the election of conservative politicians such as Ronald Reagan in the USA and Margaret Thatcher in Great Britain; their terms in government are considered the starting points of a wave of market deregulation that accompanied the demise of the welfare state. Think tanks such as the American Enterprise Institute and the Cato Institute in Washington, the Adam Smith Institute in London and the Centre for Independent Studies in Australia were instrumental in expressing this new policy of minimalist interventionism, under the intellectual patronage of political economist Friedrich von Hayek.³ While it is true that reforms were needed and had been initiated in certain cases by Labor and Democrat governments, no one expected the managerial revolution that ensued. The new public managers were granted a degree of freedom never before experienced in order to deliver services in the most efficient way. Their performance was constructed in terms of outputs and outcomes, and customer satisfaction replaced the public interest as the central tenet of their actions. Traditional bureaucratic and pyramidal structures were broken down into semi-autonomous entities (budget centres) with a devolution of power. Non-core activities were contracted out to private businesses and, in certain cases, government agencies had to compete against each other for the provision of services.⁴ Australia found itself at the front line of this global trend.

Economic deregulation by the Hawke government in the early 1980s was the catalyst to public sector reform in Australia. The active resistance experienced from the public service a decade earlier by the Whitlam government in its attempt to reshape public policies after twenty-three years of Liberal rule convinced the newly elected Prime Minister to introduce new control mechanisms. Administrations and government agencies were submitted to new accountability procedures through stringent program evaluations and performance indicators. Budgets were cut significantly and numerous public servants made redundant.⁵ By the 1990s, with the return to power of Liberal government at the federal and state levels, the public service was ready to face its biggest challenge. Contractualism became the new mantra of the reformers, with private enterprises being allocated responsibility for the provision of supplies, non-core services or even taking over entire areas of government service delivery.⁶ By 1998, 85,000 more jobs had been shed in the public service.⁷ These new bureaucratic arrangements had concrete ramifications for citizens, who became engaged in a consumerist relation with the state. In the contractual state, the legal-rational hierarchical system has been replaced by practices grounded in efficiency and effectiveness, while principles of democracy and equity are slowly absorbed by market considerations. This new globalised approach to ministerial control would not have been possible without changes in the appointment of senior public servants, who gained independence at

the operational level in order to improve the responsiveness of their agencies, providing they relinquished their life-tenured positions for shorter-term contracts.⁸

Although they are responsible for some of the most central activities of government, namely to enforce laws and maintain the peace, Australian police services did not escape this managerial watershed. Traditionally, police–government relations in Australia have followed the English model of the constable’s independence, derived from such landmark legal decisions as *Enever v The King* 1906 and *Reg. V Commissioner of Police of the Metropolis, Ex Parte Blackburn* 1968. These decisions are interpreted as granting individual constables, but also their commanding officers, a large degree of independence from the political authority by which they are maintained, so that they can carry out their duties in a non-partisan and fair manner.⁹ The application of the theory of the independence of the constable was tested at the executive level in South Australia and in Queensland in the 1970s, when police commissioners refused to obey directions given by their governments on operational matters.¹⁰ The ensuing royal commissions concluded that although commissioners were accountable to the government at the policy level, they retained certain discretionary powers in the management of their daily operations.¹¹ However, the managerial reforms undergone by Australian police services since the 1980s have significantly altered the operational independence of commissioners and strengthened the grip of ministerial controls on law enforcement functions.¹² In the following sections, I will examine how the discourse of the police hierarchy was impregnated by managerial reform buzz-words, and paved the way for new budget allocation processes, contractualism, and a renewed emphasis on performance evaluation. I will demonstrate how these changes have had consequences extending far beyond the simple improvement of efficiency and effectiveness in policing, creating a new form of accountability.

The adoption of a new managerial discourse by police organisations

Every set of reforms is preceded by the creation of a new discourse, which supplants the existing referents. In the case of police services, bureaucratic jargon has been superseded by a private sector rhetoric. An entrepreneurial terminology has transformed police stations into ‘budget units’ offering their ‘products’ and ‘services’ to ‘customers’.¹³ Simultaneously, the more traditional concepts of ‘citizenship’, ‘keeping the peace’ and ‘enforcing the law’ have withered. The main vessels of this new discourse are the annual reports, which abound in strategic visions, corporate goals, mission statements and customer charters designed to sum up in a few vague sentences the complexity of police functions. But in the streets, the new managerial discourse offers very limited improvement to the pressing needs of police ‘customers’, and particularly those upon whom police services are imposed.¹⁴ Police work is by definition complex, fluid and routinely involves the management of conflict situations, in which it is nearly impossible to apply the narrow concepts of customer satisfaction and good service delivery.

Moreover, this new sanitised discourse can only make the observer sceptical. A commonly identified feature of police culture has been the tendency of police officers to classify members of the public into different sub-groups defined by subjective and situational attributes such as dangerousness, courtesy or

vulnerability.¹⁵ As a result, the levels of service and attention experienced by citizens vary enormously, depending on the sub-group to which they are assigned. The discourse on the efficiency and best practices of the police ignores this reality and replaces it with a construct emphasising the neutrality of interactions between the police and the public. It invokes notions of competency and productivity, as if they were disconnected from a broader socio-political context that can significantly alter their meanings.

On closer examination, it appears that the use of this discourse is mainly circumscribed to the highest levels of the police organisation, especially those in charge of designing reform policies. It is a crucial instrument of horizontal communication with other stakeholders in the criminal justice system, such as the minister's advisers, partner departments or agencies, and parliamentary committees. It frames negotiating processes that seek to determine how police work is controlled by reducing it to managerial jargon and economic statistics. However, at the intermediate and operational levels, the irony and cynicism attached to the use of this discourse clearly demonstrate a refined understanding of its latent connotations. Very rarely does it permeate the media, who are generally more interested in crime rates and individual accounts of police corruption or misconduct than in informing a democratic debate on the transformations of policing. Although it does not manifest itself directly at street-level, this new bureaucratic discourse has been translated into policies that have important implications for police work.

Among these policies, I will examine new budgetary processes, comparative performance indicators and the devolution of some policing functions to the private sector.

Budget reforms and financial accountability

Traditional methods of public accounting rely on line-budgeting, where levels of spending, once approved, are sustained through the years in line with inflation or the desired levels of government activity. In this context, budget increases are allocated to various departments and agencies in proportion to their respective size. Likewise, in times of economic downturn, the burden of budget cuts is shared evenly. But this type of budgeting tends to shield existing activities from scrutiny, particularly because new initiatives can only be funded once 'historical' expenses have been met, whatever their outcomes and objective benefits. In order to correct this, a new tool, the Program Performance Budgeting System (PPBS), was introduced by the American government in the 1960s, and imported to Australia a few years later.

This financial instrument sought to rationalise public spending processes by evaluating the costs and benefits of government activities, organised into programs and sub-programs. While the previous model focused on the resources and expenses of a given budget unit (the inputs), program budgeting emphasises particular activities (the outputs) and how respective budget units contribute to their success. Hence, the resources that were previously allocated unconditionally to budget units are now contingent on the types of activities they undertake. A yearly cycle of program formulation and evaluation allows the 'machinery of government' to direct funds to specific activities, rather than to departments or

agencies. This new system undoubtedly favors those that comply with priorities determined by the government of the day, while proving of limited interest in budgetary and efficiency terms.¹⁶

This is a very complex instrument, and requires an enormous amount of extremely detailed information in order to work properly. It was abandoned by many governments in the 1970s, but was resuscitated in Australia in a simplified form during the 1980s. Police services were not spared and, by the early 1990s, most of them were reporting their activities through a program budgeting framework.¹⁷ Programs and sub-programs were designed to encompass the main areas of police work, and were budgeted according to perceived needs in the field of law and order. In New South Wales, for example, policing services are distributed in four main programs: community support, criminal investigation, traffic support and judicial support.¹⁸ As we have seen above, the budgets allocated to these programs may vary from one financial year to the next in order to comply with the priorities determined by the government. To continue with the example of New South Wales, while the community support program, which included security for the Olympics, was allocated an extra \$160 million in 2000 following a similar increase of \$152 million the previous year, the traffic program's authorised expenses fell by \$100 million between 1998 and 2000.¹⁹ Meanwhile, fatal collisions in New South Wales increased by 4.24 per cent and injury collisions by more than 7 per cent.²⁰ It would be unfair to deduce a causal relationship, as many other factors could account for this significant increase, but I suggest there is more than a simple coincidence between these two trends.

The new resource allocation system allows police managers to reorganise the structure of police services according to their priorities, as demonstrated by the above example, with a flexibility unknown in the previous model. But while it can be argued that budget reforms have the potential to make the police more responsive to the changing needs of Australian society, I will offer a more sceptical interpretation. If the avalanche of criticisms aimed at program budgeting by both academics and practitioners over the years has not been able to convince Australian governments to abandon this practice, shall we conclude that it has survived predominantly because it allows a much stricter control of police activity at the micro and macro levels?

At the individual level, program budgeting requires a detailed knowledge of all daily activities undertaken by police officers in order to assess the amount of time spent on each program and sub-program. Various activity measurement tools are used by Australian police jurisdictions, but the additional amount of paperwork they involve and the failure of police services to analyse the data collected highlight the fact that the tools are imposed upon police by external stakeholders. Statements such as the following proliferate in annual reports, and clearly express this reality: 'This performance report is based on accountability requirements under the *Financial Administration and Audit Act 1985* and *Treasurer's Instruction 904*, and supports the Government's direction in linking resource and performance reporting'.²¹

Of course, it has always been a prerogative of the Treasury to steer the budget allocation process and, incidentally, to oversee from a distance the activities of each department and agency. But the advent of program budgeting radically

changes the parameters of its intervention. Where it could only threaten budgetary stagnation or reduction, the Treasury now has the capacity to arbitrate which programs will be funded and which ones will be discontinued. Operational decision-making mechanisms are therefore partially shifted to the Cabinet, where ministers and advisers can force their priorities upon police commissioners on the basis of financial accountability. Already exposed to a new form of political control disguised as financial accountability, the theoretical independence of the police has been further eroded by the imposition of national performance indicators.

Evaluating police performance and ‘productivity’

In the past, crime rates have been the main indicators of police successes and failures. It was assumed that crime trends reflected levels of police activity and efficiency, even if, ultimately, everyone conceded that crime was a much more complex phenomenon. Recently, for example, Weatherburn and Lind have suggested conclusively that economic and social stress plays a central role in the development of delinquent-prone communities.²² Even if it has been demonstrated that crime rates fluctuate without any clear connection to the nature of police activities,²³ the social and political importance of crime statistics must not be discounted.²⁴ They continue to be reported in the media and used by politicians of all persuasions as a general indicator of a society’s wellbeing. However, crime rates and clearance rates²⁵ only address the crime fighting function of the police, and fail to take into account the more mundane aspects of police work, such as administration, escorting prisoners and liaising with the community.

Thus, police bureaucracies and their partner agencies have designed new, more complex and supposedly more accurate performance indicators. The advent of program budgeting and its requirements for a timely quantification of the inputs, outputs and outcomes achieved by each program paved the way for a heightened scrutiny of police organisations’ impact on crime and the fear of crime. It was in 1993, during the first wave of managerial reforms, that the Prime Minister and the Premiers jointly set up a body whose task was to evaluate the quality of services delivered to the public by the main federal and state departments.²⁶ Policing was included in the list of services to be evaluated, and a series of indicators were produced in order to compare the efficiency, effectiveness and productivity of police organisations across Australia. The purpose of this comparison was to bring an end to a monopoly on the production of information held by police services. Police ministers and governments often lacked the resources to produce their own independent assessments of their services’ existing and proposed policies. Furthermore, when reliable data was obtained, it was difficult to interpret it in the absence of external benchmarks. Hence, it was expected that revealing how police services ranked at the national level would increase their accountability by artificially re-creating the conditions of the market. This tool is mainly an instrument of control for ministers, who can use it as an alternative and independent source of expertise to the one provided by their police commissioners, further reducing the autonomy of the latter. While one can see the potential advantages of such a transparent approach in the context of a

participative governance of the police, its overemphasis on financial considerations betrays a less disinterested goal.

The evaluative model, published in the police section of the annual Commonwealth/State service provisions report, comprises 29 performance indicators, of which 22 measure effectiveness, and 7 efficiency.²⁷ Effectiveness indicators deal, for example, with crime and clearance rates, but also levels of public satisfaction or the fear of crime in public places. Efficiency indicators are concerned with the amount of resources required to solve crimes, attend traffic accidents or walk the beat. Although this model appears to be very complex, it fails to embrace the proactive dimension of police work, which can account for up to forty per cent of police activities, according to the conservative estimates of evaluators.²⁸ Another limitation of this model is that the statistics are only made up of recorded incidents, while police work relies heavily on the discretionary power of constables to resolve situations informally or to negotiate out-of-court settlements between parties. Measuring the performance of the police without considering the impact of these 'hidden' activities reduces police work to a set of administrative activities easily accounted for. In order to overcome these limitations, indicators that measure the satisfaction of the public and the fear of crime have been designed, but the aggregation of the data masks considerable disparities between local communities. Unless a concerted effort is made to improve the relevance of these performance indicators, they will not be able to inform the policy-making process objectively.

Despite their shortcomings, national performance indicators continue to be used by each state's Treasury as a coercive tool that spreads its wings well beyond the retrospective financial accountability of the recent past. The imperfections of the evaluative apparatus do not hinder the work of the Treasury, as long as it continues to show that savings can be made in comparison to other police jurisdictions. Considering the number of indicators, it is always possible for a police organisation to be found lacking in a number of fields, exposing itself to calls for reforms inspired by the managerial ideal. But police organisations are not passive actors in the process imposed upon them by Treasuries and audit agencies. The main consequence of a mechanism designed to evaluate police work — or any kind of work for that matter — is not that it will entice police services to improve their effectiveness or their efficiency, but that activities which can easily be recorded in a statistical format will become predominant, to the detriment of more pressing problems.²⁹ The monopoly exercised on the elaboration of performance indicators by the Treasury and other bureaucratic agencies, which rarely submit themselves to similar levels of scrutiny, creates a 'democratic deficit'. This deficit is characterised by a restrictive view of police effectiveness that is bounded by its budgetary meaning and fails to empower citizens.

As we have seen, some police commissioners of the 1970s manifested a strong commitment to their operational independence. In order to minimise any possible form of resistance from the police hierarchy, governments have revisited the terms of employment of police commissioners and their executive teams, and brought them into line with the rest of the public service. Until the early 1980s, most police commissioners were appointed on life tenure. Since then, political authorities have favoured short-term contracts (usually three to five years) and have commissioned

headhunters to identify potential candidates interstate and overseas. For example, in New South Wales, following the damning revelations of the Wood Royal Commission in 1997, a former English police officer was appointed as the new police commissioner, with a salary that made him the best-paid public servant in Australia. Aside from the fact that commissioners who wish to pursue a career in policing will try to avoid at all costs a quarrel with their ministers, governments have also embedded in the former's contracts of employment very detailed performance clauses. Commissioner Ryan, in NSW, signed such an agreement, which covered police service operations, staff management and human resources, business administration and government priority areas.³⁰ Each operational responsibility of the commissioner is therefore delineated in objectives and strategies to be implemented, which correspond to priorities determined by the government. When priorities change and when commissioners are not willing or able to accommodate these changes, the contractual arrangements permit a fast, if sometimes costly separation, as experienced by Commissioner Ryan in NSW in April 2002. In this context, the legal theory of the operational independence of the commissioner can no longer be sustained, as it is possible to discern a deliberate strategy from the political authorities to reassert their control over the police.

Another area of reform where the public has had very few opportunities to provide an input, let alone make an informed decision, has been the growing contractualisation of policing.

Contracts and the privatisation of policing

The influence of managerialist reforms has not only been felt through new budgeting and evaluative methods, but also by the sub-contracting of numerous police activities to private interests. In the 1990s, the market gradually became a significant provider of non-core police services in Australia. It involved, to cite only a few examples, the transfer of prisoners, the transcription of police telephone intercepts, the creation and maintenance of crime databases, and, in certain states, the provision of education services for police recruits.³¹ More recently, in a policy document written for the minister but leaked to the press, the NSW Police commissioner made it very clear that in the modern policing context, the prevention, detection and investigation of white-collar crime was becoming so costly that he could no longer afford to allocate resources to these activities, and would consider delegating some of them to private operators.³² Here, we penetrate the core of public policing as we know it, and the limit between central and peripheral police activities seems to blur, devolving to the private sector what was so far conceived as regalian responsibilities of the state. Brogden and Shearing have highlighted the democratic benefits of this dual or hybrid system for societies in transition, where governments cannot provide appropriate levels of security to their citizens.³³ However, we believe less altruistic motives are at work in developed countries. This hijacking of police functions to the private sector is not simply the result of a quest for improved performances in the delivery of services, but can be interpreted as a deliberate effort by governments to impose a new form of privatised and contractualised accountability to certain areas of policing. It allows those who prepare the contracts to include detailed — and sometimes secret — clauses that determine the nature and quality of the services to be

purchased, reshaping indirectly but significantly the enforcement of laws, without being submitted to the traditional standards of administrative and legal scrutiny.

Conclusion

In the previous sections, the profound changes that have affected Australian police organisations over the past twenty years have been examined, from the creation of a managerial discourse to the implementation of new budgetary processes, evaluative mechanisms designed to measure their effectiveness and efficiency, and contractual arrangements for certain areas of police work. All the managerial reforms described above should not be viewed as a straightforward bureaucratic restructure of Australian police services in the wake of the royal commissions that exposed systemic corruption in the 1980s and 1990s. They have had critical consequences on the submission of police services to political influences, transforming them into conventional ministerial departments completely responsive to the instructions of their ministers. Police services have become privileged tools of government in the current law and order climate, where political parties outdo each other in the display of punitive and retributive attitudes toward the ‘delinquent classes’.

Globalisation, which has emerged as one of the major causes for the reform of governments and public services around the world, has also been at the origin of the abandonment of many welfare policies. In the dominant neo-liberal ideology, individuals have to assume full responsibility for their social and economic conditions. The adoption by governments that espouse this ideology of punitive social policies for the poor and the underprivileged has accelerated the decline of social cohesion in developed countries. But globalisation also has consuming effects on the middle classes, which are facing increasing levels of social and economic insecurity: life-long employment is now a thing of the past, and the costs of education, health services and retirement are passed on to the citizens. In order to reassure the electorate, the law and order discourse has become one of the dominant themes of federal and national election campaigns.³⁴ Hence, social control has displaced welfare as one of the constitutional obligations of the state. New crime legislation is passed,³⁵ promises for the recruitment of thousands of new police officers are made, and the fight against drugs receives additional resources. In this context, the restored status of law enforcement and social control as a central instrument of government is not compatible with the traditional arrangements, which limit the ability of the minister to control the commissioner and the police service. Confining the police inside a managerial corset was therefore a logical course of action for governments wishing to exert tight controls over what symbolises the relic of state intervention. In the new governance of policing, police commissioners and their troops might find themselves with more latitude to do the rowing, but the cabinet and the Treasury have definitely reasserted their authority over the steering, without any noticeable benefit for the Australian community: ‘crime reduction’ remains a policy objective that fails to materialise, while the fear of crime is constant in most jurisdiction over the past five years.³⁶

In light of recent developments, it would be easy to conclude that pessimism is *de rigueur* and that policing is securely trapped into a political ‘law and order’

action that has little to contribute to the needs of Australian communities. Against this fatalistic interpretation, the concept of 'operational responsibility' developed by the Independent Commission on Policing for Northern Ireland offers a promising alternative. It locates the root of a democratic deficit in the governance of policing in the legal theory of the operational independence of the police. Two unsatisfactory options stem from this notion: operational policing is seen as too sensible to be left under the control of either partisan politicians or unaccountable commissioners. The notion of operational responsibility resolves this dilemma by advocating the empowerment of the community through the creation of a board that could extend its oversight to operational matters.³⁷ Contrary to past failed experiments in Victoria and New South Wales, these boards would not have a managerial role, but would be granted sufficient oversight and consultative powers to guarantee the democratic governance of the police.³⁸ Police integrity or the prevalence of crime are not the only issues that should concern the Australian public when thinking of the police, as the level and quality of service are clearly influenced by a range of political and bureaucratic factors that are often neglected. As the public seems more and more disenchanted with the politicians it elects and the police services it funds, a new arrangement of that type could be the answer to restore the confidence that has been lost.