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Keeping up appearances

Police Rhetoric, Public Trust and "Police Scandal" in London and Berlin, 1880-1914

Dr. Anja Johansen¹

Cet article s'intéresse à la confiance du public dans la police et à la manière de la renforcer ou de l'affaiblir. L'étude compare les réponses des autorités de Londres et de Berlin aux plaintes relatives à des fautes professionnelles policières entre 1880 et 1914. De quelle manière la police londonienne s'y prit-elle pour conserver sa bonne réputation et un haut niveau de confiance auprès du public, en dépit de la fréquence avérée de fautes professionnelles? L'analyse permet de repérer un certain nombre de facteurs qui, dans le traitement des plaintes, contribuèrent à restaurer, voire dans certains cas à renforcer la confiance du public dans la Metropolitan Police. Par contraste, le cas berlinois montre comment l'insensibilité et le dédain pour les préoccupations légitimes du public face à l'inconduite policière minèrent les efforts pour renforcer la confiance de ce dernier dans la police. De sorte que la Schutzmannschaft se trouva beaucoup plus vulnérable que la Metropolitan Police aux efforts des critiques et de la presse pour susciter l'indignation du public et produire des «scandales policiers» dans leurs propres intérêts politiques et commerciaux.

This article is about public trust in the police, how to maintain it and how to challenge it. The study compares responses by police and government authorities in London and Berlin to complaints over police malpractice from the 1880s to 1914. How did the London Metropolitan police manage to maintain a good reputation and high levels of public trust despite ample evidence of widespread police malpractice? The analysis identifies a number of factors in the handling of complaints and responses to allegations of malpractice that helped to re-establish and sometimes strengthen trust in the Metropolitan police. By contrast, the case of Berlin shows how insensitive and dismissive reactions to legitimate public concerns over police malpractice undermined attempts to improve public confidence in the police. This made the Schutzmannschaft far more vulnerable than the London Metropolitan police

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for the critics and the press to generate public outrage and construct "police scandals" for their own political and commercial ends.

POLICE-PUBLIC RELATIONS: FROM MISHAPS TO SCANDAL

In July 1887, while the London press and Parliament were challenging the Metropolitan Police over the controversial arrest of a young seamstress, Elizabeth Cass, on charges of soliciting, further concerns about police malpractice were raised in Parliament by William S. Caine MP. He alleged that police constables took bribes from the prostitutes who conducted their business on Clapham Common. Given the high profile of the complainant, Under-Secretary Munro from the Home Office visited Caine at home, and subsequently wrote a fourteen-pages report explaining how he had urged Caine to substantiate his allegations with solid evidence. As Caine could present nothing more than the testimony of the prostitutes themselves, the report concluded that the allegations were pure fantasy based on Caine's naïve trust in the basest of females. While Munro described his own conduct at the meeting as measured, polite and professional, Caine comes across as a babbling idiot. Later that year, when the barrister Bradford Woodgate raised similar concerns in a complaints letter to Chief Commissioner Charles Warren, the procedures and outcome were very much the same². The authorities investigated, wrote reports and then concluded that there was no case to answer.

The police authorities in Berlin approached complaints very differently. In 1883, shortly after the formalisation of police complaints procedures in the Prussian *Landesverwaltungsgesetz*³, a Berlin lawyer, *Rechtsanwalt Kaufmann*, from the Association for Legal Defence and Judicial Reform (*Verein für Rechtsschutz und Justizreform*) presented a petition to the Prussian Diet complaining about serious malpractice within the Berlin *Schutzmannschaft*. The petition was seized by the press who presented the horrifying details of the allegations to the German public who were suitably appalled. During the spring of 1884 the petition was discussed at length by the Interior Ministry and the Provincial Governors, who were indeed very keen to address the problem of police malpractice. Yet the press was never informed, and the public could only guess at whatever actions or discussions were taking place within the civil service. In a typical comparison with English policing, a commentator in the liberal *Vossische Zeitung* noted on 16 May 1884 that this form of secrecy did nothing to improve trust in the Prussian police⁴.

The image of the "gentle English Bobby" has suffered some serious blows over the past decades as social historians have cast unflattering light on both the men and the institutions⁵. Yet, despite important revisions of the positive myths, the Victorian Bobby undoubtedly enjoyed a much better reputation among contemporaries than

² NA, HO144/472/X15239A and NA, HO144/472/X15239A: Miscellaneous Complaints, 1887-1888.

³ Gesetzüber die allgemeine Landesverwaltung' of 30 July 1883.

⁴ GStA, HA1, Rep.77, Tit.345, No. 17-1.

⁵ The positive approach of contemporary observers like Melville Lee (1901), Cairns (1922); Moylan (1929) led to the persistence of the Whig interpretations of Reith (1938, 1943); Critchey (1967); and Ascoli (1979). For a reassessment of the 'myth' of the gentle Bobby see Emsley (1992, 2005).

his European and North American counterparts⁶. The Berlin *Schutzmannschaft* in particular suffered from a poor reputation right from its inception in 1848: German police reformers continuously compared the rude, bossy and boundlessly violent *Schutzmann*⁷ with the English Bobby, who was held up as the standard for good professional conduct⁸. However, the Prussian authorities did try to address the problem, and the reputation of the *Schutzmannschaft* was sometimes worse than deserved. Since the 1980s historians of German policing have sought to moderate and contextualise the image of the *Schutzmann*, linking the aggressiveness of Prussian *Schutzmänner* to structural problems such as understaffing, poor professional training and the difficulties of imposing authority on a reluctant population⁹.

These reassessments of the “gentleness” of the Bobby and the “aggressiveness” of the Berlin *Schutzmann* present the historians with an interesting problem: how was it possible for the London Metropolitan police to maintain an image of Bobbies as well behaved, honest and moderate in their use of force, despite repeated evidence of questionable practices, including violence, perjury, disregard for legality and due process, as well as persistent rumours of corruption¹⁰? The Berlin *Schutzmannschaft* provides a useful counter-example of unsuccessful attempts to improve the image of the *Schutzmann* even among natural supporters of law and order.

As policing is by its very nature confrontational and often controversial, good public relations are difficult to build up and public trust is easily lost. The persistence of the positive image of the Bobby therefore requires some explanation. Contemporary observers and historians have linked the widespread public acceptance of the Bobby¹¹, and the universal fear and loathing of the *Schutzmann*¹² to differences in the legal and institutional framework. Similarly much has been made of the military background and ethos of *Schutzmänner* as opposed to the civilian ethos of the Metropolitan police. This article adds a further dimension to these explanations by analysing how public expectations and trust were influenced by the handling of criticism by police managers and government authorities.

The article investigates trust-building mechanisms in London and Berlin, and compares the moral economy of scandal within the two political cultures between 1880 and 1914. It argues that in London the rhetoric of the Metropolitan police helped to strengthen the image of a responsive, disciplined and accountable force, despite a reality of highly ineffective accountability mechanisms, strongly biased against complainants. In Berlin the official rhetoric from police and government authorities, together with the complaints procedures and judicial proceedings often had the unintended effect of undermining public confidence in complaints and

⁶ Emsley (1992, pp. 123-125); Emsley (1996, p. 259); Miller (1977).

⁷ Lütke (1982, 1993); Funk (1986); Jessen (1991); Spencer (1992); Reinke (1993); Johansen (2007, 2009).

⁸ Lette (1864, pp. 363-652); Gneist (1879, pp. 41-42); Segger (1898, pp. 38-40); Lemke (1904, pp. 209-211).

⁹ Jessen (1991, pp. 180-183); Evans (1991, p. 172); Spencer (1992, p. 164).

¹⁰ For critical interpretations see Storch (1976); Miller (1977); Emsley (1983, 1996); Taylor (1997, 2002).

¹¹ On attitudes to the police: Gamon (1907, p. 21); on working class acceptance and cooperation see Emsley (1996, pp. 80-84); and Taylor (1997, p. 107).

¹² Hall (1977, pp. 98-99); Jessen (1991, pp. 176-179).

accountability mechanisms. This left the Berlin *Schutzmannschaft* far more vulnerable than the London Metropolitan to public criticism, with incidents of police misbehaviour easily being presented as a 'scandal' by the left-liberal and social democratic press as a device to undermine the legitimacy of political opponents¹³.

Recent literature on the dynamics and political function of scandal has observed that the effective use of the moral economy of scandal requires an astute understanding of ever-changing popular conceptions of what constitutes transgressive behaviour and of what rhetoric is acceptable within particular discourses¹⁴. It appears that the scope for mobilising public indignation and the scale of public outcry is only partly correlated to the seriousness of the transgression. Moreover, certain factors tend to desensitise the public and work against the mobilisation of public consternation. Even gross errors or mishaps by police are often tolerated if committed under difficult circumstances, such as public order policing, armed stand-offs, or violations due to mistaken identity or to the under-resourcing of the police, particularly if such problems could only be addressed by citizens paying more for policing. Similarly when transgressive behaviour happens frequently and conspicuously, the public tends to adopt an attitude of apathy or cynicism. As Eugene Weber rightly observed in relation to political scandals in Republican France of the 1880s-1890s: where scandals and crises happen frequently, public opinion ceases to take notice of 'minor' errors¹⁵.

The police behaviour that generates "scandal" tends to develop in two stages. There is the initial transgression: a deliberate act committed out of corruption, callousness or malice which arouses indignation in proportion to the scale and nature of the offence. Yet usually the transgression only has the potential to develop into a "scandal" if the responsible police managers and government authorities seem unwilling or unable to rectify the offence.

What distinguished London from Berlin was the engagement by British authorities in debates over the boundaries around legitimate policing (deontology), which modern scholars have identified as central to popular acceptance of policing¹⁶. Another key element in public confidence was that the London Metropolitan police made an effort to appear trustworthy. In London, the police rhetoric and strategic approaches to criticism thereby reassured large parts of the public that allegations of malpractice were properly investigated and effectively disciplined. As long as accountability and control mechanisms appeared credible, the occasional revelation of malpractice, if skilfully handled, might even strengthen police legitimacy and public trust, particularly among those who had few dealings with the police. Accordingly, Londoners tended to give the police the benefit of the doubt, and continued to see police corruption and violence as an aberration from the norm.

¹³ Hall (1977) on the SPD press and scandals in the *Kaiserreich* and Searle (1987) on corruption in British politics 1895-1930 both touch upon the deliberate construction of scandal as a tool to undermine a political opponent.

¹⁴ Garrard, Newell (2006); Garrard, More, Smith (2007). Markovitz and Silverstein (1988) coined the word 'scandology' to capture this phenomenon; on rhetorical boundaries of meaning see Skinner (2002, pp. 176-177).

¹⁵ Weber (1991, p. 330).

¹⁶ Walker (2001) Goldsmith (2005); see also *Policing and Society*, 2002, 12, 4: Special Issue on Police Accountability.

The public outrage in Berlin was caused not simply by poor professional conduct by *Schutzmänner*. The failure by senior officials to respond adequately to legitimate public concerns was central to the escalation of widespread consternation. Inconsistent rhetoric, insensitive and fanciful justifications of serious police malpractice, as well as institutionalised defence mechanisms continuously undermined attempts to improve the relationship between police and public. The Berlin *Schutzmannschaft* never managed to overcome deep-seated public distrust of the police: a burdensome legacy inherited by the *Schupo* of the Weimar Republic.

BUILDING TRUST AND CONSTRUCTING LEGITIMACY IN LONDON: POLICE RHETORIC AND STRATEGIES

Inevitably the London Metropolitan police had its fair share of public complaints and popular outcry over alleged police malpractice. In London as in Berlin, complaints came from citizens with very limited social capital as well as from influential members of the public, and covered a very broad range of issues, from complaints about police incivility or harassment, incompetence or drunkenness, to very serious allegations of corruption or violence¹⁷. Public concerns over malpractice within the London Met culminated in 1906 with allegations of widespread corruption, leading to a major public inquiry by the Royal Commission into the Duties of the Metropolitan Police. Its report from August 1908 comprised hundreds of pages of witness statements, perspectives on practices since the 1880s, figures and recommendations. It revealed not only dubious or outright illegal practices, but also inadequate accountability and complaints mechanisms¹⁸. Nevertheless, the British press overwhelmingly accepted the official conclusions that problems were marginal and concentrated on a few individual constables. Overall the Metropolitan police was officially confirmed as a force of good, honest and hardworking men. Control and accountability mechanisms were described as functioning satisfactorily, albeit with some scope for improvement¹⁹. Some criticism was raised at the margins of the public debate, but such critics remained lone voices. During the same decade the Berlin *Schutzmannschaft* became the object of repeated public revelations of violent practices, corruption and above all wilful disregard by senior police and government authorities for the malpractices committed by the force, individually and collectively. The public outcry came not only from the usual suspects of Social Democrats and the Left-Liberal opposition, but also included important sections of the well-established bourgeoisie.

One key feature in the construction of trust and legitimacy in London was the consistency between internal police instructions and orders, public declarations and the rhetoric relating to accountability mechanisms: police managers appeared to practise what they preached. Together the official rhetoric, complaints procedures, and the courts formed a coherent set of arguments, mutually sustaining the legitimacy of each other. As the London Metropolitan police after 1829 continuously had

¹⁷ Johansen (2009, pp. 132-134).

¹⁸ Royal Commission (1908) vol.1, pp. 138-143.

¹⁹ *Idem*.

to justify its existence²⁰, the rhetoric and procedures were intended to reassure potential opponents and nervous rate-payers that the police were there to serve and protect them²¹, and that the police would approach them with politeness, enforce the law with discretion and proportionality, and operate strictly within the boundaries of the law²². The impression was projected to the propertied middle-classes that constables could be controlled and disciplined much in the same way as domestic servants. By the 1880s these control and accountability mechanisms had become tools in on-going exercises in damage limitation, reparation and strengthening of police legitimacy.

However the elegant public rhetoric concealed limited implementation of such mechanisms. Metropolitan police managers sought to protect their men against criticism, in the attempt to balance the need for effective – albeit dubious – policing practices against potential damage to public trust in the police. Police managers could not afford to admit publicly that constables often did not meet minimum professional standards or that police sometimes operated outside the legal framework, particularly not if the alleged transgression was not a “one off,” but standard practice. As Gamon points out, many policing practices of dubious legality were tacitly ignored by the management as long as this was not revealed in public²³. The majority of allegations against the police were refuted and contained before they attracted major media attention; it was only very occasionally that a case developed into such a calamity that the Chief Commissioner or the Home Secretary would have to make a public statement about it.

Erring police constables could only be supported if a credible case could be made that the allegations were unsubstantiated or malicious. Credibility was crucial. London police managers carefully tried to distance themselves from actions which were likely to generate outrage in the wider public. Police managers therefore needed to assess in each case whether the policeman’s version of event could be spun in a way that was both credible and morally acceptable to the wider public. Justifying embarrassing events through extravagant explanations or stubborn denials in the face of “much evidence to the contrary” might cause more harm to public trust than the case was worth.

While critics complained that police constables in court developed fanciful explanations to justify serious injuries inflicted on members of the public²⁴, the public declarations of police managers were more sophisticated. They tended to follow one of two strategies depending on the ‘defensibility’ of the case: one was to join the public in condemning certain actions as unacceptable and outrageous, but maintain that the accused policeman had not acted as alleged. This allowed police managers to position themselves on the moral high ground over the question of the ethical

²⁰ Emsley (1996, p. 62); Taylor (1997, p. 98).

²¹ PP 1830/515, 1 June: ‘A Return of all General Orders’. See Instructions Part I under ‘Police Constables’; Vincent (1883, pp. 34 & 76).

²² These principles were specified from the outset in General Orders of 29 September 1829; 17 October 1829 and 3 June 1830. (PP 1830/515, 7 June: ‘Return of Numbers of Metropolitan Police’). They were repeated by Howard Vincent (1883, p.34), as well as by the otherwise hard-nosed Chief Commissioner Charles Warren, NA, MEPO, 7/48 Metropolitan Police Orders 1886, 18 August, p. 16.

²³ Gamon (1907, pp. 25-26); Emsley (2005, pp. 137-138).

²⁴ Timewell (1898, pp. 5-10); Gamon (1907, pp. 128-129).

boundaries of legitimate policing, and to move the discussion to the question of 'what actually happened.' The incident could then be defended on the basis of the policeman's version of events, which was almost invariably cast in terms that made it appear legitimate and moderate. If the complainant could show evidence of serious bodily harm, the police authorities tended to down-play the seriousness of the injuries and give a plausible explanation as to how the person had been hurt in ways that did not involve the police.

In cases where evidence of police malpractice was too manifest to support any credible denial, a slightly different strategy was employed. Again, police managers would join the public outrage, showing that they were in full agreement with public opinion about the boundaries of ethically acceptable policing. Then they would announce further police investigations and publicly commit themselves to discipline any offending officer, if allegations were substantiated. The authorities would then carefully control and shape any investigation. During the Royal Commission of 1906-1908 the very restricted remit imposed by the Home Office reduced the number of cases investigated from over 300 to twelve²⁵. Despite vigorous objections from critics²⁶, the commission and its procedures still appeared credible to the wider public who did not follow the details of the inquiry.

If allegations were refuted by internal or external investigations and whenever an accused constable was acquitted by the courts, this would be used in the police rhetoric as testimony, not only to the honesty of the individual policeman, but as proof of the high moral standards and discipline of the entire force. Similarly, every time a constable was acquitted by the courts, senior police authorities strongly insinuated that almost all allegations of malpractice against the Metropolitan police were generated by a few malicious individuals. On the other hand, a guilty verdict against a policeman was presented to the public as evidence of the robustness and effectiveness of control and accountability mechanism as well as testimony to the transparency and self-scrutiny of the police²⁷. Malpractice was always described as individual error, whereby police managers limited the risk of further scrutiny into standard policing practices. The implicit message was: "We have discovered a problem; we have dealt with it; we have moved forward." Accordingly, both convictions and acquittals were systematically presented to the public in ways that made the police organisation and its accountability procedures appear transparent and effective. Overall it strengthened the impression in the public of the police being responsive, transparent, and trustworthy.

This shiny image of policing practices was belied by numerous memoirs published throughout the period by retired police constables or inspectors, who candidly revealed systematic malpractice within different sections of the force. Yet such revelations of malpractice would most often be presented by the authors as the practices of days long gone, with reassuring claims that policing practices now conformed to

²⁵ *Royal Commission upon the Duties of the Metropolitan Police* (1908) vol. LI, pp. 563-617.

²⁶ Atherley-Jones MP in the House of Commons, 29 July 1908, Hansard Vol. CXCIII cols. 1592-1597, and in *The Times*, 11 August 1908, 'The Police Commission'.

²⁷ Clarkson, Richardson (1889, pp. 362-363). This logic also prevails in the police and government assessment of the outcome of the Royal Commission of 1906-1908. Cairns (1922, pp. 263-264); Moylan (1929, p. 283). *The Times*, 'Editorial: The Metropolitan Police' 24 December 1908. *Royal Commission* (1908) vol. L, pp. 105-106 & 144.

the law and that the professional standards of constables had improved²⁸. As in the case of the occasional conviction of constables, the scandals of corruption and violence that haunted the Metropolitan police – such as the 1877 scandals in the Detective Department, or the allegations of malpractice investigated by the Royal Commission of 1906-1908, or the Goddard corruption case of 1929 – were presented to the reading public as testimony to the effectiveness of internal control mechanisms²⁹. The underlying message in police memoirs thereby supported the official rhetoric: all projected the image of the rank-and-file constables as honest, moderate and disciplined, with high professional standards and integrity. As for the police management, they appeared to the public as responsive, respectful of the law, moderate in their methods, and willing to investigate and discipline erring constables.

The importance of this image can be discerned through the damage caused to police-public relations during the tenure of Chief Commissioner Charles Warren. Unfortunately his tenure coincided with the turbulent years of 1886-1888, which required a man of flexibility, and engagement with public criticism. Instead Warren's intransigent and insensitive handling of legitimate concerns about police violence, alleged corruption and abuse of power caused considerable damage to the public image of the Metropolitan police. It was left to his successor, James Munro, to re-establish good public relations and restore trust in the police.

As public opinion became more sensitive to police malpractice during the late 19th century, the London Metropolitan police had developed ways of responding to criticism that were geared towards reassuring the public. Together these strategies constituted what – in relation to strategies of protests policing – has been described as “winning by appearing to lose”³⁰. The occasional transgression by London Bobbies could therefore result in what Gerrard describes as a ‘cleansing effect’ on the system³¹. Even the fact that the popular press was full of allegations of police malpractice occasionally received positive spin as proof of how transparent and open to criticism English policing was³².

Investigations and court procedures thereby carried the potential for restoring the relationship between police and public at two levels: it provided justice to the injured individual, and at the same time reassured the wider public that discipline as well as control and accountability measures were robust and effective. This worked in London because in the eyes of large sections of the public the police authorities appeared credible and honest, and the judicial measures appeared fair, impartial and transparent.

²⁸ On the 1877 Scandal in the detective section of the Metropolitan police, see Moylan (1929, pp. 157-158).

²⁹ Lee (1901, pp. 368-370); Smith (1910, p. 180); Moylan (1929, pp. 110 & 157-158); Thomson (1935, pp. 163-164).

³⁰ Although it was only in the 1970s that Sir Robert Mark coined the expression this approach to winning popular consent characterises policing strategies back to Rowan and Mayne. Reiner (2000, pp. 53, 67 & 69); Loader (1997, p. 5).

³¹ Garrard (2007, p. 38).

³² Lee (1901, pp. 249-250).

**POLITELY ACTING WITH "MERCILESS ENERGY":
THE INCONSISTENCIES
OF POLICE RHETORIC IN BERLIN**

The widespread popular mistrust of the Berlin *Schutzmannschaft* was obviously linked to their proverbial rudeness and violence. Yet the comparison with the London Metropolitan police throws light on less conspicuous factors which exacerbated the negative popular expectations. The British approach of "winning by appearing to lose" was anathema to Prussian authorities, who tended to maintain at all costs an impenetrable public façade and refused to recognise fault. Prussian authorities, in their pursuit of the interests of the State, continued to brush off any challenge to their authority, in particular over policing issues.

Yet from the 1880s police managers and government authorities began to adopt a more conciliatory tone when addressing the public on uncontroversial matters, alongside the traditional secretive and defensive gut reactions. This led to police rhetoric appearing fragmented and pointing in different directions. Official declarations vacillated between reassuring noises and the traditional refusal to engage with public concerns: paternalistically tough but fair, responsive and caring, but in the next instant indiscriminately threatening the most extreme measures against anyone who did not instantly comply with police instructions.

The question of police discipline and accountability had always been a highly sensitive issue. During the second half of the 19th century Prussian authorities grudgingly but gradually came to accept the principle that police needed to operate within the limits of the law. Thus police managers repeatedly emphasised that *Schutzmänner* were liable to criminal prosecution if they overstepped their legal powers³³. Yet such guarantees only provided very limited protection against questionable policing practices. Conservative forces within the *Schutzmannschaft* continued to challenge the principle of the *Rechtsstaat*, maintaining that the police needed free hands to combat crime and social disorder effectively. Furthermore, even when *Schutzmänner* operated strictly within the boundaries of their legal entitlement, there was still plenty of scope for behaviour and practices which might not be illegal but which violated popular perceptions of what was acceptable. Finally police managers tended categorically to reject any allegation of error or malpractice, and to conceive of criticism as malicious attacks on the honour and moral integrity, not just of the police, but of the entire Prussian State.

In the short term this helped to refute irritating opposition, but it also made the *Schutzmannschaft* very vulnerable when evidence of serious malpractice was revealed. Although the Prussian civil servants generally enjoyed a well-deserved reputation for honesty and integrity, the *Schutzmannschaft* had been repeatedly shattered by revelations of serious corruption at the most senior level³⁴. The attempts in the early 1860s by police managers to deny and cover up serious financial irregularities did much damage to the credibility of the force as the Berlin public was extremely sensitive to corruption. During the 1880s and 1890s greater public sensitivity to violence led to repeated outrage in the press, starting with Kaufmann's 1883

³³ Funk (1986, p. 18).

³⁴ Eichhoff (1860-1861); Avé-Lallemant (1861). On Prussian police scandals 1858-1907 see Funk (1986, pp. 90 & 97-99); Hall (1977, pp. 98-100).

Petition to the Prussian Diet³⁵. Increasingly Berliners and parliamentarians across the political spectrum complained about the violation of their sense of justice (*Rechtswusstsein*)³⁶, even when the police had technically acted within the boundaries of their legal entitlement.

The responses from successive interior ministers did little to reassure the public. Between 1898 and 1910 there were several major debates in the Prussian Diet and the *Reichstag* concerning police malpractice. Successive Prussian interior ministers and police presidents, who were caught in the unenviable position of having to defend rather nasty incidents of police violence³⁷, publicly demonstrated their unwillingness to allow transparency and meaningful investigations of serious cases. While Interior Minister von der Recke in 1898 vividly regretted that unfortunate incidents of police brutality had taken place, he made no commitment to investigate and discipline erring *Schutzmänner*; nor did he make any proposition for limiting the occurrence of serious police brutality against members of the public. Instead, he declared that such incidents were inevitable³⁸. Twelve years later, in the face of major public consternation over heavy-handed police interventions in Treptower Park and the Tiergarten, the reactions from Interior Minister Delbrück were much the same. He admitted that considerable violence had taken place, but insisted that the disproportionate and indiscriminate violence was fully justified by the goal the police had pursued. The message to the public was that an illegal social democratic gathering justified extreme police intervention leading to significant numbers of innocent bystanders being severely injured. His insistence that the police had operated technically within the boundaries of the law³⁹ inevitably raised the question whether the public got any protection from the law.

This did nothing to reassure or satisfy the public. If the police were not legally in the wrong, they had nevertheless transgressed the limits of what, by 1910, was widely understood as morally acceptable. The Social Democratic and Liberal press mocked the official justifications by describing Delbrück and Police President von Jagow as “aware of their guilt” (*Schuldbewusstsein*) and feeling “painfully embarrassed” (*peinlich Verlegenheit*)⁴⁰. If indeed Police President von Jagow felt painfully embarrassed about the police intervention in Treptow Park and the Tiergarten, he concealed his *Schuldbewusstsein* very well. His public statements over this debacle and similar incidents of heavy-handed police interventions only added insult to injury, and were reported with consternation by the German press across the political spectrum⁴¹. Rather than appeasing public opinion, his stubborn defence of what

³⁵ GstA, HA1, Rep.77, Titel 345, No. 17-1 (Docs. 84-93).

³⁶ From the 1890s the notion of *Rechtswusstsein* appears with increasing frequency in citizens’ complaints. BLA, Pr.Br. Rep.030, Tit.94, Nos.8872-8881: ‘Beschwerden der Bevölkerung über Polizeieinstellen und Polizeibeamte in Berlin, 1892-1913.’

³⁷ 17 February 1898 (HdA, sess. 24); 22 November 1902 (*Reichstag*, sess. 220); 5 February 1903 (HdA, sess. 14); 31 January 1908 (HdA, sess. 21); 23 February 1910 (HdA, sess. 26); 11 March 1910 (*Reichstag*, sess. 54 and 55).

³⁸ Debate 17 February 1898 (HdA, Session 24), pp. 715-719.

³⁹ 11 March 1910 (*Reichstag*, sess. 54 and 55).

⁴⁰ Ledebour in the *Reichstag*, 11 March 1910 (sess. 54) col. 1865.

⁴¹ On 14 February 1910 the conservative *Kreuz-Zeitung* published the following warning: “*Es wird das Recht auf die Straße verkündet. Die Straße dient lediglich dem Verkehr. Bei Widerstand gegen die Staatsgewalt erfolgt Waffengebrauch. Ich warne Neugierige.*” Similar statements about preemp-

mainstream public opinion regarded as indefensible came across as outrageous and insensitive. Berliners could hardly be under any illusion that the formal complaints procedures and legal subjection of the *Schutzmannschaft* to the law did not ensure meaningful protection of citizens. Instead, the official justifications of the police's right to use extreme violence created the impression that extremely violent policing was the norm.

It was in vain that more level-headed police managers tried to convince the public that the *Schutzmannschaft* in general acted with moderation and tact. Too many Berliners had witnessed extremely heavy-handed police interventions for such claims to appear credible. The suggestion that the *Schutzmannschaft* did not operate with undue violence were met with incredulity – even when it might actually have been true. Public trust in the police and government authorities telling the truth on such matters remained low even among those who otherwise supported law and order and were unfailingly loyal to the regime.

Throughout the Wilhelmine era, the authorities in Berlin sought to promote greater popular acceptance of policing in order to facilitate effective law enforcement⁴². Indeed senior civil servants were keenly aware and concerned about the detrimental effect that police malpractice had on the reputation of the *Schutzmannschaft* among citizens irrespective of political inclinations. One handwritten comment in the margins of a critical article from the liberal *Vossische Zeitung* bitterly stated that poor police behaviour swelled the ranks of the Social Democratic Party⁴³. Consequently, several initiatives were taken to raise the standards of police behaviour and to discipline erring officers. Unfortunately such initiatives were rarely known beyond the inner circles of police managers and senior civil servants; when occasionally information was leaked to the press it was presented to the public as proof of the official cover-up rather than testimony to the attempts by senior authorities to address the problem⁴⁴.

The institutional charm-offensive of the *Schutzmannschaft* failed to generate 'English' levels of acceptability, respect and popular trust, because any level of criticism was met with categorical rejection. The non-engagement with legitimate popular concerns had unfortunate and unintended consequences: it gave the impression that the police were hiding some dark secrets⁴⁵, even in cases where the police might not have been at fault. The lack of transparency, the blatant lies, and the stubborn defence of indiscriminate and extreme violence undermined trust, even among natural supporters of the police. It made the *Schutzmannschaft* appear even more reckless and unaccountable than they really were. Whatever improvement was made in

tive use of weapon were frequently published in the Liberal and Social Democratic press. See also *Vorwärts*, 6 August 1911 publishing a leaked internal memo threatening *Schutzmänner* with disciplinary action if they did not use their weapon preemptively and with greatest possible effect.

⁴² Segger (1898, pp. 38-40); Lemke (1904, pp. 209-211); See also Müller (2005) on the Berlin Police Press Bureau.

⁴³ GstA, HA1, Rep.77, Tit.345, No. 17-1, (doc.232): *VossischeZeitung*, 12 July 1898.

⁴⁴ After a bruising debate in the *Reichstag* on 22 November 1902, the Interior Ministry issued a circular to all police authorities of 15 Dec.1902 stipulating that *Schutzmänner* would be held individually accountable for acts violence. The circular was leaked and published widely in the Liberal and Social Democratic papers on 11 January 1903. GstA, HA1, Rep.77, Tit.345, No. 17-1 (docs. 385-387).

⁴⁵ *VossischeZeitung*, 16 May 1884 'In Sachen der Polizei'.

pursuing erring *Schutzmänner*, the public would not know about it and it would not contribute to an improvement in public trust.

THE HANDLING OF CITIZENS' COMPLAINTS: PUBLIC TRUST OR DISTRUST IN THE COMPLAINTS PROCEDURES

The public rhetoric of police and government authorities implicitly reflected what the authorities considered acceptable or unacceptable police behaviour. For their part, individual citizens, by complaining about police behaviour, marked out certain limits as to what *they* were willing to accept as legitimate or appropriate. While both the English and the Prussians developed police complaints procedures, it is worth noting the differences in approach and justifications for allowing citizens to voice their dissatisfaction.

The complaints procedures for the London Metropolitan police appeared a concrete manifestation of the commitment to engage with the concerns of the public⁴⁶. It was intended as a mechanism for the de-escalation of potential conflict. Rather than determining rights or wrongs, it was a negotiation about what was reasonable and appropriate in particular situations; a discussion about good practice and boundaries. The complaints system was undoubtedly designed primarily to meet the concerns of the middle-class rate payers, rather than being a means of addressing the complaints of the poor and marginal. Yet the police rhetoric claimed that the system was impartial, thorough and fair, irrespective of the social position of the complainant. The system did indeed allow for some flexibility and sensitivity in its handling of complaints from people with limited resources. There was even a small fund set aside for compensation, although it appears to have been used very rarely⁴⁷.

Access to make a complaint was deliberately broad and flexible: complaints could be made in writing to the Chief Commissioner, or to senior police officers at lower levels in writing, or by personal appointment. In terms of public relations this provided a forum for informal settlements of conflict and dissatisfaction. From a managerial point of view, it also provided police managers with information from outside the police hierarchy about how individual policemen were performing and what kinds of problem existed between the Bobbies and local communities. Yet, in practice many of those who sought to raise awareness about poor police behaviour found themselves confronted with stiff opposition from the side of the police authorities, and subjected to intense pressure from the police to withdraw their allegations. Investigations relied heavily on police statements and tended to give much greater credit to accounts by constables than to those of members of the

⁴⁶ Emsley (1996, pp. 29-30). Mayne concerning the centrality of complaints procedures see PP 1830 /515, June 1st 1830: 'General Orders', Part I, under 'Superintendents' and 'Inspectors'. In the wake of the Royal Commission, 1906-1908 the complaints procedures were tightened and formalised. NA, MEPO 3/192, *Complaints against the police: origin of General Order 6 Jan. 1910 paragraphs 55-72, 1908-1910*; NA, MEPO 2/1378, *Complaints against the police: Procedures 1910-1911*. These demands were reiterated by the Royal Commission 1906-1908. *Royal Commission* (1908) vol. L, pp. 138-139.

⁴⁷ Witness statements M.D.Chalmers (4 June 1907) and Edward Henry (26 & 31 July 1907) *Royal Commission* (1908) vol. LI, sec.E47690-E47692&E52968- E52971.

public. Not surprisingly many complaints ended with withdrawal or, at most, preliminary police investigations concluding that no error had been detected on the part of the police. However, the Metropolitan authorities were careful to treat complainants with courtesy – at least complainants of ‘respectable’ appearance – and to give the impression that investigations were thorough, transparent and even-handed. Only if the complaints procedure appeared credible could it fulfil the purpose of strengthening legitimacy and public acceptance.

By contrast, it was hardly concerns for legitimacy and widespread popular acceptance that motivated the formalisation of police complaints procedures in Prussia in 1883. Prussian authorities did nothing to publicise the intricate rules for making a ‘correct’ complaint; in fact, it would require a legal specialist to identify the exact procedures, buried in the finer details of the *Landesverwaltungsgesetz*⁴⁸. Moreover the Prussian complaints procedures were conceived in very rigid legalistic terms, which were ill-suited to negotiate disagreements about boundaries of appropriate policing. It did not help that “error” was conceived only as transgression of some law or instruction. Moreover, unlike the London Metropolitan police, German policing did not operate with the concept of acting with proportionality⁴⁹. Any amount of police force was regarded as legitimate in order to enforce laws and regulations.

The restrictive rules as defined in 1883 may have been constructed with the aim of limiting complaints to the “bessere Stände”; however, by the 1890s it was clear that any attempt to restrict complainants to respectable middle-class citizens had failed. An increasing number of people complained, not least because the Social Democratic *Rechtsbureaux* busied themselves with informing people about their legal rights and how to go about the legal system⁵⁰. Only during the 1890s did the police authorities begin to consider the complaints procedures in more constructive terms as part of improving public relations. In 1898 the Interior Minister even encouraged people to use the complaints system instead of venting their grievances in the press⁵¹. Complaints procedures had the double advantage of making the *Schutzmannschaft* appear open and modern, while allowing embarrassing revelations to be dealt with through internal investigations rather than under the glaring eyes of the public. Moreover, police authorities in Berlin – no less than their London counterparts – became aware of certain managerial advantages. Complaints provided the Berlin police president with useful information about the poor performance of individual *Schutzmänner* and units, by-passing the police hierarchy⁵².

As a mechanism for generating public trust, however, the Prussian complaints procedures were largely unsuccessful. To the police authorities it was of no concern whether the investigation appeared transparent or satisfied the complainant that his or her complaints had been handled in a thorough and impartial manner. Among the considerable number of complaints that were investigated the outcome was in most

⁴⁸ Prussian law of 11 May 1842 *Gesetz über die Zulässigkeit des Rechtsweges in Beziehung auf polizeiliche Verfügungen*. Procedures were formalised in the *Landesverwaltungsgesetz* 1883, Titel 4, Arts. 127-133.

⁴⁹ Johansen (2007, pp. 62-63).

⁵⁰ GStA, HA1, Rep.77, CB S, No. 400 ‘Rechtshilfe für Sozialdemokraten, 1895-1914.’

⁵¹ Debate 17 February 1898 in Haus der Abgeordneten (Sess. 24), p. 727.

⁵² Fosdick (1915, p. 270).

cases predictably negative⁵³. The investigation primarily consisted of asking the police unit in question to make statements, and only in a minority of cases were statements taken by the complainant and independent witnesses. The complainant would receive a short letter explaining that “after thorough investigation” the police president found that the *Schutzmann* in question had acted “correctly” and had no case to answer. The complainant would receive no information about how this decision was reached and on the basis of which evidence.

The Prussian complaints procedures – just like the police rhetoric – came across as inconsistent and pointing in different direction. The rigid handling of complaints was not simply a missed opportunity for strengthening public trust; instead of becoming a forum for mediating small scale conflict with the public, the complaints procedures frustrated hundreds of individual complainants. Unfortunately it confirmed the impression of the police as arrogant, secretive and refusing any meaningful engagement with citizens’ legitimate concerns and grievances.

PUBLIC TRUST IN THE COURTS: ENSURING ACCOUNTABILITY AND IMPARTIALITY

During the second half of the 19th century, in Prussia as in England, accountability to the law became a cornerstone in the legitimisation of police actions. Yet in both countries critics complained that the courts did not provide effective control of transgressive police actions, and that victims of police violence and perjury were unlikely to get a fair and impartial hearing. The information on criminal proceedings against policemen is patchy and difficult to compare. Yet some features emerge to help contextualise the difficulties confronting aggrieved citizens.

London police and government authorities frequently reminded the public that the Metropolitan Police operated with greater moderation than foreign forces, and ordered the Bobbies to act accordingly⁵⁴. While London Bobbies were certainly responsible for much violence throughout the 19th century⁵⁵, it remains an open question whether English constables operated with greater moderation compared to their European or American counterparts⁵⁶. Judging from the few cases which appeared before the Old Bailey, the levels of alleged violence inflicted by accused constables – although considerable – were not as extreme as the cases appearing in the German *Landgerichte*. The police attack on George Hillmann in 1897 or the case against PC Ashford for assaulting George Gamble in 1907 were probably some of the more serious cases brought before a London court⁵⁷.

Contemporary observers familiar with French or Prussian policing accepted the claim of English police moderation as perfectly plausible. Similarly police

⁵³ BLA, A.Pr.Br. Rep. 030, Tit. 94, Nos. 8872-8881.

⁵⁴ NA, MEPO, 7/48 Metropolitan Police Orders 1886, Art. 134, 18 August 1886 p. 16; Vincent (1883, p. 76).

⁵⁵ Emsley (1985, pp. 126-129 & 141-142); Smith (1985, pp. 136-137); Taylor (2002, pp. 177-179).

⁵⁶ Emsley (1991, pp. 169-170).

⁵⁷ Oldbaileyonline: R. vs. Edwin Ashford for assaulting and thereby occasioning actual bodily harm to George Gamble, 20 October 1908; R. vs. Albert Brooks, Maurice Wetherill; William Smithe for assault and perjury, 4 February 1913. See also Emsley (2005, pp. 131-133).

apologists described the low number of cases against policemen as evidence of generally good discipline⁵⁸. Yet the low number of cases is at odds with frequent allegation in the popular press of serious police malpractice. Rather than being a testimony to the good behaviour of Bobbies, the low number of prosecutions against constables at the Old Bailey may simply reflect the difficulties of prosecuting⁵⁹. Policemen's actions were difficult to prove beyond reasonable doubt, and even where independent witnesses came forward their evidence tended to carry less weight than the statements by policemen. Moreover police colleagues would normally support the version of events provided by the accused constables⁶⁰.

This study has identified twenty-three cases between 1871 and 1913 where constables were prosecuted before the Old Bailey. Twelve cases of police perjury over the entire period is remarkably few given the frequent allegations of systematic police perjury from the press, from critics and even from the magistrate Hugh Gamon, who very candidly describes widespread police perjury committed at magistrates' courts⁶¹. Only seven cases were found concerning assault or wounding and four cases where constables were prosecuted for serious crime unrelated to their professional activities (murder, arson, robbery and mail theft).

The twenty-three cases led to eleven convictions (48 percent), but the conviction rate varied considerably depending on the charge. The four cases where the crimes were unrelated to professional duties all led to conviction. In perjury cases the conviction rate (42 percent) was considerably higher than for cases concerning assault and wounding (28.5 percent). Moreover the only two cases of assault that led to conviction date from 1908 and 1913⁶², while all cases from before 1908 led to acquittal. This may reflect a stricter approach to police violence in general or simply short-term effects after the Royal Commission of 1906-1908.

It was the magistrates' courts that dealt with the majority of prosecutions against policemen, even though many of these cases should rightly have been brought before the Old Bailey⁶³. Comprehensive numbers of cases against police constables are hard to come by. According to figures provided by the Metropolitan police there were for the year 1906 a total of four court cases against police constables, all concerning assault, illegal arrest or perjury. All four cases were heard before a magistrates court, all led to acquittal, and none were appealed to a higher court⁶⁴. As many magistrates were suspicious and unsympathetic to complaints against the police, the aggrieved citizens could not be sure to get a fair hearing at the magistrates' courts⁶⁵. Yet the magistrates' courts were much cheaper for the complainant

⁵⁸ Clarkson, Richardson (1889, p. 363).

⁵⁹ According to Clarkson and Richardson there was only one conviction for assault against a metropolitan police constable during the turbulent year of 1887. Clarkson, Richardson (1889, p. 363).

⁶⁰ The magistrate Hugh Gamon, who was generally sympathetic to police constables, described perjury as commonplace, but rarely prosecuted. See Atherley-Jones, Letter to *The Times*, 11 August 1908.

⁶¹ Gamon (1907, pp. 128-129).

⁶² Old bailey online: R. vs. Edwin Ashford, assaulting and thereby occasioning actual bodily harm to George Gamble, 20 October 1908; R. vs. Albert Brooks, Maurice Wetherill; William Smithe for assault and perjury, 4 February 1913.

⁶³ Gamon (1907, pp. 37-38).

⁶⁴ Royal Commission 1908, vol. III; pp. 116-117.

⁶⁵ Davis (1984, p. 329). See also Gamon (1907, pp. 37-38).

than criminal prosecution at the Old Bailey, and aggrieved citizens were more likely to obtain conviction by pushing for a lesser charge⁶⁶. While not entirely even-handed, the magistrates' courts provided people who had limited means with an affordable way to have their cases tried and perhaps to get some redress. This created some sense of justice and due process, as well as the satisfaction of having the evidence heard and publicly recognised.

In German debates the perceived inadequacies of courts in handling cases of violent policemen were right at the heart of public criticism over limited police accountability. Although the main criticism came from the SPD and the Liberal press, serious concerns were also voiced in the press that generally favoured law and order⁶⁷. The pattern of prosecutions differed from the Old Bailey in three important ways. With 556 criminal cases against Berlin *Schutzmänner* brought before the Prussian *Landgerichte* between 1899 and 1905⁶⁸, the number of prosecutions was much higher than at the Old Bailey. These figures do not include civil suits for libel or compensation, which would bring the figures from an annual average of 81 to 130-140⁶⁹. Secondly, the vast majority of cases before Prussian *Landgerichte* concerned extreme violence leading to serious injury or death (*Körperverletzung*, *Mishandlung*, *Totschlag*). Thirdly, with a conviction rate at 72 percent (400 out of 556 cases), the Prussian *Landgerichte* were far more likely to deliver a guilty verdict than the Old Bailey.

The higher conviction rates at Prussian courts reflect the particular workings of the Prussian judicial system. Private prosecution for criminal offenses was not an option as this was the preserve of the public prosecutor, who assessed all the evidence and only allowed a case to proceed if he was satisfied that there was a reasonable chance that the case might lead to conviction. Most allegations of police violence could not be prosecuted because the *Schutzmann*, although acting with extreme violence, had not been in breach of his legal entitlement. As the German Criminal Code of 1872 did not operate with the concept of proportionality in policing, the *Schutzmann* could not be prosecuted for excessive violence if the violence was inflicted with the intention of enforcing the law. Only violence without any clear law-enforcement objective could be considered a breach of the *Schutzmann's* legal entitlement.

While the high conviction rate was rarely commented on in the press, what particularly caught the attention of the wider public were the many cases that were sufficiently well documented to be heard in court, but still led to acquittal. In addition there were numerous cases reported in the press of extreme police violence resulting in loss of limb or permanent disability, but which did not constitute a breach of the *Schutzmann's* legal powers. This did nothing to raise public confidence in the ability of the courts to punish *Schutzmänner* for committing acts of extreme violence. Instead the legal system as it functioned only exacerbated the impression that *Schutzmänner* were to a great extent beyond the reach of the law.

⁶⁶ Godfrey (2008, pp. 171-189); King (2004, p. 126).

⁶⁷ GStA, HA1, Rep.77, CB S, No. 48, vols.1-4 'Angriffe gegen Behörden, 1896-1918'; HA1, Rep.77, CB S, No. 83-1 'Gerichtsentscheidung und deren Kritik, 1895-1908'; HA1, Rep.77, CB S, No. 451 'Angriffe gegen den Staat, 1895-1918'; HA1, Rep.77, CB S, No. 861 III: 'Straßendemonstrationen. Einzelnes 1909-1910.'

⁶⁸ GStA, HA1, Rep.84a, mf.6740, No. 8264; vol. 5; GStA, HA1, Rep. 84a, mf. 6746.

⁶⁹ Based on figures provided by Hall (1977, p. 98); Spencer (1992, pp. 106-107).

The 'sense of justice' (*Rechtbewusstsein*) of many Germans was further offended by what both contemporary critics and historians have described – with varying degrees of moral indignation – as extremely lenient punishments⁷⁰. Between 1898 and 1905, 52 percent of the 400 convicted *Schutzmänner* received only a fine and another 15 percent got less than three months imprisonment, while 21 percent got between three and six months. Seven percent got between six months and one year, while three percent got one year and above⁷¹. This was not entirely out of line with the punishments given by the Old Bailey in the two cases that led to conviction: out of four London constables convicted of wounding or assault, one got four months hard labour, one got nine, while the remaining two got twelve months each⁷². Yet, while the German public was outraged over such sentences, in London only the usual critics raised concern.

Some additional factors made the punishment of *Schutzmänner* all the more intolerable. Firstly, the vast majority of convicted *Schutzmänner* applied to the Justice Ministry for mercy (*Gnade*) leading to a significant number getting some reduction in their sentence⁷³. In addition, while a conviction of a London Bobby would automatically lead to the dismissal from the force, there was nothing to prevent a *Schutzmann* from returning to his post once he had expunged his sentence. Indeed reinstatement was the norm and some *Schutzmänner* had several convictions to their name.

The German public also compared the sentencing of *Schutzmänner* convicted of extreme violence, manslaughter or perjury with the harsh punishments handed down to those numerous Germans who were brought before the civil courts for libel against the police. German libel laws were very loosely defined, and used by Germans of all creeds and casts⁷⁴. During the 1890s the libel laws became the main weapon by the authorities against their critics⁷⁵. Newspaper editors, notably of the liberal and social democratic press, were in and out of prison, with sentences easily ranging from three to six months⁷⁶. The systematic prosecution for libel may have stifled criticism in the short term, but it also perpetuated an image in the wider public of the *Schutzmannschaft* being unreasonable, unaccountable, and petty in its revengefulness.

⁷⁰ Hall (1977, pp. 98-99); Funk (1986, pp. 286-287); Lindenberger (1995, pp. 282-283). Jessen (1991, pp. 182-183) provides a more sober assessment linking the problem of police violence to difficulties of imposing authority by understaffed and poorly trained policemen.

⁷¹ Figures from the Prussian Ministry of Justice. GStA, HA1, Rep. 84a, mf. 6740; GStA, HA1, Rep. 84a, mf. 6746.

⁷² Old Bailey on line: R. vs. Edwin Ashford, assaulting and thereby occasioning actual bodily harm to George Gamble, 20 October 1908; R. vs. Albert Brooks, Maurice Wetherill; William Smithe for assault and perjury, 4 February 1913. See also cases from Middlesbrough, leading to fines of between £2 to £15. Only in one case, described by Taylor as 'exceptional' was a constable given a prison sentence of six months. Taylor (2002, pp. 177-178).

⁷³ Between 1900 and 1902, 237 out of 260 convicted policemen applied to the justice Ministry for mercy. 150 of them obtained some reduction from their original sentence. GStA, HA1, Rep. 84a, vol. 5, No. 8264, mf. 6740, Docs. 125-134.

⁷⁴ For libel cases see Johnson (1995, p. 127); Goldberg (2010).

⁷⁵ Hall (1977, p. 3).

⁷⁶ The police files on libel cases against members of the public, 1895-1917 constitutes seventeen volumes of over 300 pages each. The one single file on libel cases against officials, military officers and *Schutzmänner*, 1895-1913 contains only 90 pages. GStA, HA1, Rep.77, CB S, No. 497 F vols. I-XVII; GStA, HA1, Rep.77, CB S, No. 519.

The inconsistent rhetoric, the clumsy handling of complaints and the inability of the courts to hold policemen properly to account undermined any attempt by the police to improve relationships with the public. Instead the *Schutzmannschaft* was met with suspicion and fear. The insistence of police managers on the honesty and integrity of the *Schutzmannschaft* also left the force extremely vulnerable to ridicule and contempt when embarrassing revelations were made to the contrary.

PUBLIC RECEPTION: THE CONSTRUCTION OF SCANDAL AND WINNING THE MORAL ARGUMENT

In London as in Berlin, the actions of the police, individually and collectively, were subjected to constant scrutiny by the public. In both countries popular newspapers, left-liberal police critics and the left-wing opposition all sought to mobilise public outrage over “scandalous” police behaviour. For the expanding popular press, reports of “police behaving badly” constituted excellent news material; for left-liberal police critics it provided a platform to push for judicial and administrative reforms; and for the socialist or social democratic opposition it provided ammunition to undermine the legitimacy of the police, attack the political elites and ultimately the regime.

Scandals could be constructed not only around policemen committing acts that were criminal in the eyes of the law, but also around non-criminal police behaviour that transgressed popular conceptions of acceptable policing. Critics could construct a “scandal” at two levels, most obviously about police acts considered unacceptable by a public increasingly sensitive to police violence and illegality. However, just as often the main “scandal,” as presented by the press, was about the handling of police misbehaviour more than the transgressive act itself.

The potential for the critical press to turn some event involving the *Schutzmannschaft* into a “scandal” by mobilising public outrage was far greater in Berlin than it was in London. During the Wilhelmine era with the more liberal enforcement of the German press laws, the public media were full of spicy revelations detailing the less than edifying conduct of public authorities and social elites⁷⁷. The outrage against policing was not restricted to the SPD press, as the call for *Schutz gegen Schutzleute* became a rallying cry among a broad spectrum of the press, occasionally including even the conservative press⁷⁸. Among many middle-class Berliners there had undoubtedly been a good measure of complacency when it came to police violence against drunken workers, disorderly individuals from the lower orders, criminals and prostitutes. By the 1890s, however, even conservatively-minded members of the civil service recognised that police malpractice was counterproductive, not least in that it boosted the ranks of the Social Democratic Party. Moreover, middle-class citizens increasingly found themselves at the wrong end of the police

⁷⁷ Hall (1977, pp. 143ff).

⁷⁸ The expression appears already in an article from the Liberal *Vossische Zeitung* of 16 May 1884, and by 1898 was used even by Conservative deputies to the lower chamber of the Prussian Diet. (Debate in the Haus der Abgeordneten, 17 February 1898). See also Hall (1977, p. 99); Funk (1986, pp. 286-287).

truncheon and treated the same way as members of the lower orders by assertive *Schutzmänner* bossing around the Berlin public with little regard for social distinction.

As a result of the jingoistic declarations frequently employed in police statements, and the readiness of government authorities to justify extreme policing, the German public was ready to believe the *Schutzmannschaft* capable of any level of violence and violation of citizens' rights⁷⁹. So police authorities enjoyed very little credibility even among core supporters of law and order when refuting allegations of malpractice, even in cases where police were in fact not at fault. The Social Democratic press in particular employed negative popular expectations to undermine the legitimacy of the *Schutzmannschaft*. Revelations of "scandalous" police behaviour and inadequate responses from the authorities became part of the Social Democratic weaponry against the political regime and social order, illustrating by outrageous examples the moral corruption of the social and political elites as well as the rottenness of the wider system. The more extreme the case, the more eager the Social Democrats would be to publicise it. Critics of the Social Democrats were not entirely unjustified in dismissing some of the reporting as exaggerated sensationalist propaganda.

However, Social Democratic reporting was often supported by hard facts that were difficult to refute. In many cases there was no need to adopt a polemical tone of moral outrage in order to create the effect. Often it sufficed to publicise the facts, eyewitness accounts, together with official statements from the Berlin *Polizei-präsident* and the Interior Minister. The official justifications tended to be self-incriminating by their outrageous crassness and fanciful explanations of how people lost limbs in encounters with the heavily armed *Schutzmannschaft*, versions of events that flew in the face of common-sense.

While the authorities appeared extreme in their defence of the indefensible, the journalists could style themselves as the voices of reason and moderation. The critical press also published leaked documents from the Interior Ministry showing that government authorities were trying to address the problem of police violence. Had these documents been publicised by the Ministry they would have proved the good will of the Ministry. In the hands of hostile journalists, this was lost in the triumphant demonstration that the Ministry internally recognised that the police were guilty of extreme acts of violence and illegality⁸⁰. Even when seeking to improve bad practices and poor police behaviour, the Berlin *Schutzmannschaft* lost the moral high-ground.

Although the SPD was far more marginalised and vilified by political opponents than Socialists and Left-Liberals in Britain, their campaigns of naming and shaming were considerably more effective in gripping the attention of the German public well beyond their own supporters. Repeated scandals reaching into the highest echelons of government and high-society involving elements from within the police projected a very poor impression of bribery, corruption and illegal practices within the political police and the criminal investigation department.

⁷⁹ The majority of criticism came from the Social Democratic and Liberal Press, but even the conservative *Kölnische Zeitung* occasionally published letters from infuriated readers. GStA, HA1, Rep.77, CB S, No. 48 vols. 3-4; GStA, HA1, Rep.77, CB S, No. 861 III.

⁸⁰ Circular from the Prussian Interior Ministry to all police authorities, published in *Vorwärts*, 11 January 1903.

It was far more difficult for aggrieved Londoners and their supporters to raise the temperature among the public to the level of moral outrage over police behaviour. This was despite much reporting in the British popular press of numerous cases of police violence and leniency in magistrates courts against violent policemen⁸¹. The English popular press used some of the same techniques as those deployed by the German popular press seeking to manufacture scandals for political or business purposes through sustained campaigns with embarrassing revelations. However, those who criticised the London Met rarely managed to gain the moral upper-hand to an extent comparable with that achieved by the press in Germany.

British policing was therefore much less vulnerable to “scandals” than the Berlin *Schutzmannschaft*⁸². In London, police managers were capable of diffusing much of the public consternation over police malpractice by the skilful handling of allegations complaints. The claim of honest and good police behaviour was credible to most middle-class Londoners who had never witnessed incidents of violent policing, as heavy-handed police interventions in London were socially discretionary⁸³, and mostly happened out of the sight of respectable middle-class citizens, late at night or in poor areas of the city. As the ‘respectable’ public rarely had any dealings with the police and rarely or never witnessed the uglier aspects of policing in working class areas⁸⁴, they were willing to give the police the benefit of the doubt when presented with conflicting versions of events. It is also striking how willing the London public was to accept the police managers’ rhetorical strategy of presenting criticisms and allegations against the police as verging on the morally unacceptable.

Accounts from police magistrates are often apologetic about police malpractice. Only Gamon is unusually candid in admitting that policemen operated in highly questionable fashions in London’s East End and that police perjury in magistrates’ courts was frequent but very rarely prosecuted⁸⁵. No such admissions were made in *The Times* which only reported the most high-profile cases of police malpractice, but often represented with consternation the possibility that anyone could suggest that London Bobbies were anything but honest and upright. Where allegations of malpractice could be substantiated, this was treated as an isolated case of a ‘bad apples’ that did not reflect on the wider system⁸⁶. By contrast, *The Times* provided extensive coverage of police scandals abroad, thus strengthening the impression among *The Times* readers of the comparative superiority of British police forces.

In times of major revelations of malpractice the temperature of public indignation rose a couple of degrees at best, and soon abated. Accordingly there was less scope for using attacks on the police as a means of furthering wider political agendas, much to the frustration, no doubt, of the left-wing opposition. Even the repeated clashes between police and unemployed workers in 1886-1887 that culminated in

⁸¹ Among London based newspapers the Pall Mall Gazette, Reynold’s Newspaper and Lloyd’s Weekly systematically reported on police malpractice.

⁸² Searle makes a similar point comparing the impact of scandals on British governments 1890-1930 to their French Republican counterparts. Searle (1987, p. 423).

⁸³ On social discretions in the practices of the London Met, see Gamon (1907, p. 26); Shpayer-Makov (2002, p. 148).

⁸⁴ Gamon (1907, pp. 21-22).

⁸⁵ Gamon (1907, pp. 21-24 & 134-137); Waddy (1925, pp. 51-52); Cairn (1922, pp. 263-269).

⁸⁶ See articles on the Metropolitan Police published in *The Times* from December 1908 to January 1909, notably 25 December 1908, ‘The Metropolitan Police: From a Correspondent’: 2. ‘The Constable.’

the Trafalgar Square Riots, although generating criticism from a broad political spectrum including Liberals and Left-Liberals as well as various Radical and Socialist factions, was only used by the left wing of the Labour movement to target the regime. Following the Trafalgar Square riots of November 1887, William Stead and Annie Besant set up the 'Law and Liberty League' to support workers who had been arrested or suffered injury during encounters with the police. Initially the organisation enjoyed broad support among Left-Liberals and socialists. Yet interest soon waned. During 1888 Besant used the LLL publication *The Link* in very similar ways to those of the SPD press by printing allegations against the police. However her attempt to give publicity to people who believed that their rights and personal integrity had been violated was severely criticised even by close friends for printing unsubstantiated claims⁸⁷. Even left-wing critics of the London Met were ready to consider the possibility that not all claims might be genuine, and maintained that allegations needed to go through proper complaints procedures or the courts before they could be recognised as 'true.' This shows a remarkable acceptance even among critics for the complaints and accountability procedures, even if these were far from perfect.

The London Metropolitan police, for their part, sought to individualise and marginalize critics, and present them as a small minority of criminals, political extremists, or malicious madmen⁸⁸. This is well illustrated by the experiences of the campaigner James Timewell. In 1897, when witnessing the heavy-handed arrest of a young man in Southwark, Timewell was shocked. His initial disbelief indicates how surprising it was for a middle-class man, even a politically active person, to imagine the London Bobby being callously violent. Believing that this was an aberration from usual policing practices by a few rogue elements, he reported the incident to the magistrates' court. What he experienced at the magistrates' court and later at the Old Bailey was indifference to his complaint by the magistrate and outright lies from the police⁸⁹. Yet his attempts to mobilise public opinion and raise awareness of police malpractice faltered in the face of a public unwilling to believe that policing of poorer areas of London was characterised by violence and arbitrary arrests. As his campaigns persisted with the organisation of the 'Police and Public Vigilance Society' in 1902 and his activities during the Royal Commission of 1906-1908, he was described in the media and by prosecutors at the Old Bailey variously as a madman or as a malicious busybody with bad intentions ranging from stirring up social disorder among the poor to insinuation of paedophilia⁹⁰. Moreover like other critical witnesses appearing at the Royal Commission, Timewell was subjected to two years of systematic character assassination by the police's defence team.

⁸⁷ Nethercott (1961, pp. 264-265); Williams (1931, pp. 171-174).

⁸⁸ This was the fate of William Caine and Bradford Woodgate in 1887 (NA, HO144/472/X15239A and NA, HO144/472/X15239A). The campaigner James Timewell was subjected to similar character assassination after the end of the Royal Commission in 1908. See also *The Times*, 'Editorial: The Metropolitan Police', 24 December 1908.

⁸⁹ Oldbaileyonline: R. vs. John Ferris, Frederick Corps, Richard Sands, Charles Woodridge for assault on George Hillman, 10 January 1898. Timewell (1898, pp. 3-4 & 9-10).

⁹⁰ Oldbaileyonline: R. vs. James Adams, 19 November 1907, a case in which Timewell was involved in establishing evidence against PC Adams. Similarly R. vs. Ernest Sexton, William Church and Beatrice Church, 3 March 1908; R. vs. Walter Studds, 12 October 1909.

The fate of people who complained against the London Metropolitan was all too often “double victimisation”. The honourable principle that the police were innocent until proven guilty meant that people who claimed to be victimised were suspicious and probably motivated by personal grudges, greed, extremism or madness. This would be the line of the police and their defence lawyers, as well as sections of the press that was sympathetic to the police. In Berlin everybody was willing to believe any claim of police violence as true. In London, the explanations given by the police and government authorities were sufficiently plausible for important parts of the London public to give the police the benefit of the doubt.

CONCLUSIONS

The comparison of police-public relations in London and Berlin between the 1880s and 1914 illustrates how the responses by police and government authorities to legitimate public concerns over police malpractice shaped public perceptions of police malpractice as a widespread or a marginal phenomenon. Both forces were accused by their critics of undue violence against members of the public, of illegal practices and perjury, and occasionally of corruption. In both capitals, critics argued that complaints systems and criminal procedures were heavily biased against the aggrieved citizen. Yet the potential for critical voices to generate public consternation over police malpractice, and for the press to construct a “scandal” on the basis of individual incidents of malpractice, was much greater in Berlin than in London.

In London there were plenty of allegations in the press of police malpractice. Yet, apart from the mid-1880s and the years up to and during the Royal Commission of 1906-1908, incidents rarely developed into “scandal”. The skilful handling of complaints and allegations by the London Metropolitan police, and the successful projection of the Metropolitan police authorities as responsive and sensitive to citizens’ legitimate concerns, repeatedly helped to maintain and restore widespread public trust in the police. The claim that the Metropolitan police was transparent, accountable and responsive was sufficiently credible to large sections of respectable citizens to trust the police accounts and give them the benefit of the doubt. Moreover, the occasional incidents of exemplary punishment of erring Bobbies were presented to the public as evidence of the effectiveness and robustness of control and accountability mechanisms. This paradoxically helped to strengthen public trust and police legitimacy, while complainants and critics were vilified and marginalised in the public debate. Despite much concern in the popular press about police violence, perjury and corruption, the Metropolitan police tended to win the moral argument.

In Berlin it was the critical voices that came to shape mainstream popular assumptions about how the *Schutzmannschaft* operated as standard practice. Senior managers did make serious efforts to improve public relations and did pursue and discipline erring *Schutzmänner*; yet such initiatives were continuously undermined by inappropriate, insensitive and highly unsatisfactory responses to legitimate public concerns about serious malpractice among Berlin *Schutzmänner*. Similarly the courts failed to convincingly play the role as effective defenders of citizens’ rights and upholders of police discipline. Rather than reassuring the public, the controlling authorities further exacerbated the impression that the *Schutzmänner*, collectively and individually, operated outside the law almost with impunity. As the authorities repeatedly lost the competition for the moral high-ground in the eyes of

the majority of Berliners, even among natural supporters of law and order, this seriously harmed the legitimacy of policing.

This made the *Schutzmannschaft* far more vulnerable than the London Metropolitan police for political opponents or the press to use incidents of police malpractice for their own political or commercial ends. In London, although trust in the Metropolitan police was harmed during the First World War and interwar period, the positive image of the Metropolitan police – and British policing generally – persisted throughout most of the 20th century. German police, by contrast, continued to struggle during the Weimar era with deep-seated public suspicion and with expectation of police brutality and illegality beyond the reach of the law. This was the long-standing legacy of nineteenth-century Prussian policing.

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