

Joseph Fouché, 'Continental Policing' and its Impact on British Policing

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Introduction

This article examines the nature of policing associated with the French statesman and police reformer, Joseph Fouché, and seeks to explain how this influenced the style and character of professional policing as this developed across England and Wales in the first half of the nineteenth century.

Joseph Fouché (1759-1820)

The French Revolution commenced in 1789. Josef Fouché (later the Duc d'Otrante) was the main architect of the reformed system of policing in France. He served as Minister of police 1799-1802 (appointed by the Directory and continued in office under the Consulate) and 1804-10 (in the period of the First Empire, headed by Emperor Napoleon Bonaparte). He then resumed this role in March – June 1815 (in the return to France of Bonaparte termed the 'Hundred Days' which ended in his military defeat at the Battle of Waterloo) and then from July – September 1815 (under the restored Bourbon Monarchy) (1).

Although serving as Minister of Policing during Emperor Napoleon's brief return to power in 1815, he worked for the return of the Bourbon Monarchy which was restored in 1815 following the Battle of Waterloo.

Fouché was rewarded by briefly becoming Minister of Police and in this role superintended what was termed a 'White Terror' against enemies of the Bourbon restoration in the Summer of 1815. He drew up lists of those who should be punished for their support of the French Revolution and Napoleon, many of whom were executed, including Marshal Michel Ney. However, it is also argued that behind the scenes, he did his best to aid many of those on the wanted lists to escape from France. (2)

His stay in office was brief, as royalists could not forgive him for supporting the execution of Louis XVI in 1793 during the French Revolution. He spent his remaining years after September 2015 in self-imposed exile.

Fouché and 'high policing'

The policing of activities associated with political aims and objectives has been termed 'political policing' (3) which embraces the official scrutiny of ideas and opinions. More recently, the concept of 'political policing' has been put forward as a core feature of what is termed 'high policing' (4).

This term was originated by Chapman (5) in connection with the utilisation of secret means to safeguard state security and Stead associated this style of policing (which he referred to as 'high police', derived from the French, *haute police*) (6) with Fouché.

Fouché (especially in his second and third period of office as Minister of Police) played a key role in the development of policing in France. It was characterised by policing throughout the Country being subjected to a large degree of centralised control exercised by his Ministry and by intelligence gathering becoming a key role of policing that Fouché developed in order to maintain 'the equilibrium of the state' (7).

Under Fouché's superintendence, intelligence gathering and spying on the French population became key ways to ensure that governments were not overthrown by those who were opposed to its rule. To gather intelligence, Fouché made considerable use of spies and informants and also resorted to opening letters that were transmitted through the State's postal system (8). Stead quoted from Fouché's memoirs in which he claimed that 'three men could not meet and talk indiscreetly about public affairs without the minister of police being informed about it the following day' (9).

The emphasis that Fouché placed on safeguarding the interests of the government as opposed to dealing with routine crime was not entirely new and can be traced back to the creation of the office of Lieutenant of Police in 1667 by Louis XIV and the role the police performed under the auspices of Nicolas de La Reynie (who held the post between 1667 and 1697) in which much use was made of informants. For this reason, French policing was also sometimes referred to as the 'Bourbon' system of policing.

Brodeur (10) wrote extensively about the difference between high and low policing. He concluded that 'high and low policing originally referred to a scale of prestige according to how close to the seat of power the police was' (11).

In 2007, Brodeur wrote that the word 'police' was originally synonymous with the term 'governance'. He argued that Napoleon's Minister of Police, Joseph Fouché, who expressed the concept of high policing, 'made an explicit distinction between establishing a political order ('faire la police') and doing piecemeal policing ('faire de la police') (12)'.

At that time, there existed 'a three-tiered construction: (a) 'the police', the dominant political regime and prevailing order of things; (b) 'policing', conceived as sundry police actions directly devoted to bolstering the political regime or indirectly pursuing this end through the prevention and repression of various kinds of crimes and disorder - in short, the production of security; (c) 'police', this last word referring to the individual members of hybrid policing organizations using both public state police and private entrepreneurs (mainly informants) of all kinds' (13).

Those police who performed the wide range of duties related to community security which Fouché referred to as the policing of lamp-posts (since prostitutes often stood close to them) - were doing what he referred to as 'low policing' and were accountable to the judiciary. Those whom Fouché referred to as 'THE police' protected the political order of the realm and 'were performing 'high policing' tasks, as they were the executive arm of the monarch' (14).

Impact on the development of Policing in Britain

Although police reform could be argued to be compatible with liberty since lawlessness prevented people from going about their everyday lives and from enjoying the fruits of their labour free from the fear of crime, there was a very real fear in the late eighteenth and early decades of the nineteenth century that a professional system of policing would serve a

political purpose: the new police would see their main role as that of serving the interests of the government by 'spying' on the population whose historic rights and liberties were enshrined in Magna Carta (1215) and the Bill of Rights (1689).

Agitation associated with John Wilkes during the 1760s indicated that the defence of the traditional rights and liberties of English people in the face of what was depicted as arbitrary action by the executive branch of government was able to secure widespread public support (15). The advocacy of police reform during the early decades of the nineteenth century became the new cause around which to rally support for the defence of these 'traditional' freedoms.

Those who opposed police reform were able to point to the reform of policing in France where what was contemptuously described as a 'Continental' system of policing had been introduced, a system that was 'associated with the suppression of personal liberty and the ubiquity of spies' (16).

The perception that a reformed system of policing in England would emulate the model of policing with which Fouché was associated and thus undermine the prized rights and liberties of English people was thus a potent argument against police reform in the late eighteenth and early years of the nineteenth century. This concern has been summarised as follows:

Fouché...commanded the French police who were the strong right arm of Napoleon's dictatorship. His men became an army of spies and agents provocateurs, spreading insidious terror and repression throughout France. For six years between 1804 and 1810 his method of control dominated the internal life of the country. There was, understandably, a very real fear in Britain that the formation of any sort of police force would result in the same fearful invasion of privacy and liberty that had occurred in France (17).

Robert Storch expressed similar sentiments when he stated

Resistance to a reformed police had root in a number of fears: the traditional fear of a standing army; of the political uses which might be made of such a force; of the effects of police intrusion upon daily neighbourhood life; and fear of the police as an agency which might be used to enforce the New Poor Law. There was also great apprehension about the role the police might play in trade-union affairs and strikes (18).

In summary, professional policing, it was feared, would undermine the independence of freeborn Englishmen by providing for the accumulation of excess powers in the executive branch of government (19). It was argued that 'Englishman of all classes generally viewed the Continental monarchies as being based on a police tyranny (a concern that applied to Prussia as well as to France) (20).

Consequently, any measure suggesting a strengthening of the power of the central government was suspect' (21). Emsley commented that the presence of a body of policemen patrolling the streets to prevent crime and disorder was an anathema to Englishmen which 'smacked of the absolutism of continental states' (22), while Palmer (23) posed the question

would not a strong centrally-controlled police serve only to destroy English liberties

and undermine cherished local governing institutions ? Might not government use this surrogate standing army to enforce arbitrary and unpopular laws ?

Concerns of this nature helped defeat the intentions of the government to promote police reform in 1785 in the wake of the 1780 Gordon Riots (24). Accordingly, the desire to avoid implanting a Continental system of policing in England exerted a considerable impact on the nature of police reform when this was eventually introduced during the nineteenth century. In particular these emphasised the need for policing to secure popular legitimacy and consent.

Fouché's heritage – legitimacy, consent and control of British policing

In order for the police to perform their tasks in society, they require legitimacy - an acceptance by the public (or the majority of it) that they have the right to exercise their functions, even if specific actions they undertake do not meet with the approval of those on the receiving end of them.

Legitimacy derives from one or other of two sources - 'the police are seen either as servants of the government ... or as officials whose source of authority derives from the general public The former is referred to as a *Roman law* (or Continental) model of policing and the latter as a *common law* model of policing' (25).

In Roman law models of policing, the police are typically controlled by and accountable to central government. They act as *servants of the state* and their main purpose is to ensure that threats to the government are effectively neutered: to perform this function they will use weaponry and other coercive methods, acting in a manner similar to the military.

This style later became associated with colonial models of policing, as summarized by Thomas, who suggested that the classic colonial police force model was characterised by a rigid vertical organisation comprising white officer leadership, life in barracks apart from the community and paramilitary style activity. (26) Eck subsequently observed that the incorporation of local inhabitants into the police apparatus in such models of policing was undertaken 'to collect intelligence needed to prosecute individuals involved in counterinsurgency campaigns rather than as a method of obtaining consent/trust'. (27)

In common law models of policing, the police are *servants of the citizens* whose main purpose is to act in the interests of the general public by tackling problems of common concern (such as the prevention and detection of crime). They are [routinely] a non-militaristic force which actively seeks the cooperation of the public when performing their tasks. Their guiding philosophy is that of policing by consent (in contrast to the Roman law model's philosophy of policing by coercion).

It was this model that was adopted by police reformers in the early decades of the nineteenth century, whereby professional policing was justified by an insistence that police work was oriented towards safeguarding community safety rather than being designed to serve the interests of the government.

At the outset of the introduction of professional policing on mainland Britain (under the auspices of the 1829 Metropolitan Police Act), the purpose of the police and the manner in which officers should discharge their duties was defined in the form of 'General Instructions' composed either by Peel or the two initial Commissioners of Police in London (Richard

Mayne and Colonel Charles Rowan). These principles, which constituted an early version of a police Code of Ethics, emphasised the importance of the police securing the consent of the public. They were widely adopted outside of London as professional policing was extended in the early decades of the nineteenth century (28). Accordingly, 'from its inception in 1829, the essential civilian character of the police was stressed; public service, self-control, and the importance of gaining the public's trust were emphasized' (29).

The desire not to use the police in such a political manner ensured (as was stated in the first of Peel's Nine Principles) (30) that the ethos of policing in England was preventive, performed by uniformed officers. The ninth Principle further stated that the test of police efficiency was 'the absence of crime and disorder, and not the visible evidence of police action in dealing with them', thus dictating that early police work relied on police officers being a passive presence in the communities in which they worked - whereby the physical presence of an officer in uniform was assumed to be all that was required to prevent crime from occurring.

This was achieved through the style of policing that was adopted in which patrol work was central to the preventive functions of the newly-formed police forces – 'the very idea of patrol as a mechanism of crime prevention was that criminals would be deterred because they never knew whether or not a watchman or later a police officer was approaching, and that there was always one within easy reach should anyone call for assistance' (31).

Additionally, in common law systems, the police are typically subject to a degree of local control and accountability. As professional policing was introduced across England and Wales between 1829 and 1856, outside of London (where the Home Secretary was the police authority under the 1829 Metropolitan Police Act), a considerable degree of local control over policing was allocated to local elites who composed Watch Committees in the towns (first created under the 1835 Municipal Corporations Act) or who served as Magistrates in rural areas (whose role over policing was initially provided for in the 1839 Rural Constabulary Act).

Local control over policing was subsequently provided by the 1856 County and Borough Police Act and was exercised since the 1964 Police Act by Police Authorities who were replaced by directly elected Police and Crime Commissioners by the 2011 Police Reform and Social Responsibility Act (although some police force areas now have directly-elected mayors whose remit includes policing).

Conclusion: did policing by consent dispel the image of politically motivated policing ?

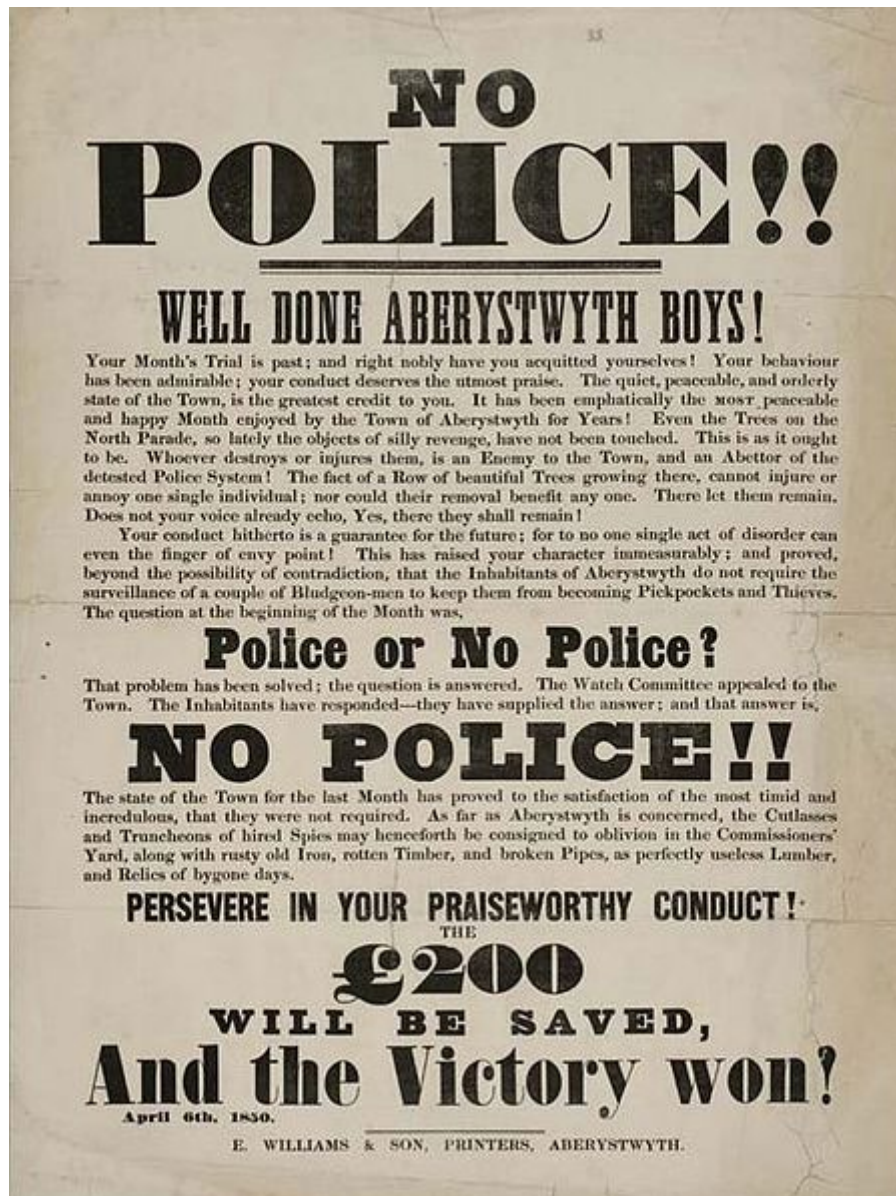
The answer to this question is very much associated with the literature that deals with the debates between orthodox and revisionist police historians concerning the extent to which the principle of policing by consent was attained by the end of the nineteenth century. It is not the authors' intention to review these debates (32) but instead to focus on one issue, namely whether concerns based on Fouché's police reforms in France continued to be raised regarding the police in the first part of the nineteenth century.

Storch asserted that the abolition of the Metropolitan police became a prominent in the Radical platform, London Radical politicians in the 1830s pointing to the danger that 'the traditional liberties of the subject would be eroded, as well as the prerogatives of the old

parishes' (33). One explanation for this was that although the use of police officers in plain clothes officers was kept to a minimum, the practice was not entirely abandoned.

The outcry arising from the infiltration of a plain clothes police officer, William Popay, at meetings of the National Political Union of the Working Classes in the early 1830s evidenced popular opposition to a system of policing that was seen to infringe civil and political liberties (34). This situation also helped to explain the slow development of detective work in reformed English police forces. It was argued that the detective policeman, wearing plain clothes 'smacked of things French, of the sinister, snooping practices of Napoleon's police minister Joseph Fouché, and this fostered the public's fear of the undercover men among the Bobbies' (35). Thus the Metropolitan Police did not develop a bespoke detective branch until 1842 (which became the Criminal Investigation Department in 1878).

Nor was the dislike of the reformed system of policing confined to London. An anti-police flyer from 1850 in Aberystwyth, Wales uttered similar sentiments that echo concerns related to the operations of 'Continental policing' - that a force of professional police officers were not required as the townsfolk were perfectly capable of maintaining law and order themselves without incurring the cost (£200) that it took to maintain the new police force. Emotive criticisms are voiced towards the new police who are referred to as 'Bludgeon-men' and 'hired spies', members of a police system that local people 'detested'.



<https://worldhistoryfacts.com/post/188481082898/anti-police-poster>

It would seem safe to conclude, therefore, that concerns regarding the style of policing associated with Josef Fouché played a significant role in fostering popular scepticism regarding the desirability of the development of professional policing in England and Wales during the first half of the nineteenth century. Additionally, as was evidenced in the criticisms made of the activities of officers attached to MPS units titled the Special Operations Squad, the Special Demonstration Squad and the Special Duties Squad (36), early nineteenth century misgivings regarding the use of police officers in undercover work underpinned concerns regarding police activities of this nature in the late twentieth and early years of the twenty-first century.

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