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POLICE SCIENCE

THE MEETING OF TWO POLICE IDEAS

Anglo-German Experiments in West Germany*

GERHARD O. W. MUELLER AND WILHELM KRÖGER

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The following is a trilogy of papers on the topic of the influence of British police ideas on the recreated German police force, especially in the city-state of Hamburg. The papers grew out of correspondence between Professor G. O. W. Mueller, Director of the Comparative Criminal Law Project of New York University, Dr. Wilhelm Kröger, Senator for Police Affairs of the Free and Hanseatic City of Hamburg, and German police officers who participated in the British-German experiment here discussed.

THE HISTORICAL BACKGROUND— PROFESSOR MUELLER

When the German state had collapsed in 1945, as a result of its own governmental perversity in structure and ideology, the population was left as much without police suppression as without police protection. Everybody connected with the Third Reich police was *prima facie* tainted and fled, was removed from office, or fearfully hung on in anticipation of whatever fate might follow. Crime was rampant in the utterly shattered, uprooted, and demoralized nation, and there was, in the beginning, nothing to prevent its spread—the allied military being much too preoccupied with politico-military objectives. But the allied endeavor of re-establishing police protection did become one of its first civil tasks. Careful, though not flawless, screening resulted in the affirmation in, or restora-

tion to, office of many past police officials. It became more and more apparent that a large bulk of the uniformed German police never had been successfully drawn into the turmoil of the political arena and that what had given the German police its disrepute had been primarily the doings of the Gestapo (*Geheime Staatspolizei*, Secret State Police) and the *Sicherheitsdienst* (Security Service). Both were of strictly political composition and removed from the traditions of the non-political police of Weimar days and operated with methods which never had been those of the *Schutzpolizei* (Protective Police), exceptions to the contrary notwithstanding.

Nevertheless, the number of affirmed or reinstated German police officers was bound to be small. A large portion of the active police officers had been drafted into the armed forces right at the outset of the war and had perished in action. Their places had been taken by grandfathers, unfit for military service, who wanted to be anything but police officers. Obviously, their places were soon vacant.

In 1945, the first vacancies, especially in the upper echelon, were frequently filled by political appointees, often highly esteemed, sometimes of questionable background, and usually lacking either the professional, or the intellectual or the moral integrity requisite for police administration.

As the German economic miracle, the so-called *Wirtschaftswunder*, the restoration of German police ideals and a reputable police administration, after twelve years of tyranny—under which the uniformed police itself often suffered—is quite a

* Comparative Criminal Law Project, New York University. Dr. Kröger's essay was translated from the German by Thomas Buergenthal, Senior Law Student at New York University.

remarkable phenomenon. Every observer must admit that this success is in no small part due to the early influence of the Western occupying powers. In this context we are addressing ourselves primarily to the then British Zone of Occupation, thus to British influence upon the German police recovery. British safety officers were recruited by Military Government from among British police establishments, usually the rank and file. They assumed their task of rehabilitating and recruiting a new German police force with remarkable dispatch and idealism. However little felt in practical contact, their task was aided by an invisible bond which connects professional police officers no matter from what parts of the world. There is a certain understanding.

But to the comparatist the question poses itself: What was the actual lasting influence of British democratic police ideals upon the new German police force? Old German police officers of the Weimar era, representative of a democratic police idea of one type, teamed up with British police officers, representative of a democratic police idea of a different type. Two cultures met and were bound to have some impact upon one another. To some extent, the impact would befall the more active participants, British and German training officers; to a greater extent it would befall the new German police recruit, typically a young army or navy veteran, subject to no police tradition, politically disillusioned, but perhaps hopeful. Did culture integration or culture conflict result?

There is very little precedent for any experiment of this sort. The German situation was not comparable to the impact of British police ideas upon colonial nations who subsequently achieved independence.¹ To put it bluntly, emotionally, though not politically, the British and the ex-Weimar police officers met on equal terms in Germany. What were the respective ideals they represented?

While both nations can proudly trace their police traditions over centuries—and even to a common ancestry—it is fairly safe to say that the British ideal has developed since 1829, and the German ideal only since after 1920. The British development had been fairly harmonious, the German not. In fact, the riotous years 1918–1919 marked an outright break with theretofore prevalent German police traditions. Until World War I,

the “typical” German police officer, “master of the guard”, was a sword-carrying, mustachioed sergeant-veteran of twelve years active army duty, absolutely loyal to the emperor, extremely power-conscious, and not exactly popular. He was to be feared, rather than befriended.

Immediately after World War I, there was superimposed upon this type the barracked active infantry soldier, machine gun equipped, and shuffled unitwise by the interim government Ebert-Scheidemann-Noske from trouble spot to trouble spot. When, as a result of the Boulogne Note of May 22, 1920, this military police was abolished, and all police functions, transferred to state governments, had to be adjusted to rule of law principles, regardless of exigencies, the state administrators had to fight the image and legacy of two unpopular police types. A new ideal had to be created from scratch. The lead was taken by the then largely social-democratic state of Prussia, and other states followed the Prussian example. At this time the then Reich- and State Minister Carl Severing made it his goal to create a police deeply identified with the people. He had to implant into the new police a loyalty to the fledgling republic and an aversion to meddling with politics or military affairs. The police was not to become a military recruiting and training agency.² Within ten years Severing had largely succeeded in practically all respects. Judged by American standards, the Weimar police was amazingly free from either ward or national politics. The force had developed an unprecedented *esprit de corps* and was splendidly trained. No police officer on public duty had less than one year of professional training. Many had advanced education. Despite this professionalization, the police enjoyed the greatest popularity among young and old, except among leftist and rightist extremists.³ But it is virtually impossible to define with precision the elements of the police idea which this force represented, nor, indeed, can this be done for the British police idea. We are dealing here largely with intangibles. Yet, an attempt must be made, because to every observer on the scene in post World War II Germany, it was apparent that a real difference existed, and that some conflict as well as some amalgamation resulted.

To begin with the visible marks, the officers'

¹ See, e. g., Hasanat, *The C.I.D. in East Pakistan*, 48 *J. Crim. L., C. & P. S.* 447, 448 (1957): “The police in Pakistan, as well as in India, is a rough copy of the British police. It was introduced by the British rulers with adaptations.”

² This happened for example in the East German puppet regime, when the barracked, so-called people's police (*Volkspolizei*) suddenly emerged as the corps of non-coms for the new people's army (*Volksarmee*).

³ For a more detailed discussion see van den Bergh, *Der Polizeigedanke einst und jetzt*, 52–63 (1949).

outer appearance presents differences: The British officer wears no firearms, his Weimar-German colleague did. Both, of course, are uniformed, yet the German uniforms were much more reminiscent of the military prototype, through emblems, military belt, boots, etc. The chief difference, however, is one of attitudes. The British police officer on duty, perhaps, can much more frequently be found in a joking mood than could his Weimar-German colleague. While both were taught to strictly preserve civil rights, the British officer, as his law, was convinced that it is better that ninety-nine guilty men remain free than that one innocent person be unjustly punished. To the Weimar officer this price would have seemed completely unacceptable despite—to be quite sure—his earnest desire to abide by standards of law and procedure.⁴ The ultimate difference can be found in the reciprocal attitude between the officer and the public. The Weimar officer, however much aspiring to popularity through sporting events, police days and festivals, exhibitions, etc., was the representative of the state. In fact, he was the *principal* representative of the *power* of the state. In his constant contact with the public he was also constantly aware of this position, and no formal education toward humbleness could erase this self-consciousness of special trust and power. Within the limitation imposed by law, the Weimar officer was much more ready and willing than his British counterpart to use repressive force or superior (patriarchal?) advice, which is undoubtedly to some degree due to the difference in emotion, vitality, and docility between the two nations. How does this brief description of the Weimar officer compare with the British ideal?

"Found in the British Isles is a very peculiar, but sacred relationship between the people and their police. The dominating factor in this is that the police themselves are members of the public, appointed by their fellow citizens to protect life and property, to guide and assist them when necessary, and generally to perform the functions basic to modern policing. Great Britain is unique in that the police forces are not under the sole control of either the central government or the local authorities. The constable is not regarded as an official employed by 'authority' to supervise, control, and protect the public, but he is, in fact, a fellow citizen appointed in the name of The Crown. This tenu-

ous truism, accepted by all concerned, is the rock upon which the British police system is centered."⁵

These rather intangible policy differences should not obscure the vast similarities in devotion, deportment, efficiency, helpfulness, honesty, integrity, and so on.

To learn of the actual impact of the meeting of these two differing police concepts in post-World War II Germany, which this author had some occasion to witness personally with fascination, some eminently qualified experts have been asked to give their candid opinions—Dr. Wilhelm Kröger, a member of the cabinet of the Free and Hanseatic City (State) of Hamburg, in charge of police affairs, and several rank and file German police officers who experienced the German-British cooperation efforts. The opinions here portrayed are not those of any government agency. It is planned to publish a British view on the same problem at some future occasion.

SENATOR KRÖGER'S ANALYSIS

By way of introduction it may be pointed out that the total collapse of the German state had to be followed by its reconstruction. For the German police force in the former British Zone of Occupation this was equivalent to a complete transformation of its internal and external structure. Police attitudes typical of a totalitarian state had to give way to activities and behavior in accord with the functions of a police force under a constitutional government. For the purpose of achieving this drastic change the occupation forces relied upon the British police concept with its roots deeply embedded in a popular democratic consciousness. Thus, the German police force was completely re-organized both as to its structure and its personnel.

By order and under the supervision of the Military government, the English concept of "formal" functions of a police force was introduced to post-war conditions in the British Zone of Germany, whereby the realm of police authority was strictly limited to the prevention of concrete dangers. The police was consequently stripped of all its previous administrative functions, which included among others the offices of registration, of health, building code and trade supervision, as well as the bureau

⁵ Chapman, *Urban Police Patrol in England and Wales*, 45 *J. Crim. L., C. & P. S.* 349, 349-350 (1954). For the history of the British police idea see Glover, *The English Police—Its Origin and Development* (1934) and Reith, *A Short History of the British Police* (1948). See also the splendid review of the latter work by Wilson, 40 *J. Crim. L. & Crim.* 675 (1950).

⁴ See esp. Wilson, *The British Police*, 40 *J. Crim. L. & Crim.* 637 (1950).

of automobile registration. The responsibility for the administration of these services was transferred to other departments. The police was, furthermore, deprived of its power to impose sanctions for the violation of its administrative regulations, as well as the right to issue cease and desist orders for minor offenses, the infraction of which carried fines. The structural organization of the police force into military units was also abandoned. The water police was taken out of the general police system and given full autonomy. In Hamburg this was done on January 1, 1946. In this connection, it should be remarked that the regulations of the British Military Government respecting the transformation of the German police force, with but minor variations, affected the water police as well. Relying closely on the British model, the occupation forces aimed at redeveloping a rapport between the citizenry and the police, founded on mutual respect and growing out of the recognition that it was the function of the constable to be a guardian of public order. Police officers were disarmed and stripped of their soldier-like appearance. All taint of militarism was to be avoided. The equipment with police sticks was mainly symbolic. Service without weapons on an entirely civilian basis was to demonstrate the peaceableness of police activities.

The decentralization was designed to end the role of the German police as an instrument of power in a totalitarian state. A foundation was to be laid for the creation of a popular police force whose function it was to protect democratic institutions and to guarantee human rights. This reconstruction of the German police and the transformation of the entire public order, as well as the catastrophic consequences of the post-war years brought about drastic changes in police tasks.

It is particularly noteworthy that the measures taken by the occupation forces enabled the police force again to espouse such constitutional principles as had already permeated its ranks before 1933.

The initiative of the British occupation forces has been especially successful in the area of traffic safety education. Out of the "Safety First" committee there evolved the German *Landesverkehrs-wacht* (State Traffic Guard). It is a public service association and cooperates closely with the police authorities. By virtue of this arrangement it was possible to inaugurate traffic safety programs for children, featuring courses in navigation of small boats and issuing of drivers' licenses for bicycles. Traffic safety weeks were also instituted. The con-

tact thus made with the population, especially with the young people of the community, has tended to underscore the democratic and constitutional functions of the German police vis-a-vis the public and to erase the still prevailing memories of police activities in the Nazi era.

Other measures inaugurated by the occupation forces were crowned with only limited success. The total collapse of the public order in Germany had a severe psychological impact on the population. The citizenry had to become reaccustomed to democratic concepts and institutions. The police was still viewed as the prominent instrument of totalitarian might. The drastic changes in police personnel and the emergency conditions of the post-war era made matters very difficult. Consequently, many of the British methods had to be abandoned. The police force had to be rearmed in order to successfully maintain order and security. Today, following the complete re-establishment of the public order and the consolidation of governmental authority, the police continue to carry weapons and will not be able to forego relying upon them in the future. Para-military police units, which had already existed in the years between 1919 and 1933, have also been formed in accordance with appropriate constitutional provisions.⁶

The attempt by the British occupation forces to transplant upon the German soil the concepts of English police service has had no enduring success. It was resisted by the mentality of the "old guard" policemen trained under the Weimar Republic, among whom it had caused considerable apprehension. The introduction of the British principles was also viewed with scepticism, because the police system which had previously prevailed in Germany and which had not been substantially changed after 1933, was found to have had great merit. Of importance was also the conviction that British police methods, as compared with local ones, did not excel in all facets of police work. The diminished supervision by British officers in the year following the currency reform [1948] led to a return to those methods which had proved their value before 1933.

The fact should not be overlooked that it was only with great difficulty that the British officers succeeded in coping with the methodology of German police practice. It seemed as if they found themselves confronted by totally unexpected con-

⁶ These units are comparable to American state police forces.

ditions. The arising complications made for distrust and a certain amount of confusion.

The transfer of functions which had formerly been within the sphere of police competence to other administrative branches has not always been particularly advantageous, in view of the fact that applicable legislation had not been substantially amended. This is most apparent in the area of police control over traffic matters where, for example, the issuance of drivers' licenses and the inspection of vehicles has not yet been placed under the preventive supervision of the police. The present aim is to return some of these functions within the sphere of police competence, in order to prevent dichotomization of authority and to alleviate the consequent burden on the community.

The establishment of the Department of Police Administration of Hamburg in 1952, led to the integration of the water police, independent since 1946, into the central police organ.

The well-intentioned influence of the former occupation powers upon the official approach of the police force unquestionably has been instrumental in furthering patience and tolerance, as well as that fairness so characteristic of the British constable; all three of which are prerequisites of successful police activity. This attitude has become again, as it had been before 1933, the basic standard of conduct for the individual policeman, a trait which has gained the recognition and appreciation of the public. When German authorities acquired full sovereignty over the police force, this valuable influence of the former occupation powers has continued to be fostered by intensive training programs. It should be stressed that the leadership of the German police was on its own initiative intensely instrumental in impressing upon the Hamburg police the need for close cooperation with the general public.

The political reconstruction, the re-establishment of a democratic way of life and the effectuation of laws based exclusively on constitutional principles, as well as the integration of the police as a genuine instrument of public service—all these have deeply influenced the thinking of the police constable with regard to the meaning of his duties. Consequently, every measure taken by the police officer is noticeably inspired by a respect for the citizen and the law. In their official conduct the constables have distinguished themselves for their sincere readiness to be of service and to give assistance wherever needed. They conduct themselves

with modesty and not with arrogance, correctly and determined, thereby showing that humane character traits do not have to be alien to their difficult profession. These had already been basic prerequisites of German police training before 1933. The occupation forces should be credited, without any reservations with having reintroduced these positive attributes after 1945 and with having again made them desirable criteria for police service. It should, however, not be overlooked that the occupation authorities permitted themselves to be guided by the conditions in their own countries, without sufficiently taking into consideration the post-war German problems and other important factors. Therefore, it was in the interest of the German people to have the German police go its own way. Despite the divergent police concepts prevailing both in Germany and the countries of the former occupation powers, the developments after the war have shown that the German police also succeeded in acquiring and retaining the reputation of a truly democratic police force. This applies both for the regular as well as the water police. The high calibre of the Hamburg police is evidenced by the recognition bestowed upon it by foreign visitors and statesmen.

OTHER GERMAN POLICE OFFICERS' OPINIONS

Dr. Kröger's report can be supplemented by the following remarks gathered from police officer's opinions.

On the whole, the British principles, designed to bring about a change of procedure, were rejected by most German officers. This was caused by the fact that the methods attempted to be introduced were more difficult and did not suit the mentality of the "old guard" police officer. In short, the change was inconvenient, and the conservative approach ultimately emerged victorious.

At the Water Police Academy at Hamburg, for example, the British director attempted to institute the idea of a police court, with jurisdiction over petty offenses. A special classroom was set aside as a moot court room, but it soon became apparent that this procedure did not appeal to any German, not even the students of the Academy. The concept of such a police court is foreign to Germany and people prefer to be taken before a criminal or even a lay assessor court, because they have greater confidence in the regular judicial system.

It may be said quite safely, that no lasting effect of the British influence remained with the German

police system. This is due to the fact that following the withdrawal of the British occupation forces, the reinstated German officials retained their old institutions, as they had existed before 1933, and continued to strengthen them ever since. In addition, it should not be overlooked that the lack of appropriate experience on the part of the British officers, who found themselves suddenly in important positions, also contributed to the German failure to profit from pertinent British recommendations. This is indeed a very deplorable but true description of the then existing state of affairs. Matters might possibly be different today had appropriate committees been set up to work out plans for the effectuation of the British policies. But this was not done. It remains to be pointed out that the sycophantic behavior towards the British supervisory officials must have created in their minds a distorted picture of German police institutions, which could not but convey the impression that the British recommendations were accepted with great enthusiasm by the German authorities. Added to this must be the factor of human weakness, permeating the actions of both sides and resulting in a preoccupation with personal advancement and promotions.

Several observers had the impression that the British officers were unable to fully understand the inveterate German police procedure and therefore rejected the system inaugurated by Severing. These officers also never succeeded in gaining a full perspective of the systems which they themselves introduced. Doubtlessly, the British public was presented with a wrong impression of German police institutions before 1933, thereby doing great injustice to Herr Severing, the Minister of the Interior under the Weimar Republic, who is still alive. This is deplorable, in view of the fact that it was Severing, who after the First World War established a police system with principles still valid and applicable today.

The eminently qualified British police specialists

did not concern themselves with the routine work of the police force. They were thus unable to detect the many weaknesses which otherwise might have caused them to act differently.

PROFESSOR MUELLER, IN CONCLUSION

The comparatist may be disappointed by such somewhat recriminatory, though honest, reports. Judged by its purpose, as evidenced by British endeavors, the experiment was a failure. This was principally due to the fact that the circumstances permitted no free range for the expression of that bond which fraternally binds police officers across international boundaries. Yet, looking beyond the immediate objective—introduction of British democratic police ideals—to the ultimate objective—destruction of undemocratic German police objectives and methods and creation of a protective police worthy of public confidence—the events have proven that history took its desired course. Viewed in this perspective, the experiment was a success. The new police officer in the German Federal Republic does in fact enjoy the confidence of the public, and once more proudly designates himself as *Schutzmann*, i.e., protection man, perhaps in honor of Severing, who created the prototype of the *Schutzmann*. And this pride does not differ markedly from the pride of the British *Bobby*, who wears his name in honor of Sir Robert Peel, father of modern British policing. Many observers of the German scene have also privately concluded that the professional arrogance of the Weimar officer has largely disappeared so that one can speak of a move closer yet to a common Western democratic police ideal. Differences remain, but we must simply recognize that democracy is not unitary. In fact, its greatest asset is that it permits free expression of national idiosyncrasies. To be effective, the police must adapt itself to these and must reflect the psyche of the nation. The two police forces compared could not come closer to this standard.