

POLICING PROTESTS

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DISCUSSION PAPER

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Crowd Control and the containment of incidents of public disorder is one of the most controversial and sensitive issues in contemporary policing. In our modern society on both the international and local scene we have witnessed the alarming increase in civil unrest and violence. Northern Ireland, Brixton, TOxteth, Birmingham, Manchester, the football riots in Belgium, all examples of unruly elements confronting the forces of law and order.

On the local scene, after many years of insularity and isolation, we have witnessed annual riots at the Bathurst Motor Cycle Races, the "Star Hotel" riot, the Vietnam Moratorium demonstrations, Anti Springbok demonstrations, RoXby Down Protests, the B.L.F. and Women Against Rape Demonstrations and many more examples of public disorder which indicates that similar patterns of disorder are emerging in this country.

Crowds display violent behaviour for a number of widely separated and complex causes. Politics, poor social conditions, inter-racial differences, poverty, unemployment, conservation issues and union disputes are just a few of these causes. These are highly emotional issues and in many cases, because the crowd or mob control physically attack an idea or social system, they seek a visible and tangible opponent on which to release their pent up emotions and the only visible symbol of authority present on which they can vent their feelings are the Police.

Large scale public disorder, particularly spontaneous disorder, can severely test the planning, training and response capabilities of Police as it poses a direct challenge to those whose duty it is to keep the peace. In a democracy people have the right to free speech, to free association and democratic dissent. The right to demonstrate peacefully is at most a "Negative Right". NO law prohibits it, but it is always subject to existing laws prohibiting unlawful assembly, obstruction and others. In keeping the peace police are maintaining this right. In New. South Wales there is legislation which recognises the right of the people to assemble or hold a procession on any street .

Under the provisions of this Act, any person or organisation proposing to hold a public assembly and/or procession on a public street in any part of the State is required to serve notification on the Commissioner of Police in the prescribed form -

- 1/. The date on which it is proposed to hold the public assembly;
- 2/. Where the proposed public assembly is not a procession, a statement specifying the time and place at which it is intended that persons gather to participate in the proposed assembly;
- 3/. Where the proposed public assembly is a procession, a statement specifying the time at which it is intended that the procession commence and the proposed route of the procession and, if it is intended that the procession should stop at places along the route for the purpose of enabling persons participating in the procession to be addressed, or for any other purpose, a statement specifying those places;
- 4/. The purpose for which the proposed public assembly is to be held;
- 5/. Such other particulars as may be prescribed; and
- 6/. The number Of persons who are expected to participate in the proposed public assembly.

The notification must be signed by a person who indicates in the notification that he takes responsibility for organising and conducting the proposed public assembly, and must Contain the address of that person for the services on him of any notice under the Act.

There are no offences created by the Public Assemblies Act. If approval is given for a public assembly to be held and it is held substantially in accordance with the particulars furnished and with prescribed requirements, a person is not, by reason of anything done, or omitted to be done, by him for the purpose only of his-participation in that public assembly, guilty of any offence relating to his participation in an unlawful assembly or the obstruction of any person,, vehicle or vessel in a public place.

However, if a public assembly is conducted without approval or outside the conditions laid down in any approval, the provisions of the general law will be used.

Police shall intervene in a procession or demonstration where the lawful right of others is impeded or the objective of the protest is deemed unlawful. It must be remembered that one of the major roles of Police is to maintain public order, this role does not allow them to take sides in any dispute. They are there to ensure that there are no breaches of the law and in this way the Police action enables both sides to have equal rights to express their opinions. If it is perceived that the policing tactics are politically directed, the Police are no longer seen to be impartial and fulfilling their traditional role.

When maintaining public order Police have the power to use what is commonly termed as 'Minimum Force'. There is a clear and absolute duty on Police to enforce the law and maintain peace. Sometimes the use of lawful force is utilised to carry out that duty. The degrees of force used to maintain or restore order must always be the minimum necessary in the particular circumstances and only be used to further the objectives of restoring order, preventing crime and arresting offenders. Police have been criticised in the Past for their handling of disorders, particularly in three areas :-

Over-reaction to demonstrations resulting in the use
of excessive force;

Discrimination in the treatment of demonstrators;
Misconceived notions about the people who participate
in demonstrations.

It is therefore imperative that Police, in asserting their authority, carry out their duties with restraint and discretion..

Police Strategy

The 'action taken by crowds .or groups can vary widely, but can be broadly categorised into three levels of action :-

- Nonviolent democratic dissent;
- Direct Action;
- Confrontation and Provocation, .

The level of protest can be volatile and change quickly depending upon circumstances. The volatile nature of such protests may affect the level and type of law enforcement activities required. The Police approach should be flexible to enable the appropriate response to be determined as circumstances arise or change.

There are two fundamental strategies available to Police faced with an outbreak of civil disobedience. . Before discussing these options it is necessary to emphasise the fact that all strategic planning is based on pragmatic consideration of existing social, political and physical factors inherent in the situation. It is axiomatic that emotional responses have no self evident place in such a process. The term strategy refers to the overall strategic Aim of the operation and takes into consideration the co-ordination of Police with other support groups, policy guidelines as well as community expectations.

Indirect Strategy

Indirect strategy implies that a result is achieved primarily by non-physical means. The application of force plays a secondary role. It is used when practical limitations prevent the use of a direct strategy. A decisive result may be achieved by negotiations at one of several levels, for example ' political, industrial, religious and so on. Tactics calculated to create false beliefs, or swift limited operations aimed at negating individuals or groups having an influence on the situation may also be used. As an Operation develops and progresses, a Police Commander may develop tactics based on one or all of these techniques.

A defensive mode may be necessary. In this case the aim of Police is to hold on and maintain an impression of balance until natural forces operating within the opposing group result in a dissipation of their resolve. Negotiation can have a significant effect on the resolve and determination of groups.

The basic idea of the indirect approach is not to seek a decisive confrontation but to adopt a low key profile and maintain a psychological control over the opposing group.

Direct Strategy

Direct Strategy is generally characterised by superiority in physical resources or an advantage in psychological factors and is accompanied by an assessment that no other method would be effective. Direct strategy is acceptable or necessary in lower level incidents or circumstances in which action can be taken quickly to prevent the escalation of the lower level incident into a major civil confrontation.

Even though physical force may be predominant means, every effort is made to take advantage of any psychological, social or political factor present. Direct action should be kept within the narrowest possible limits capable of achieving the aim. In an atmosphere of increasing social and political complexity, direct action is becoming increasingly difficult and may have wide-spread and long term ramifications, not only for the opposing group or faction, but for Police themselves.

A direct tactical approach is centred around the basic notion that maximum available forces will overwhelm the opposing group at a decisive point in space or time. The major dilemma faced by Police management is that invariably Police manpower is predicted on the assumption that the event will be trouble free or at the very least will present only marginal civil disorder.

Positive results are best obtained from the direct approach where sound intelligence permits pre-planning.

Non-Violent Democratic Dissent

This type of protest generally involves non-violent meetings and declarations of intent, assemblies, delegations, deputations, forums, vigils and non-violent dissent designed to promote specific goals. It is a common form of protest and is generally accepted by democratic communities. This type of demonstration only requires a low level of police presence, if any, to ensure that there are no breaches of the peace. The main policing problem associated with this type of protest is in ensuring that the protest group does not infringe on the lawful rights of others. Generally, after initial negotiation and consultation with protest organisers, an indirect strategy of law key policing is normally adopted.

Direct Action

This type of protest involves an organised, . controlled, influenced and directed protest based on ideological or politically motivated commitments to direct action. It is usually in the form of marches, rallies, demonstrations and civil disobedience. This action may be intended to provoke the reaction of law enforcement agencies by the illegal occupancy of buildings, obstruction or blocking of access and traffic, or obstruction and interference with the functioning of public instrumentalities such as communication and transport. The level of law enforcement can vary significantly at this type of protest, depending upon the number of people involved.

In policing direct action protests, Police must ensure that they adopt a planned approach recognising the right of people to protest within the constraints of public order and safety. police must be seen to be impartial and free from political control. In addition, they must ensure that their authority is applied with restraint and control. In this type of protest indirect strategy must be attempted and if this fails, then direct strategy applied.

Confrontation and Provocation

This type of protest incorporates the preceding forms of direct action, but is characterised by the unrestrained use of the preceding techniques to intentionally create a "Crisis of provoked authority" by acts of harassment, ridicule, embarrassment, confrontation, assault, and by the violent and systematic provocation of law enforcement agencies.

Confrontation techniques include street fighting, occupation of buildings, use of incendiary devices, throwing of missiles, use of lethal weapons, - violent mass assaults, 'erection of barricades and defiance of dispersal orders given by law enforcement bodies.

This type of protest requires a high level of Police presence capable of carrying out a plan based on direct strategy by the use of force. Examples of this type of protest, otherwise described by the term "Riot" were experienced in Brixton, Toxteth, Bathurst and Northern Ireland.- It has a high potential to result in damage and personal injuries, both to Police, protestors and other persons. Due to the spontaneity of this type of protest it is not always possible to adopt an indirect strategy initially and the use of a massive display of Police force and presence is usually adopted but indirect strategy may be used in the form of negotiation during an incident in an attempt to defuse the situation from getting worse.

An excellent example of direct and indirect strategy application is the Bathurst Motor Cycle Riots of 1983 and 1985. On both occasions an initial use of indirect strategy was utilised by the low level presence of Police and pre-consultation and negotiation with the race organisers. Due to past experience and the nature of the meeting, plans were also made for direct strategy application if needed. On both occasions indirect strategy failed because the opposing group demanded a confrontation and direct strategy was immediately applied.

Summary :

Police must have the support and confidence of the people if they are to successfully carry out their role of maintaining law and order. The maintenance of public confidence in the impartiality of Police must be a primary consideration.

To this end, every endeavour is made to orchestrate a reasonable balance between the individuals democratic right to free speech and peaceful demonstration and the rights of others to be secure in their lives and property free from intimidation and interference.

By considering the existing social, political and physical factors inherent in a situation, and the application of a planned, consistent approach to the problem, Police can ensure that they carry out their duties with discretion and restraint so that the potential for violence is reduced and public order maintained to the satisfaction of the people.

