Police Shootings and Community Relations

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Of all police discretions the discretion to use firearms is the gravest. When a police officer pulls the trigger, and the result is fatal, the officer is acting as judge, jury and executioner in a society which accepts no capital punishment. If the power to use deadly force is abused, or believed to be abused, and those responsible are not seen to be accountable for any wrong doing, then public confidence in the police force will be damaged irreparably.

Overseas, fatal shootings by police have sparked riots. In New South Wales the fatal police shootings of Angelo Tsakos and David Gundy and the serious wounding of Darren Brennan, during a raid on his home, have created great controversy.

Victoria

Shootings lead to calls for inquiry

In Victoria there were eleven fatal shootings by police in the two year period up to April 1989. This compares to only ten fatal shootings by police in the previous thirteen years. The number of fatal shootings by police had increased from only two in 1985 and one in 1986 to five in 1987 and five in 1988. The fatal shooting of Gary Abdallah in April 1989 led to growing demands for a judicial inquiry into the shootings. Those calling for such an inquiry included families of some of the deceased, the Federation of Community Legal Centres, the Victorian Council of Civil Liberties, Member of Parliament Mr Neil Cole, Pentridge prison chaplain, Father Peter Norden, and the Bar Association. These demands were based on the growing number of shootings, the circumstances surrounding some of the shootings and the belief that the usual investigation by the Homicide Squad overseen by the police Internal Investigation Department and an inquiry by the coroner would not be sufficient to uncover any wrongdoing by police involved. The shootings became the subject of growing media attention and a public meeting was organised by the families of the deceased and the Flemington Legal Service. Hundreds of people attended the public meeting and passed a motion calling on the government to set up a judicial inquiry into the shootings and police accountability.
Increasing pressure on the government to take action and the publication of figures which showed that the rate of police shootings in Victoria was out of proportion to other states led to the setting up of a special series of coronial inquiries.

Inquiry announced

The state coroner, Hal Hallenstein, announced that he would investigate the seven fatal shootings, which had previously not been the subject of coronial inquiry, and look at a number of previous coronial findings on fatal police shootings. The inquiry opened in July 1989 and is currently hearing evidence in the seventh and last inquiry in the series of inquests.

Each shooting has been subject to a far closer scrutiny than has been the practice in the past. At the coroner's court, in this series of inquests, the Attorney General and the Victorian Council of Civil Liberties have counsel representing the public interest, the coroner has two counsel assisting him, the Police Association has two counsel representing police officers, the Chief Commissioner has two counsel and the families have usually had two counsel representing them. In addition witnesses have sometimes had counsel representing them. In the past a typical inquest into a fatal police shooting would have had one counsel representing the coroner, one counsel representing the family and one counsel representing the police officer/s and the coroner may have taken only three days to hear evidence. In this series of inquests a similar incident will have taken months to hear.

Flemington

Between March 1987 and April 1989 four men who lived in or had close ties with the Flemington area were shot dead by police. Flemington is an inner suburb of Melbourne with a high proportion of public housing which can be broadly characterised as working class. The Flemington community legal service has worked closely with the families of all of the deceased to ensure a proper inquiry into the deaths.

In order to explain the impact on the community of these shootings it is necessary to describe the shootings and the events surrounding them in some detail.

Description Of Fatal Shootings

Shooting of Mark Militano

25-3-87 Twenty-two year-old Mark Militano was fatally shot by members of the armed robbery squad as they attempted to arrest him. He was shot at six times by three members of the armed robbery squad. He was struck by a bullet to the back of the head as he was running away from police and died of his injuries. The coroner found that at the time he was so shot he was pointing a gun over his shoulder at police. Police wanted to question Militano over a number of armed robberies at the time he was shot and killed.

Shooting of Graeme Jensen

11-10-88 Thirty-three year-old Graeme Jensen was shot dead by police, as they attempted to arrest him in a country shopping centre. Police claim that when they approached Graeme Jensen and identified themselves, he pointed a firearm at them and attempted to run them over with his car. Two members of the armed robbery squad fired seven shots at him as he drove away from them. He was hit by a shot gun pellet in the back
of the head and died before his car crashed into an SEC pole. Graeme Jensen's wife said publicly shortly after his death that the gun the police allege they found in his car was planted. Police representatives at the inquest into Jensen's death claim that he was threatening police with a firearm at the time he was shot and he was shot in self-defence. Counsel for the family, on the other hand, have argued that at the time he was shot Graeme Jensen was trying to escape from police but posing no threat to their safety.

Police claim that at the time of his attempted arrest Graeme Jensen was wanted for questioning over an armed robbery several months previously in which an Armaguard guard was shot dead. The police claim that at the time of his attempted arrest Graeme Jensen was believed to have shot the guard. However, forensic tests done after his death, proved that Graeme Jensen was not the man who pulled the trigger in the robbery and police at the inquest have admitted that there is now no evidence to link him to the robbery.

The two armed robbery squad members who shot Graeme Jensen have refused to give evidence at the coroner's court on the grounds that it might incriminate them.

Fatal shooting of two police officers—'Walsh Street'

12-10-88 Thirteen hours after Graeme Jensen's killing two police officers were ambushed and killed in Walsh Street, South Yarra. The police theory on these killings is that the officers were killed by friends of Graeme Jensen as a pay back for his killing by police.

Aftermath of 'Walsh Street'

In the wake of the killing of the two police officers there were a large number of raids carried out in the Flemington area by police involved in the investigation of what became known as 'Walsh Street'. People subject to the raids claim that the police used excessive force assaulting people and threatening them with firearms as well as causing damage to property. Some of these claims are currently the subject of investigation by the Deputy Ombudsman in charge of police complaints. Fay Spear, sister of Graeme Jensen and resident of Flemington, told the public meeting about the shootings that '... many of my friends and neighbours, women and children and men have had this army of men smash into their homes, usually at five o'clock in the morning when you're sound asleep. In my case, the first raid was the day after my brother's funeral. My sister and I woke to find the bed surrounded by men, one at the end of the bed with a gun pointed straight at my head...'. A local Justice of the Peace told the coroner that the tension following the 'Walsh Street' killings was unbelievable. Fay Spear told the coroner 'Not that I have ever been in a war zone, but that is what it felt like'.

It is apparent that the police too felt embattled during this period. A police officer stationed at City West CIB told the coroner that at the time of the shootings... 'the entire Flemington, Kensington, community seemed to be on a campaign of propaganda and would stop at no lengths to conspire to put the police in a bad light'.

Shooting of Jedd Houghton

17-11-88 Jedd Houghton, twenty-three year-old, friend of Graeme Jensen, and 'Walsh Street' suspect, was shot dead by two members of the Special Operations Group at a Bendigo caravan park, where he was staying in a cabin with his girlfriend. Police wanted to arrest him for questioning over 'Walsh Street'. A forced entry raid was conducted on his cabin and he was shot three times and died almost immediately of his injuries. All three shots were fired at close range, an injury to his chest being caused by a shotgun blast at a range of within 100 mm. Police claim they fired in self-defence after Houghton threatened them with a gun and claim to have found a number of loaded firearms in the cabin. His girlfriend, who was in the cabin at the time of the shooting, claims that Jedd Houghton was
asleep when the police burst into the cabin and would not have had a chance to threaten them.

The two members of the Special Operations Group who shot Jedd Houghton refused to give evidence at the coroner's court on the grounds that it might incriminate them.

**Shooting of Gary Abdallah**

9-4-89  Gary Abdallah, twenty-four year-old associate of Graeme Jensen and Jedd Houghton was shot by a detective from City West CIB at his Carlton flat. He survived for forty days in a coma before dying from complications arising from a bullet wound to the back of the head. Two detectives from City West arrested Gary Abdallah in his car and took him back to his flat. Police claim he was being arrested for the attempted murder of a policeman's son several weeks before. It is claimed that once back at his flat Abdallah threatened the detectives with an imitation pistol. One detective then fired six bullets from his own gun at Abdallah when he allegedly failed to drop the imitation gun, after being called on to do so. The detective then fired the seventh and fatal shot from his partner's gun.

The police involved in this shooting refused to speak to the Deputy Ombudsman who investigated the shooting. The coroner is currently examining this shooting. It is expected that the two police who were present at the shooting will refuse to give evidence on the grounds that it may incriminate them.

**Criticism Of Police**

While police maintain that each of the shootings described above was justified on grounds of self-defence their actions have been subject to criticism on two grounds.

**Police tactics**

The first is that police tactics have unnecessarily led to confrontations. The Chairman of the Victorian Bar Council, said the Council believed some of the fatal shootings 'may have been avoided had other measures been taken. A frontal assault upon a dangerous criminal is likely to produce a violent reaction. Further thought and planning may have avoided violent confrontation' (*The Age*, 28 April 1989).

The coroner has previously criticised police tactics when making findings about a fatal police shooting. In that case an unarmed man had been shot five times, including a number of times in the back, by police who had staked out a petrol station. The man killed was attempting to rob the petrol station at the time he was shot. The coroner commented in his findings that the two police involved had placed themselves in an impossible position, in that they had no cover and had not indicated it was a two on one situation and that they were armed. He commented, 'A reasonably competent policeman . . . with the experience required to apprehend an apparently armed offender would not or should not place himself in a position where, without any planning or method of approach, his only option is to shoot whether or not the offender is armed and whether or not the offender is attacking or about to attack.' The coroner recommended that the issues raised in the inquest be considered by Police Command (Record of investigation into death of Arthur Ganas, Hallenstein, State Coroner, 28 July 1988).

**Revenge as motive for police shootings**

The second level of criticism suggests that in the wake of the killing of the two police officers revenge overcame reason in the police force. A lawyer representing a man charged in
relation to the 'Walsh Street' killings said in court, while objecting to his client being held in custody, 'he is probably safer in Pentridge than on the streets where he could be subjected to a bullet in the back of his head' (The Sun, 13 September 1990).

The coroner has been told that 'After the two young policemen were killed, it was if the police had some kind of vendetta' (The Age, 13 September 1990). Mrs Carew, a local resident, told the coroner that a local Justice of the Peace, who she had known for many years, came to her house and asked her to get her sons to tell Abdallah, who at the time police wanted to question about 'Walsh Street' to come to his home and he would make sure that Abdallah 'got to the police station all right'. She said the Justice of the Peace told her: 'If they get to him first, the bastards will kill him'.

**Police View**

The Chief Commissioner, Mr Kel Glare has offered three explanations for the increase in police shooting, those being: an increase in community violence, an increase in violence against police, and lack of police investigative powers (The Age, 1 May 1989, p. 15).

In this paper it is argued that none of these factors adequately explains the increase in police shootings in Victoria.

**Community Violence**

There is no need to enter into a debate about whether or not there has been a significant increase in community violence because the research indicates that community violence is not a major predictor of fatal police shootings.

**Violence Against Police**

There is no independent evidence that violence against police has increased. In Victoria the rise of reported assaults on police coincides with Work Care legislation. Also, since 1979 there has been a large increase in the number of police in the force which would influence the assault police figures. Independent work done on the topic of violence against police has found that the police fears that their work environment was becoming increasingly dangerous were not true (Swanton 1987). Victoria needs some up-to-date independent work done on this topic but currently remains one of the only two states, along with Tasmania, which does not have an independent bureau of crime statistics.

Of course, it cannot be denied that the assassination of the two police constables at Walsh Street was an act of the most extreme violence comparable only to the bombing of the Russell Street police station. However those killings occurred at a time when the number of shootings by police had already escalated sharply and could be seen in the context of escalating violence, which can at least partly be attributed to a liberal police firearms policy.

**Police investigative powers**

It has been suggested that criminals see Victoria as a fairly soft option as far as investigative authorities and police powers are concerned. It should be noted that in none of the four police shootings described above was the victim attempting to flee from a crime scene. In any case research shows that the clear up rates for crimes in Victoria compare favourably with the clear up rates in other states (Mukherjee 1990). Therefore it would seem unlikely that criminals believed Victoria to be a soft option.
Alternative Explanation Of Shootings

Research indicates that factors such as the philosophies, policies, and practices of individual police chiefs and supervisors have a marked effect on the rate of homicide by police (Fyfe 1988).

It can be argued that the increase in police shootings observed in Victoria up until the first half of 1989 can be explained by the emergence of a liberal police firearms policy supported by senior police, condoned by some sections of the media and unchecked by mechanisms such as the coronial inquiry.

After the shooting of the unarmed man at the service station, described above, Kel Glare, the then incoming Chief Commissioner was reported to have said, 'Robbery is a very risky occupation. People who go around committing robberies cannot be expected to be greeted with open arms'. In addition he was reported to have said of the deceased 'it is not as if he was in the habit of attending Sunday school' (The Age, 7 October 1987, p. 5). Such unqualified support of the police responsible for the shooting may have had the effect of signalling to police in the force that resort to firearms in the course of their duties will as a matter of course be supported by the hierarchy. The comment that the deceased did not attend Sunday school could certainly be read as suggesting that the death of a suspect or offender is to be regarded as of little consequence and moves the focus of any inquiry away from the action of the officers involved and onto the character of the victim.

The Chief Commissioner has not been alone amongst senior police in making comments that may have been interpreted by those in the force as encouraging the liberal use of firearms. When the coroner criticised the shooting at the service station a senior police officer Chief Superintendent Brian Fennessy, publicly rejected the criticisms (The Herald, 25 July 1988).

Senior police have supported the use of firearms by police even where it appears there has been a breach of Standing Orders. For example, Police Standing Orders state that police are only to resort to firearms where the lives of innocent people are not endangered (Standing Order 3.2). There was an incident where an officer fired six shots, in a busy suburban street, at a suspect who was attempting to escape arrest. One of the bullets passed through the window of a nearby flat and landed between two teenagers who were sitting watching television. Four of the bullets hit the suspect's car in which he was attempting to drive off. The Deputy Commissioner of Police, John Frame, was reported to have said, shortly after the shooting, 'We are looking very closely at the circumstances surrounding the use of the firearm in this case, and I am sure everything was done properly' (Sunday Observer, 5 March 1989).

In the case of the fatal shooting of Gary Abdallah, the Assistant Commissioner for Operations, Mr John Frame, was prepared, within hours of the shooting, to state publicly that he, 'was satisfied that the . . . detectives had acted appropriately in the circumstances' (The Age, 19 April 1989, p. 3). The Deputy Ombudsman subsequently spent eight months and two thousand hours investigating the shootings and recommended a total of eight disciplinary and criminal charges against the two officers involved and that the Director of Public Prosecutions advise whether other criminal charges were warranted on the evidence (The Herald, 22 December 1990).

It is possible that the statements noted above and similar statements by senior police created the expectation within the force that the use of deadly force by police would be supported even when alternative tactics could avoid the loss of life. The early media treatment of some of the shootings, which tended to concentrate on the character of the victim, may have added to the feeling, at least within some sections of the police force that fatal police shootings would go virtually unchallenged (The Sun, 12 October 1988). This perception would have been reinforced by the relative brevity of the inquests into the shootings in the coroner's court and the findings the coroner made in the Militano inquest. In that case that coroner found that "The deceased was a devious, dangerous, vicious and
violent man who, by the gun, repeatedly flouted and broke the basic rules of civilized society' (Record of Investigation into death No. 1269/87).

At the same time that these comments were being made there was a concerted campaign being run by the senior police and the Police Association to gain increased police investigative powers. During the campaign the size of the crime problem was often exaggerated with the public being constantly told that crime was out of control and the police were powerless to do anything about it. (For example: July 1987, Crown Prosecutor, Mr Jim Bowen made a speech based on the police Major Crime Index in which he claimed that one in four of Victorians will become a victim of a major crime in the next decade).

No doubt many police themselves became victim to this propaganda and believed that they were fighting a war against crime without any of the necessary tools to protect themselves or the community. This may have led to a feeling in some sections of the force that there was a moral justification in operating outside the law.

Since April 1989

Whilst in 1987 and 1988 there was a marked increase in the number of fatal shootings by Victorian police, after the shooting of Gary Abdallah in the first half of 1989 there has been only one other fatal shooting by Victorian police. That shooting occurred in a siege situation where the deceased had already shot someone.

When asked in an interview about the change in the shooting pattern the Chief Commissioner answered 'People understand police [are] not there as targets . . . police now not being subjected to extreme violence were being subjected to [it] prior to these events' (The 7.30 Report, 11 April 1990).

The answer suggests that the use of lethal force by police has decreased the number of shootings of police and civilians. There are some problems with this explanation. If the police theory on 'Walsh Street' is correct and the police officers were killed as a pay back for the police shooting of Graeme Jensen, then the use of firearms by police, in that case, was part of a chain of events which led eventually to the fatal shootings of the two police officers and two suspects. The explanation is also at odds with research which suggests that a restrictive, rather than liberal firearms policy decreases the number of shootings by police of civilians. This research also shows that a restrictive firearms policy does not lead to decreased officers safety or an increase in crime (Geller 1982).

There may be an alternative explanation for the lack of controversial fatal shootings since the shooting of Gary Abdallah.

When Gary Abdallah was shot and eventually died there was a large amount of media attention paid to the circumstances of his shooting. The Abdallah family and their solicitor were vocal in questioning the police version of events and demanding an independent public inquiry. Other influential groups and individuals also publicly questioned the shootings. The fact that Gary Abdallah was shot at seven times and has a bullet wound in the back of his head were not matters that could be readily explained. It was announced that there would be a special series of coronial inquiries into the shootings. The inquest has examined the circumstances of the shootings in a way that has never been done previously. The Deputy Ombudsman began an inquiry into the circumstances of the shooting of Gary Abdallah and after an eight-month investigation suggested that the two detectives at the fatal shooting appeared to have agreed to corroborate each other's false accounts (The Herald, 22 December 1989).

It seems that these factors combined to create a feeling amongst police that the shooting of suspects would not be automatically condoned and that in all cases of fatal shootings there would be a need to justify the action taken. This in the author's view has led to the adoption of a restrictive firearms policy which has had the effect of reducing the number of fatal shootings by police.
Conclusion

No other single issue has the potential to destroy the relationship between the police and the community like the use by police of deadly force. If it is believed that the police are abusing this power then the police will become not only feared but hated.

There can be no community policing in a climate where people believe that police are getting away with murder, only war.

The relationship between the police and the community in Flemington was not without problems before the shootings. There were many allegations of police violence and misconduct and the belief that official complaints procedures were incapable of producing a result favourable to the complainant in any circumstances.

The shootings, however, led to a new level of fear and distrust between the police and the community—the repercussions of which are still being felt.

References