

# IND KIDS



... the clothes in the closets on the  
ed search trays on the piles of clothing.  
and were torn from the walls. In  
against in at 2:00 a.m., and refused to  
During ensuing search, garbage was  
or furniture wrecked. The contents of  
s were on about the kitchen. Eggs were  
p strewn over the floor. The five young  
e hours were herded upstairs where they  
a wall their pictures taken, though none  
ed.  
police in at 6:00 a.m. One of the  
d up by out of bed. He was thrown  
ent backwards. No identification was  
e occupant who was in a room by himself  
others uniformed police then entered and  
e roused and asked their names. One youth  
shown identification. The constable did not  
police but stated his intention to search  
r police assisted the first in forcing the  
r. The youth was afraid of having drugs  
he was in the kitchen with the police,  
his door off and let them search him in  
t, the constable grabbed the youth by the  
im against the wall. The constable then  
rned about obstruction, and proceeded  
all the occupants had been searched, and  
olice in. The same premises were searched  
imes over a three month period. The  
r repairs.  
ie police again entered unannounced and  
ere police and told the occupants to put  
nees. Occupant stood and asked if the  
He ignored by the officers who were  
the him. The young man asked several  
nd identified himself as an occupant of the  
there, grabbed the youth, threw him  
en what letting go threw him against  
od him against a bookcase. At this point  
a writ assistance. The search was then  
ficers, not having found anything. The  
h on check as a result of the incident.  
ly exiles. It appears that almost every  
ed by uses and further, that the wide  
by police in drug cases are used to harass  
es and alike.

occupying drug raids as outlined above,  
her circumstances. Examples: A group of  
alking slowly and inoffensively when  
a pattern. One officer got out and invited  
ple to get into the car, which he did. The

complainant was then asked for I.D. which he refused to produce unless told why he was stopped. The officer asked again for I.D., at which point the youth started to get out of the car. The officer in the car grabbed the complainant by the wrist. The other officer ran over and grabbed the youth by the throat. He was then punched and kicked and thrown back in the car. The officers said he was being arrested for being publicly intoxicated. The youth was taken to the station but then released without being charged.

In another case two youths entered the police station intending to photograph a well-known narcotics agent for an "underground" newspaper. The two had previously talked to one of the narcotics detectives about it and were told that there was nothing the police could do about it but that they "were taking the risk of getting the camera wrapped around their necks". As the pair waited outside the Morality Branch office, two detectives approached and asked what the youths were doing there. The pair started to explain and were told to leave the premises. They began to get up when one of the young men was grabbed by the arm and jerked up. The other youth was also grabbed by the arm and a lapel of his jacket and flung against the wall beside the elevator. When the elevator door opened the pair were pushed into the elevator and fell against two young boys who were in the elevator at the time. On the ride down one of the detectives told the complainant that he wished he could take him down alone so that he could "teach him a lesson", and that if ever the chance arose he would do so. The two youths were escorted to the door of the building, pushed out and told never to return.

In another case the complainant was the subject of a high-speed chase. Upon being stopped the complainant admits that he was somewhat belligerent. However, he did not feel that he deserved being knocked to the ground and kicked by the officers. He suffered two broken ribs and a broken nose. The complainant was then taken to the station, booked and fingerprinted, issued a summons and released without receiving any medical attention.

### 3. Timing of Arrest

Almost invariably arrests or raids are carried out at hours when the suspects are in bed; 2:00 a.m. seems to be the most common time. It is difficult to know what good reasons exist for this kind of terrifying police tactic.

### 4. Harassment

A majority of the complaints which the Association has received are concerned with discrimination against and harassment of long-haired youths. Complainants may be stopped and searched, asked for I.D., questioned or merely treated discourteously--all for no apparent reason save the appearance of the young persons concerned.

To detail one case: In a roadblock set up by the R.C.M.P. on the Banff-Calgary Highway last summer (1970--at the time of the "Festival Express" rock festival in Calgary) cars bearing "straight youths" or older persons were waved through while cars bearing young people of "hippy" appearance were stopped and the vehicles and occupants subjected to a thorough search.

The Association receives numerous complaints of such discriminatory treatment. Most common are:

- (A) stopping and searching of persons, vehicles, or "back-packs"
- (B) requests for identification
- (C) enforcement of laws against young persons where the laws are not enforced against others

Though such incidents are often of trifling importance, they occur so frequently that almost every unconventional looking youth can relate first-hand experiences of this type.

### 5. Excessive Concern with Drug Offences

A very large proportion of the friction between police and young persons can be traced to police enforcement of drug laws. The questionable amount of control of the illicit drug traffic gained by criminal sanctions is not worth the extreme alienation of young people which continued enforcement of these laws is producing.

Because drug offences are "crimes without victims", it is necessary for the police to use informers, undercover agents and agents provocateurs in order to uncover offences. The paranoia and distrust created by the sending out of "spies" to infiltrate the youth sub-culture is immense.

### 6. Denial of Rights

There have been a number of cases reported to the Association in which young persons have been denied their rights because of police interference. An example: Every morning at 8:00 a.m. a

law student from "Student Legal Services" attends at the Edmonton City Police Cells to take the applications for the Alberta Legal Aid Plan. On one occasion there had been a big drug "bust" the night before and there were thirty-nine accused young persons in the cells. Accordingly, the Legal Services sent two students to do the interviews. They were told that they should come back at 1:00 p.m. The defendants were to appear in court at 2:00 p.m. The students returned at 1:00 p.m., but were told that it was still too busy and that they should wait. At 1:30 p.m. they were admitted, which left only twenty minutes for interviews, as the defendants are mustered at 1:50 p.m. As a result, only ten of the accused were interviewed. The remainder thus had to appear in court without being advised of their rights and several were remanded in custody to Fort Saskatchewan Gaol where it was several days before they could be interviewed. This was clearly a serious violation of their rights.

## POLICE ROLE IN A FREE SOCIETY

These examples of police harassment of young people demonstrate that the police are failing to live up to their role in democratic society. Admittedly the police role in a free society is very difficult. In a totalitarian state, all the police need by concerned about is the maintenance of order. The difficulties of police work, at least in the short term, are thus considerably diminished--for in a society such as ours the policemen are required to maintain order, but must do so *under the law*.

Our criminal law is not only a set of rules for the maintenance of order, i.e. substantive law, but is also comprised of a procedural component. This part of the law is designed to regulate the conduct of the state agents who are charged with enforcing the substantive criminal law. This commitment to legality means that the agencies of social control may maintain order only under the requirements of law--even if this results in slightly less efficient policing. This commitment to legality does not mean that we must therefore sanction violence and crime. It does mean that a free society cannot permit its police to use any and all possible means to control such anti-social conduct. Individual liberties must be protected within the system of social order.

It is here that the policeman's dilemma enters. The policeman sees his job as maintaining order and apprehending criminals. In that situation the requirements of legality, the restraints of law, appear to him to be restrictive. In short, the legal requirements "get in the way" of efficient police work.

Because the police work in the environment that they do, it is very difficult for them to view the rule of law in any other way. First, the policeman views himself as a craftsman, a professional at criminal investigation. He does not react kindly when the courts challenge his conclusions or when "obstacles" are placed in his path. It is the conventional wisdom of policemen that "we're always being stabbed in the back by the courts".

Second, because the policeman is a professional, he comes to have an administrative bias against innocence on the part of the accused. His presumption is the presumption of regularity--most defendants are guilty. To policemen, the legal presumption of innocence is ridiculous and interferes with his work. Every policeman has had cases in which he was morally certain that the suspect was guilty but could not proceed because the case would not stand in court. Because the policeman sees himself as "enforcing the law" only in the sense of catching criminals, he comes to view this situation as anomalous and frustrating.

The community also tends to support this view of the criminal law. The media, the public and the politicians all deplore rising crime rates and make periodic calls for strict enforcement--"law and order", "making the streets safe for decent people" or more pointedly, "round up the trouble-makers". These calls for zealous policing are never issued with any caveat to the effect that the police should proceed according to the rule of law.

Even if the police do respect the rule of law, there is another aspect to their role in a democratic society which must be mentioned, for the law does not prescribe everything that a policeman does. Within the confines of the law, the policeman has a great deal of discretion. Discretion means that there is no other requirement for the use of power than the judgment or conscience of the person employing it; and policemen have the discretion to decide which laws to enforce, or how vigorously to enforce them, or who to enforce them against.

## RECOMMENDATIONS

### 1. Redress of Citizen Complaints

The Association recommends that the jurisdiction of the Alberta ombudsman be extended to empower him to deal with citizen complaints against police. And further, that he be empowered to adjudicate such complaints at first instance.

### 2. Better Police-Community Relations

The Association recommends that public relations efforts of police forces be increased, police departments establish community contacts so that policy can be better oriented toward societal rather than organizational goal, and that the Police Act be amended to return control of police forces to the civic institutions.

### 3. Better Police Understanding of Young People and of all Citizens

The Association recommends that police be better directed and better trained in their dealings with young people and groups.