

The following is an excerpt out of a report entitled "The Relationship Between the Police and Young People In Alberta" written by John Faulkner, Law Student at the University of Alberta for the Alberta Human Rights Association. Though this report does not reflect the views of most of the Gateway staff, the only editing done was due to the exigency of space--the last section entitled Recommendations was reduced to the bare recommendations made by the Human Rights Association to the Alberta Government.

The Gateway encourages submission of similar articles, essays, term papers, etc. by University of Alberta students for printing as Gateway features. It is hoped that in this way we can provide reviews of topics of interest to a wide cross-section of students.

--Editor

THE RULE OF LAW

Since men first huddled together around a fire and realized that by banding together they could better cope with the exigencies of life, the benefits of society have been offset somewhat by the discovery that not all society members can be counted upon to follow the rules which every society must set up to allow it to function.

Since this phenomenon has appeared in all societies - even the most closely knit - every society has developed social control techniques. In primitive societies, social order results primarily from the homogeneity of basic values which are reinforced by strong kinship systems, rites, taboos and religion. Where deviant behaviour occurs, such simple techniques as ostracism may be adequate to maintain order. No formalized legal system even exists.

Even in societies which are far from primitive, the traditional institutions of family and church and the stabilizing influence of societal consensus may predominate over strictly legal institutions in maintaining order.

In complex modern societies, however, this is not the case at all. In such societies, formalized legal institutions replace the traditional enforcers of social order. This occurs because the traditional institutions do not work in such societies - societies like our own. First, community consensus, despite fond beliefs to the contrary, is impossible to arrive at in mass urban society. Moreover, in such a society, the once powerful sanction of community disapproval of anti-social conduct becomes lessened. The great mobility and anonymity of urban man reduces both the consensus in society and the sanctions for breaching that consensus.

At the same time the other traditional ordering institutions - the church and the family - are becoming very much weakened. Into the vacuum thus created moves a highly structured and formalistic system of law and government designed to maintain social order. It is this system upon which modern man must rely as the primary agency of social control. These institutions, i.e. the police, the courts and the corrections system, operate to maintain order and control deviant behaviour in two ways. The first way is obvious. Persons are deterred from committing anti-social acts by the threat of sanctions, by the organized coercion of the state.

But public order in a free society does not and cannot rest solely on the threat of the application of force by the state. It must also rest on people's sense of the legitimacy of the rule-making and sanction-enforcing agencies in society. Persons obey the law because it is the law. This acceptance of the rules is termed the "rule of law". This "rule of law" idea is absolutely essential to the maintenance of order in a free society. Candid police chiefs will freely admit that without widespread community acquiescence in the laws, the task of the police would be impossible. If people did not, by and large, obey the law voluntarily, repressive measures of a most drastic nature would be necessary to maintain "order".

People do not always subscribe blindly to the rule of law, however. They only do so if they believe that the rule-making and rule-enforcing institutions are entitled to rule, that is, are "legitimate"; Unfortunately or fortunately, are entitled to rule, that is, are "legitimate". Unfortunately or fortunately, depending on one's point of view, many people in society are unwilling to grant legitimacy to the governing institutions merely because they are the governing institutions. In the middle ages, men deferred to despotic kings because the king ruled as of divine right. Today, legitimacy is, despite the remainder of man's attitude of deference toward his government, becoming more and more associated with utility. In this view, which is especially prevalent among young people, there is no right to power unless that power is exercised for the benefit of society. When an institution abuses its power, its legitimacy is gone.

Several factors work to poison the relationship between police and young people. The first factor is the perception of police by minority groups. Minority groups, and young people are one such group, tend to feel, and often are, victimized or persecuted by mainstream society. The police, as the enforcement arm of society's will, are the most visible and persistent engines of the oppression. The police are the symbol of the society from which young people are increasingly alienated.

Second, since the police are quite responsive to community pressure, they are quick to perceive community hostility toward a certain group and they may interpret this as, if not a directive, then at least a license to deal harshly with that group. One has only to read the letters to the editor, or the writings of certain columnists, to realize how great an antipathy toward unconventional youth exists in our supposedly permissive society.

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Added to the feelings of the community are the personal feelings of the police themselves. Their views of "hippies" and "freaks" are similar to those of society generally, but they are powerfully reinforced by the policeman's operating environment. The policeman is a professional order keeper. Order, in military and para-military organizations (such as the police), is closely identified with conformity. Since "long-hairs" do not conform, indeed make non-conformity a basic tenet of their code, the policeman is liable to feel threatened by the presence of such people. Moreover, it is the policeman who must endure the taunts and "mind-games" perpetrated by the disciples of Hoffman and Rubinet *al.*

Another reason for the hostile feelings between police and young people is the police role as enforcers of certain unpopular laws--most notable the drug laws. The drug laws, and police enforcement of those laws, have had a profound effect on the attitudes of young people toward law and law enforcement.

There is a final reason for the hatred of police on the part of the young. That reason is police harassment of young people.

The attitudes of many young people (or for that matter, of any segment of the population) toward the police and the rule of law, are in large part shaped by experience. The experience of young people has taught them to despise the police. Some policemen feel that "get-tough" procedures are the only way to teach "respect" to long-haired youths. In fact, the effect is just the opposite. In the final analysis "respect" is gained, and relations between police and community improved, by the adoption of procedures that gain community confidence, not community fear. Deep hostility between police and ghetto communities was cited by the United States National Advisory Commission on Civil Disorders as a primary cause of the tragic riots surveyed by the Commission.

Police harassment of young people, and the effects thereof, were among the subjects of a study conducted in an Edmonton high school. The study found that 43% of the students had very unfavorable attitudes toward police and the rule of law. As their reasons almost 90% cited incidents involving police and the respondent or a friend of the respondent. Every time a policeman "hassles" a young person another radical is made. Most of the police in Alberta perform their difficult task with courage and integrity. There is every indication that police harassment is not as serious here as in some other areas. (However there are also other areas where such harassment is less common.) But because the "cop as pig" image is being constantly reinforced by our proximity to happenings in the United States, these harassment incidents have a damaging effect far beyond what might be expected. Each incident serves to powerfully reinforce young people's ideas of the police--confirming their worst stereotypes of the police and of the law. Questionable police practices, though not a serious problem in strictly numerical terms, are of extremely grave concern when viewed in terms of the ill-effects which they produce. Official lawlessness does not, of itself, produce the effect on society.

"The impact is not really visible at all. The impact really begins to be felt when the people of a society simply begin to disbelieve. When they speak of a courthouse as the Hall of Injustice; when they think that justice and equality have been subordinated to mere power; when their credulity about "the public interest" is breached, the whole basis on which the authority of the state rests is eroded. Authority is then reduced to force, and no society can long continue on that basis."

The policeman is a symbol not only of law, but of the entire system of law enforcement and criminal justice, and his failure is the failure of that entire system.

POLICE HARASSMENT OF YOUNG PEOPLE

Of what does harassment consist? It consists of many kinds of questionable police behaviour ranging from discourtesy to physical assault. What follows is a brief outline of the forms harassment of young people has taken in the Province of Alberta.

1. Search Procedures

One of the most frequent types of complaints concerns search practices-- particularly in drug raids. The notorious name that these practices have given our police forces cannot be underestimated.

In one case, a number of police officers, acting under a writ of assistance, burst into the complainant's house without knocking. The police were in plain clothes and refused all requests to identify themselves or show their search authority. The officers then proceeded to ransack the house. They spilled the contents of



drawers on the floor, dumped the floor, and then emptied the trash. Fixtures were broken and in another case, police against in identify themselves. During the search, strewn about the floor and furniture the kitchen cupboards were smashed and ketchup strewn over people occupying the house. They were lined up against a wall their heads as yet been arrested.

In another case, police in occupants was picked up by one against a wall and bent over backwards shown (except to one occupant who and unable to tell the others) uniform all the occupants were roused and refused to do so until shown identification. He identified himself as a policeman but the youth. Two other police officers assisted youth to the kitchen. The youth planted on him while he was in the room so he offered to take his clothes off this way. At this point, the police searched his throat and pinned him against the wall. He released the youth, warned him not to search him. After all the searches nothing found, the police left. The youth approximately ten times in a broken door was never repaired.

In another case, the police again then said that they were patrolling and their hands on their knees. Occasional officers had a warrant. He ignored meanwhile searching the house. The times for the warrant and identified his house. One constable then grabbed another wall and then stood him against one officer produced a warrant. The search completed and the officers did not h youth suffered a scratch on his neck as

These cases are only examples. It drug search is attended by police in drug search powers enjoyed by police in drug crash pads, co-op houses and public places.

2. Physical Abuse

Physical abuse often occurs during drug searches but also occurs in other circumstances. Young people were walking slowly when they were stopped by a patrol car. One of the young people was taken into