

Heroes and martyrs in the 'war' on crime?

Jude McCulloch

The Duke of Wellington could have been describing the 1990s Victoria Police when he said of the British Army in 1815 'I don't know what effect they have on the enemy but by God they terrify me'.

A front page photograph in the *Herald-Sun* (Melbourne) of a police officer brandishing his revolver, finger on the trigger, at a crowded suburban railway station, highlights the issue of public safety and an armed police force. The officer allegedly pulled out his gun and pointed it at a teenager after the teenager, fearing the officer was going to hit him with his baton, grabbed the baton in an attempt to prevent being hit.¹

Ten years ago Victorian police did not routinely wear firearms. Such weapons were worn only when it was thought necessary because a situation was particularly dangerous. Today police officers routinely wear firearms and the current generation of children grow up observing thousands of officers on Victoria's streets wearing guns on their hips.

Police and those who support an armed police force argue that this change in practice has been necessary because society has become increasingly violent and in these times even routine police duties can become dangerous.²

While there is disagreement over whether society has in fact become more dangerous there is no evidence to suggest that firearms enhance officer safety. It is clear that the carrying and use of firearms by police has led to the wounding and death of officers. It is equally apparent that police use of firearms has too frequently led to the unnecessary death of suspects and endangered bystanders.

Police guns a danger to police

On a number of occasions police have been shot, or shot at, by people using police firearms. At least three Victorian police officers would probably still be alive today if police did not routinely wear weapons.

In 1986 Senior Constable Moore was shot and killed after he apprehended a man trying to steal a car. Constable Moore's killer grabbed his gun and shot him with it. The man's barrister told the court that if the officer had not had a gun the incident would not have happened.³ Constable Claire Bourke, sitting in a chair in a police station, was shot and killed by another officer who pointed his loaded pistol at her and pulled the trigger. He mistakenly believed his revolver was not loaded.⁴ Constable Neil Clinch was shot and killed by another officer during a dawn raid on the home of a man suspected of assault.⁵

In other incidents:

- an officer was accidentally shot in the foot by a colleague at Altona police station;
- Senior Detective Piper was shot in the chest and wounded by another officer during a drug raid;
- a police officer narrowly missed being shot when her revolver was taken off her in a struggle and she was shot at;
- a police officer approached a suspect with a drawn gun. He was attacked from behind by the man's accomplice and a struggle took place over the gun. During the struggle the gun discharged twice and the officer suffered gun shot injuries to his hand.⁶

The ambush killing of Constable Tynan and Constable Eyre in Walsh Street, South Yarra, on 12 October 1988 is an example of routine police duties turning deadly. The two officers were shot and killed when they answered a call to investigate an abandoned car suspected of having been stolen. The officers were wearing guns when they were ambushed but the guns did not prevent them from being killed. To the contrary, one of the officers was shot twice in the back with his own gun.⁷

Victorian police have such a poor record with firearms that a police officer is just as likely to be shot and killed by another officer as by an offender.⁸

As a result of the police and media attention given to the ambush killing of Constables Tynan and Eyre, their names are familiar to all Victorians. The officers were buried with huge fanfare and hailed as fallen heroes.

On the other hand, the police killed by police or with police weapons are unknown and forgotten, their deaths of no advantage in promoting the image of police as heroes and martyrs in the 'war' on crime.

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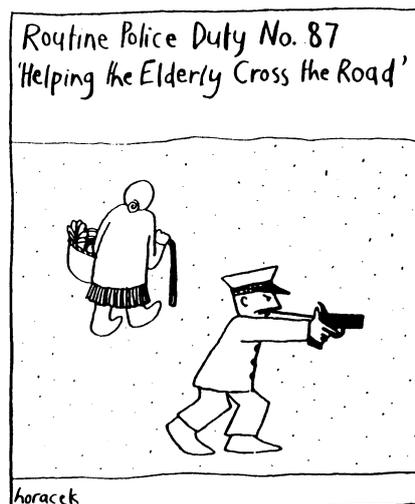
There are two other respects in which the routine arming of police and the use of firearms by police can endanger officers. Overseas evidence indicates that the absence, or apparent absence, of weapons on police officers may enhance their safety and increase the co-operation of offenders, particularly in situations where the offender is carrying a weapon.⁹ In addition, if the police are perceived to use their weapons unnecessarily, particularly if people are killed, it is likely to create enormous animosity in the community. Overseas, shootings by police have led to riots causing millions of dollars worth of damage and further loss of life. In New South Wales, the fatal police shootings of Angelo Tsakos and David Gundy and the serious wounding of Darren Brennan caused public outcry. According to Victorian police, the fatal shooting by Armed Robbery Squad detectives of Graeme Jensen, who was wanted for questioning over an armed robbery, was the motive for the Walsh Street killing of two police officers 13 hours later.¹⁰ If the police theory about Walsh Street is correct then the police use of firearms was part of a chain of events which led to the killing of two officers. In turn it is contended that the Walsh Street killings led to two revenge killings by the police and a number of retaliatory raids and beatings.¹¹ This scenario supports the predictions of those commentators who argue that para-military style policing, as evidenced by a liberal firearms policy, leads to a spiral of increasing bitterness and violence.¹²

Fatal shootings of citizens by police

Victorian police shot and killed 11 people in the two years to April 1989. The number of fatal shootings and the circumstances of the shootings led to a special series of coronial inquiries. The Coroner heard that in 10 of the 11 shootings the police were not shot at themselves and in at least seven out of the 11 shootings the deceased did not have a gun or at least not a gun capable of firing.¹³ This is not to argue that the officers involved did not genuinely believe their lives were in danger when they discharged their firearms, although there is great controversy connected with police claims of self-defence. Police have been accused of lying about the circumstances of the shootings, planning revenge killings and planting weapons on the deceased in order to support their claims of self-defence. Suspicion has been fuelled by the nature

of the shootings. Four of the deceased were shot in the back and two were shot at very close range with shotguns. In six of the most controversial shootings the police officers most directly involved have refused to give evidence at the coronial inquests on the grounds that to do so could incriminate them.

A lawyer who assisted the Coroner at the special series of inquests argued that the overwhelming majority of the shootings could have been avoided if the police had used alternative tactics and properly planned the operations in which their task was to arrest a suspect they believed would be armed and dangerous.



Police use of firearms endangers the public

It is clear that the liberal use of firearms by Victorian police has endangered the public. For example:

- When Armed Robbery Squad police attempted to arrest a suspect for questioning over an armed robbery they fired seven shots in a public car park on a weekday afternoon. The detective in charge of the operation did not check whether there were any civilians in the car park before attempting the arrest, although he anticipated a shoot-out. The police shot and killed the suspect during this incident and the Coroner held an inquest into the shooting. The father of a two-year-old girl told the Coroner that his daughter was in a car parked in the car park at the time the police opened fire and he believed that the police tactics had endangered her life.¹⁴
- A police officer fired six shots in a busy street at a fleeing motorist; one shot landed between two teenage girls sitting on a couch inside their home.

- A dog was shot in Collins Street by a police officer after it lunged at passers by. An eyewitness commented: 'There were people all about . . . and to discharge a high powered revolver in Collins Street . . . I've been told the first shot ricocheted off the dog's skull. God knows who could have been hit'.
- An officer in plain clothes arrived at a bank where an armed robbery was taking place. His arrival prompted one of the bandits to open fire. The officer returned the fire, despite the fact that there was a baby in a pram less than one metre from the gunman. Newspaper reports described the baby as the 'luckiest baby alive'.
- Police fired several shots at Doncaster shopping centre when they arrested an escapee. Police were not themselves being fired at.
- Christmas shoppers were reported to have dived for cover as a traffic police officer and a bank robber exchanged shots.
- In his latest annual report the Ombudsman describes an incident in which a mother and baby narrowly missed being shot when an officer accidentally fired his revolver during a raid.¹⁵

The police resort to firearms in situations that on any sensible view of events do not warrant such action. This is demonstrated by the following incident which was investigated by the Deputy Ombudsman. The police had information about a proposed drug deal and so planned a raid. The target of the raid had a problem with her leg and was virtually immobile, was known to the police and did not have a record of violence or involvement with firearms.

. . . Yet, with guns clearly drawn, three members, dressed casually, rushed into a coffee lounge where other members of the public and staff were present. Seated with the target were two other persons, neither of whom police say were known to them. One of those persons was the complainant, a social worker . . . When interviewed, the member in charge of the raid indicated that the manner in which the raid was conducted . . . was normal practice and that in the same circumstances he would do precisely the same thing again.¹⁶

Protections and police firearms

Despite evidence that restrictive firearms policies lead to decreased shootings by police, greater or unchanged officer safety and no increase in crime or arrest aggressiveness, Victorian

police maintain that the wearing and frequent use of firearms is necessary to protect themselves and the public.¹⁷

While it is true that police officers risk injury or death during their employment, there is a tendency among police and some commentators to exaggerate this risk. Policing is not the riskiest job around: truck drivers, farmers, miners and timber workers all work in more dangerous occupations. Independent research demonstrates that police perceptions of their job as becoming more dangerous are not well founded.¹⁸ It is true that, on occasion, police are targeted and killed simply because they are police but they are not the only people who live with the fear of being killed. Many thousands of women live with the well-founded fear that they will be hurt or killed by male partners. It is not generally argued that women in these situations should have access to hand guns, although they are clearly a more vulnerable group at greater risk of unlawful homicide.¹⁹

The reason police remain committed to bearing and using firearms is not because it reduces the risks involved in policing. It is the police self-image of crime fighters and the macho culture predominant in the police force that so

readily lends itself to an unnatural love affair with the gun.

References

1. *Herald-Sun* 4.2.92.
2. See, for example, letters to the editor by Sergeant G.L. Bashford, Victoria Police, *Age* 30.10.87, Dale Lewis, *Age* 29.4.89, J. Frame, Assistant Commissioner for Police, *Age* 15.8.87, the Reverend G.J. Poliness, Uniting Church, Shepparton North, *Age* 4.11.87.
3. *Age* 10.9.87.
4. *Age* 14.3.85.
5. *Age* 4.12.87.
6. Information obtained from Police Freedom of Information Office in letter dated 25.7.88; see *Age* 3.8.90; *Age* 30.5.88; *Age* 20.8.87.
7. See *Herald* 13.10.88, p.1.
8. Figures from Bruce Swanton, Australian Institute of Criminology, October 1991.
9. Boyanowsky and Griffiths, 'Weapons and Eye Contact as Instigators or Inhibitors of Aggressive Arousal in Police Citizen Interaction' (1982) 12 *Journal of Applied Social Psychology*, 398, at 406, quoted in Chappell, D., and Graham, Linda, *Police Use of Deadly Force: Canadian Perspectives*, Centre of Criminology, University of Toronto, 1985.
10. However, a Supreme Court jury found the four men charged with the murders not guilty, casting doubt on the police theory.
11. McCulloch, J., 'Police Shootings and Community Relations', in *The Police and the*

Community, Conference Proceedings, edited by Sandra McKillop and Julia Vernon. Australian Institute of Criminology, Canberra, ACT, 1991.

12. Jefferson, Tony, *The Case Against Paramilitary Policing*, in the Crime, Justice and Social Policy Series, Open University Press, Milton Keynes, Philadelphia.
13. In three cases it has been alleged that the police planted guns on the deceased. In one instance, the gun alleged to have been planted was an imitation; in another a real but faulty gun; and in another a working firearm. See Final Submissions — an overview of evidence presented by Mr Graham Morrish QC with Mr Lasry, particularly, pp.7-13.
14. Final Submission to the Coroner re Fatal Shooting of Graeme Jensen, pp.9-10, presented to the Coroner's Court 9.10.91, Flemington/Kensington Legal Centre.
15. *Sunday Observer* 5.3.89; *Sun* 29.9.87, p.4, and 30.9.87, p.7; *Age* 13.11.87 and *Sun* 13.11.87; *Sun* 13.5.89; *Age* 23.12.88, p.3; The Ombudsman, Annual Report 17, 30 June 1990, p.105.
16. Ombudsman, as above, pp.104-109.
17. Geller, William A., 'Deadly Force: What We Know', (1982) 10 *Journal of Police Science and Administration*, p.171.
18. Australian Institute of Criminology, 'Police Work and its Health Impacts', Trends and Issues No. 7, Research Brief, October 1987.
19. Law Reform Commission of Victoria, Discussion Paper No. 13, *Homicide*, March 1988, pp.11-13.

OPERA, LIFE AND LAW

We reproduce excerpts from an opera review which appeared in *Hearsay* (Macquarie University Law Schools's Newsletter, No. 1, January 1992).

What's coke-ing?

Well, your MC has begun his/her opera subscription for 1992. Here follows his/her impressions of the first performance for the year, Leos Janacek's *Jenufa*. Your MC wishes to place on record at the outset that *Jenufa* is a truly magnificent production.

The opera is set in an unnamed village in Moravia (now part of Czechoslovakia), the composer's home country, at a time contemporary with its composition (end of the 19th century). It shows the composer's well-known love for his country and its ordinary people. This is in at least two ways: first, the folk music of Moravia inspires much of the melody and musical structure of the opera. (Never having been to Moravia your MC accepts this common opinion on trust.) Second, the characters in the opera are all village people involved in the working of a mill. Opera usually revolves around the doings of royalty, the aristocracy and the wealthy bourgeoisie. Peasants and workers may appear, but are usually seen only in relation to the nobility or employers. Usually then the drama ulti-

mately is generated within the doings of the aristocracy. There is simply no aristocracy in *Jenufa*; they are not even mentioned. And while some villagers are employed at the mill which the Bunya family owns, there is no class element in the drama. In this way, in your MC's opinion, Janacek tells us that ordinary people also lead meaningful lives: they form their own communities and generate their own morality. All this is not inevitably given to them by their rulers. If *Jenufa* is Moravia's first true national opera, as well as Janacek's first masterpiece then it is through its people that, for Janacek, the Moravian nation is constituted. If Janacek's love for his native Moravia was a 'fanaticism bordering on insanity', then it is the Moravian people that Janacek loves. And in his 'first masterpiece' he celebrates, musically and dramatically, their culture, their music, their juris-generative capacity, the meaning of their lives.

Of course, the morality of *Jenufa* is oppressive and ultimately destructive; but then so is the aristocratic morality of *La Traviata* and *Il Trovatore*. However, while Verdi gives us the impression that aristocratic morality is shallow and hypocritical, Janacek treats the morality of the Moravian villagers with respect, as genuine. The drama of *La Traviata* or *Rigoletto* hinges

on the hypocrisy of the aristocracy and the shallowness of their hangers-on. Verdi despised the aristocracy as surely as Janacek loved the people. Janacek's point in *Jenufa* is that these people really do live their lives according to their oppressive morality. They may be trapped, but they are not hypocritical. It is here that the overpowering drama of the story lies.

The story is simple but when combined with Janacek's passionate music which always perfectly expresses the drama of the action, and some excellent performances, the result is simply overpowering.

For your MC the appeal of opera lies in the fact that it is complete theatre. The music, the skill of the orchestra and the talent of the singers combine so that the drama of the action is impressed upon the audience. The audience is drawn in. Through the music they *feel* the drama, the meaning of the action. Opera-going becomes an emotional and involving experience. For this to work well it is simply essential that the music, the orchestra and the singers project a passion that envelops the hall. This is exactly what happens in this AO production of *Jenufa*.

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