WILD SCENES AT PUNK ROCK PARTY

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This article discusses the arrest, detention and trial of 12 people arrested at a supposedly punk party in Melbourne in 1981.

The description of the party, the subsequent arrests, detention, and trial was made on the basis of replies received to 5 of the questionnaires sent to 9 of the defendants, and interviews with defendants and one other person who was at the party and the court hearing.

The Party

Saturday night, St. Kilda, Melbourne: party which would be described, incorrectly, as 'punk' by someone not involved in the inner city music subcultures. (The Melbourne Truth reported "WILD SCENES AT PUNK ROCK PARTY", the police described some of the people arrested as "filthy, dirty, scraggy punk rockers".)

At first the police are attracted by the disorderly element (in the eyes of both the partygoers and the police) - some younger people on the roof throwing biscuits on the road. The police request that the people come off the roof, that everyone stay inside and that the music be turned down. These are the sorts of controls usually placed on local parties, and they were complied with.

But before leaving the police changed their approach; perhaps due to comments people may have made (because they were annoyed at police arriving at a party of this type for the fourth week in a row), or at the arrival of 8 police to make a simple request or because police themselves wanted a confrontation over the spate of 'punk' parties in their area. In any case, they began to close the party down, asking all to leave.

The police actions were interpreted as unfair and a large number of people began resisting in many ways - by being slow to leave, by making comments to the police, by asking why the party was being stopped, etc. Eventually, a large crowd was outside the house, in a back area which opened out on to a car park, abusing the police, trying not to get arrested, a bottle was thrown from the back of the crowd at a police van; the police started to arrest some of those who were slow to leave, and those who demanded explanations.

Meanwhile, more police arrived (as many as 9 or 10 car loads), two people were arrested on their way to the party, some of those arrested were released by the crowd, including a person the police knew was a barrister. Other arbitrary arrests were made and one householder actively discouraging confrontation and telling people to go was lifted from behind and put in a paddy wagon. Eventually order was restored and the police left with 10 arrested. Two more were arrested an hour or so later at St. Kilda station - they had gone down to enquire after a friend.

Most of those arrested were charged with a selection of offences from assault, assault police, indecent language, resisting arrest, hindering police. Two were charged with drunk and disorderly. The allocation of offences amongst the people arrested seems to have been mainly random, although the host of the party was charged with more serious offences, and one of the hindering charges was grounded in the facts surrounding the escape of the barrister.

The events cannot be analysed in terms of legal rationality. It is not a matter of whether such and such an event occurred, whether the arrests were carried out according to the rules, rather these events are an example of police interacting with a particular subculture, seeking to control, manage or limit the activities of a section of the population. More precisely, it is the style ('punk' - or at least culturally independent) location (St. Kilda) manner, and to some extent the time of the activities which invite a response. The Magistrate at the hearing shared these concerns - whilst allowing himself to be convinced of the respectability of the Defendants generally, he censured C. for holding an open party and a badly organised one. Parties require invitations, closed doors and tight control he said.

As for the police, the 5 defendants who were not living in the St. Kilda area were told to keep out or else they would be arrested again and C. was told not to have any more parties. "They are pretty defensive about the types of people they'd like to have living in St. Kilda" according to C.

The Great Chinese Takeaway Massacre Compared

In many respects a comparison can be made between the interaction between subculture and police and courts in this case and the interaction described in 'The Great Chinese Takeaway Massacre' (P. Cohen 1977). Both concern the police limitations placed on the way a segment of the population 'lives' its social place, including the techniques it uses for resisting the roles and behaviours which the dominant order insists on, i.e. 'hanging out at the wall' in one case, and cultural 'deviancy' in the other.

A similar 'cardinal ground rule' operates in both cases: "you try and steer clear of the law if you can; you certainly don't go out of your way to make trouble; but at the same time you don't let the law dictate to you what you should or shouldn't do, where you should or shouldn't be". (Cohen p.37) So too, in the Melbourne group, if the police respond to a complaint and, for example, request that the music be turned down then OK, but where such a complaint is used 'unfairly' then resistance is provoked:

> "Where parties are disorderly people are happy to go, they see the justice in the party being stopped I suppose, but this one had only one disorderly feature, and that was easily controlled."
>
> (one of the party goers)

In both cases the 'ground rule' guides proper public behaviour, rejecting 'trouble making', but leaving space for the expression of difference to the cultural order via lifestyle.

But there is an important difference between the two groups: for the kids Cohen describes 'if you or your mates get nicked observing the rule then that's it, it's a natural hazard and there's nothing you can do about it". (Cohen p.37) For those arrested at the party arrest is an unnatural hazard, and whilst there is nothing they can do about the arrest itself, that doesn't necessarily apply to resisting conviction.

It is an unnatural hazard because police are intruding onto private space - your own territory - unlike the public places involved in Cohen's article. But more importantly, the specific nature of this particular subculture must be taken into account. Like many (but not all) Australian inner-city subcultures it has a much more ambiguous relation to class than its English equivalent. Whilst stylistically and attitudinally opposed to the mainstream of Australian culture this opposition takes up much more heterogenous forms, and involves people with varied social backgrounds as a matter of course (unlike the English subcultures described by Dick Hebdige (1979) and the Skins in Sydney).

The subculture remains 'punk' to the police and press but is far from that to its participants, who have a much narrower definition of 'punk' and would see themselves as several years in style, and in a few cases 'beyond' punk. In fact, the heterogeneity of the people involved means that the only coherence or unity relevant is that imposed from outside.

The relevance of this to the groups' response to being charged is that many 'middle class' values, or at least 'non-oppositional' values can be maintained without contradicting the essence of the subcultural practices. Most importantly, those arrested were more able to take a longer range view of the consequences of a conviction in terms of "visas, employment and future dealings in court" as one put it. Both the longer range view and the fear of a conviction appear to be more important to a middle class perspective than a working class one. This puts an additional element into the calculation of how worthwhile enduring the trouble of a court case might be.

For similar reasons - the spread of class, age and education of the people at the party as a whole - the likelihood of not being convicted is higher for the Melbourne defendants than for the working class kids in England. Mixed class, older and with a higher educational background, some of those who were at the party and who witnessed the 'events' could produce better credentials to the Court.

The same background pressures on the defendants to plead guilty are seen in both situations - the trouble of appearing in court, of a case hanging over their heads, of arranging for and paying lawyers, and of becoming

'marked' by police - but a different view of the likelihood and consequences of conviction led eleven of the twelve charged to contest the cases against them. Although the rhetoric of law would have us believe that this is the natural, or normal response to a 'false' charge, it is in fact the abnormal response as Cohen (and others) make clear: it is less trouble for most of the defendants charged with 'street' offences or in other public order situations to 'cop a plea'.

Furthermore, the falseness or otherwise of the charge is only relevant to the formal legal rationality into which the 'facts' must be translated to be dealt with in court. The real contest between police and members of a sub-cultural group like this is thought (and acted) out in a different language: it is about where, when and how you live. As Cohen says "these trans-actions systematically violate the principles of formal legal rationality, yet they are essential for public order".

To keep this subversion of legal rationality from exploding into an impossible workload for police and courts a kind of equilibrium of 'trouble' must be maintained: the disability of conviction balanced against that of defending the case for each particular defendant. A too high initial charge can be part of the pressure to plead to a lesser one, but if such a bargain was not made then it would become pressure to contest the case.

On this analysis the present case becomes one where the police incorrectly 'read' the people arrested, for them almost any charge would be worth the trouble to defend; and they were arrested in circumstances which were defendable, in the presence of credible witnesses.

From Arrest to Court

The first noticeable feature is the techniques used by police to discourage friends of the accused from finding them

(i) No-one still at the party was told where the people arrested were being taken.

(ii) No charges were laid until at least 6.30 a.m. Friends rang Police Headquarters at Russell St. and were told that the people arrested could only have been charged with being drunk and disorderly, otherwise the charges would have been rung through in accordance with standard practice.

(iii) The two people who did go to St. Kilda police station to inquire after their friend were arrested as well.

Although being unable to find a person arrested is not unknown (see Bacon and Lansdowne 1982 p.17) in this case police may have been acting so as to discourage a large number of people from coming to bail out their friends, or to avoid the even less desirable possibility of a repeat of the dis-order of the end of the party outside the police station.

In addition, being left alone with the 'suspects' is necessary in order to transform the procedural matters of charging and bailing people arrested into a penalty in itself. The penalty consists in being detained longer than necessary (for the administrative purpose of charging and bailing), a denial of rights (both rhetorical and actual) and humiliation, threats and bashing.

In the present case all the defendants who responded to the survey reported humiliation, insults and bashing. First confined in the police van for some time after arrival 'with little air and space' they were released one by one into the station (a tech-nique which creates fear of what is to follow, and isolates the person from support) one described being kicked, another kicking, kneeing and hitting, another had his belt taken (no dangerous objects allowed in the cell) and was made to walk with his pants around his ankles etc. All 10 males were confined in one cell for a couple of hours before being charged and released about 7 a.m.

Requests to make a phone call, or to see a solicitor were laughed off with the apparently standard denial of rhetorical legal rights "you've been watching too much television". (See Bacon & Lansdowne 1981 p.17 and 22 for two similar comments by police cf McBarnet 1981 for the gap between Legal rhetoric and Law).

Trying to assert actual 'rights' got a different response:

> "After charging and the interview I was told I was to be finger-printed - when I refused I was hit with enough menace for me to change my mind". (C.)

Many of these police practices have counterparts in other areas where the purpose is to match a particular person to a 'real' offence, for example; intimidation and bashing used to subvert the 'right' to silence. But in this case the menace at the station might be seen as part of the regulation of a deviant subculture - the menace and specific threats were directed at keeping those who live in other areas out of St. Kilda (two defendants threatened with being caught with 11 caps of heroin if they were found in St. Kilda again) and scaring away those who did live there (these defendants were harassed by stopping and searching between the time of arrest and hearing).

Police Interrogation issues (voluntariness/fabrication of admissions) are much less relevant when the actual facts of the offences are said to have happened in the presence of the police.

Those who were interviewed were asked questions about the identity of the barrister who had got away at the party. Some were encouraged to admit that they had been drunk the night before but the point wasn't pressed. The issue of drunkenness became important at the trial as it was the only way of trying to save an increasingly less than credible police story. Perhaps the police took it for granted that the court case would result in a conviction via a guilty plea, or perhaps their focus was more on the penalty of arrest and detention, and 'getting punks out of St. Kilda' than the legal issue of the determination of guilt.

The Court Hearing

The hearing took place 6 months after the arrests and lasted 10 days. Most of the defendants had been in a court before as spectators, in one case as a defendant on a drunk and disorderly charge. Most said they were not especially intimidated when they gave evidence (some attributed this to the 'stupidity' of the police prosecutor).

The defendants were prepared to go along with perceived court requirements to avoid conviction; witnesses with the best credentials were called, a number of barristers were briefed, some from Fitzroy Legal Centre, but at least two private practitioners (one recommended by the defendant's employer, one obtained through the defendant's sister), and a system of rotating (mostly borrowed) suits was instituted amongst the nine male defendants.

Even where the court system is required to live up to its own rhetoric, (in this case by holding a trial) the contest is as much one of appearances, credentials and also stamina as of 'facts'.

On the other hand unwritten rules about demeanour and, particularly, about directing speech at the magistrate instead of answering the person asking the question, were flouted (Carlen 1976:24). The suits were often matched with inappropriate footwear (which is out of the magistrate's sight but not police or other participants) more significantly, perhaps.

One defendant, P., insisted on replying directly to the police prosecutor when answering questions, i.e. reimposing natural speech patterns. The police prosecutor instructed him to reply towards the magistrate, but P. answered that he was sure the magistrate could hear him, which of course he could. These techniques (for Foucault resistances to the control imposed by power in the court room) constitute a minor victory over the police and to some extent the court and its logic; they become the cornerstones of the subsequent retelling of the event, displacing the legal issues and the austerity of the court. Similarly, an account of the physical impossibility of some of the police assertions in court tends to displace the experiences at the station, and the continual menace of the police in any discussion of the events : police power transformed into police stupidity.)

The Findings

In the end, 34 of the 36 charges were dismissed, and the magistrate went out of his way to comment on the good character of several defendants. But the magistrate had to reinterpret the whole affair to produce this result and still make findings consistent with police propriety.

> "The findings are interesting in that the magistrate re-organized the events of the night as he saw them to have happened, i.e. giving weight to evidence he considered credible. As the events went he believed the defendants' stories in terms of sequence and order. Yet he disbelieved defendants in their insistence on brutality, or the lack of any necessity for police to be there (ie at the party). He reiterated the difficulty of a policeman's life

and (said that he) felt they'd acted in a way that was in accordance with their duty and that their manner was proper. All of this left a pretty bad taste in defendants' mouths." (C)

In fact the magistrate did criticize one policewoman, implying that she was less than fully truthful and may have been covering for another officer. (This was also reasoned as poor memory or confusion at the same time.)

Overall the magistrate allowed himself only the vaguest idea of what might have happened. In court he consistently confused the two women defendants, and when convicting J. of resisting arrest he found that his aggressive stance in the witness box was consistent with the police officer's account of aggressive behaviour, and leant weight to that account. But in fact J. was more than meek when giving evidence, the magistrate confused him with P.

Secondly be believed C. over 2 police that he had at all times 'acted responsibly' and said that the police could have mistaken who it was. He simply didn't refer to police evidence that C. had struggled and assaulted police whilst being arrested.

Thirdly, the prosecutor's account was not even internally consistent - making mistakes as to 'who' and 'where', and in attempting to establish that the defendants were aggressive and drunk.

Consequences for the Defendants

1. Police partially succeeded in their stated aims of getting 'punks' out of St. Kilda. Some of those not then living in St. Kilda stay away, or think twice before going there, and one who did live there has moved away. Two state that the fact that they think police know their faces affects what they do. (See cartoon page). But three of the people surveyed said they did not let the fact that they thought St. Kilda police knew them, affect what they did.

2. Not only does the illegal treatment at the police station turn procedural matters into a harsh penalty for getting arrested, but the legal processes themselves - being on bail, getting a lawyer, sitting through a long court hearing (10 days), and in some cases paying costs - are severe consequences for all regardless of whether they were formally convicted or not.

"The court case really affected me. It was a nightmare listening to all this bullshit from the coppers for ten days sitting there in my suit and tie. The magistrate was a real arsehole and had no idea of what was really happening ... I was a prisoner for 5 months on bail."(I)

"The main problem with waiting for the court case was that you could never get it from the back of your mind." "The end of the first week in court really tested my stability." (P)

"The impending court case was an inconvenience and a threat."
"Being arrested sets up a complete change in your life - a feeling of complete desolation for me." (C)

As for costs, the defendant with the downtown lawyer has to pay $4,700 of $6,000 total costs. For the others who replied to the questionnaire, legal aid paid between 2/3 and all of the $1,500 each bill. (The magistrate rejected a subsequent application for costs to be awarded against the police, and reiterated how difficult he thought it must have been for the police that night.)

Against all of this the $50 penalty on two defendants as a result of being convicted is insignificant. (But the fact of having a conviction recorded against them is not.)

Some Conclusions

(A) Crucial to the criminal process are the defendants' perceptions of the consequences of a conviction and their perceptions of the consequences of pleading not guilty. Accordingly, attempts (by either side) to speed up the process of magistrates' justice, or to simplify court procedures in a way that might make a court appearance less intimidating, is likely to lead to more pleas of not guilty, and hence drag the process in the direction of its rhetoric. Without a decrease in the number of people presented to the court in the first place a backlog would again increase and the original pressures to plead guilty would return. So the short term process of reforming the trial process must also consider changing the 'detection' or 'creation' of defendants with a view to reducing their number (e.g. reducing the number of offences, changing police practices).