

Police vidiots

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Police violence against young people has angered the Western Australian community.

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On the night of 8 May 1992, Joseph Dethridge had his jaw broken by a police officer. This took place in the Fremantle Police Station. The sequence of events immediately leading up to the incident was captured on video. The officer who broke the 17-year-old's jaw was Sergeant Desmond Smith, who was the duty officer in charge of the station that night.

This article describes the Dethridge case, and attempts to place it in the wider context of police violence generally and of police disavowal of responsibility for the use of this violence.

It is important to know beforehand that Dethridge and a friend, who were charged by the police with minor street offences (e.g. use of obscene language), were absolved by the court of any wrongdoing in both the lead-up to the event and during their period at the station. The young men had been talking outside a Fremantle bookshop when two constables in plain clothes ordered them to move on. One of the police officers demanded the name and address of Dethridge's friend. He refused, complaining of police harassment. He was then placed under arrest and frog-marched down the street towards the police station. At this point, Dethridge, returning from a nearby coffee shop, saw what was happening and began to protest to the police, insisting that he be given the officer's name and number. He was likewise arrested and taken to the police station. While there, one of the arresting officers assaulted him twice. Shortly afterwards, the sergeant in charge, Desmond Smith, responded to his angry protests by taking him out of the room (and momentarily off camera) and punched him in the face, breaking his jaw. John Dethridge, the father of Joseph, then arrived at the police station. Worried and angry about his bleeding and injured son, he demanded answers about what had been going on. He was ordered out of the police station and threatened with arrest if he did not comply.

Denials, pleas and the videotapes

Joe Dethridge's parents followed up the assault on their son with action of their own. Julie Dethridge twice phoned the Fremantle Police Station to complain about the assault, and was assured by a Superintendent that an internal investigation was under way. She also wrote to the Police Minister Graham Edwards about the incident. However, the Dethridges did not want to deal with internal investigators because they had no faith in police investigating the police.

In the lead up to their son's appearance in court on a disorderly conduct charge it became known that a videotape of the event was in existence. When Joe Dethridge appeared in Fremantle Children's Court on 27 May, the officer-in-charge of the Fremantle police region was subpoenaed to present the videotape. This was countered by a Crown Law officer who argued that the tape was privileged and should not be shown. The case was then transferred to the Perth Children's Court and set for hearing on 27 July.

Meanwhile, Desmond Smith had been charged with assaulting Joe Dethridge at the Fremantle Police Station. Initially Smith pleaded 'not guilty' to the assault charge. That plea was changed to 'guilty' on 22 July, and the case was adjourned for sentencing to 24 July. The same day, a member of Dethridge's defence team was contacted by telephone by a member of the police prosecuting section and told that the police would not be offering any evidence against their client.

On Friday 24 July, as part of the sentencing proceedings, Richard Utting, counsel for Joe Dethridge, publicly denounced the apparent 'collusion' between prosecuting authorities and Sergeant Smith's defence lawyer to suddenly and quietly change his plea on the Wednesday of that week. Utting also won the right to present the videotape as evidence in the Dethridge 'disorderly conduct' case. This caused proceedings to be adjourned to 11 November. Later that same day the Dethridge legal team was informed that they should disregard any previous correspondence about charges being withdrawn (which had come from the police internal investigation unit), and that the prosecution would proceed against Joe Dethridge. On 5 August, Western Australia's Director of Public Prosecutions announced that he, rather than a police officer, would present the prosecution case against Smith because it was appropriate that it be conducted independently. Eventually, before the hearing for sentencing could take place, a letter from the Police Department, signed by an Assistant Commissioner, advised that it was not in the public interest to proceed, effectively clearing Dethridge of all charges.

On 11 November Sergeant Smith was found guilty of assault. A key part of his conviction was the evidence on the videotape. Although the videotape did not show the actual punch which broke Dethridge's jaw, it did pick up the sound of the blow and the moans of the youth. It also showed Dethridge being roughly treated by one of the arresting officers before the major assault by the sergeant-in-charge.

Sergeant Smith was fined \$5000 for assaulting Joseph Dethridge.

Police violence

The Dethridge case generated an enormous amount of media interest in Western Australia and beyond. Footage from the videotape was subsequently aired nationally on Channel 9 News and on 'A Current Affair', much to the consternation of the WA Police Commissioner. Certainly the existence and release of footage from the police station videotape was a prime reason for the media interest. The videotape provided graphic viewing and engendered considerable outrage about the events of that particular night.

But the social background and financial resources of the Dethridges also had much to do with keeping the case in the public eye. Joseph Dethridge was 'just an ordinary' youth: white, middle-class and 'typical' of so many others of his age in the local area. He was not Aboriginal, poor, unemployed. He belonged to the so called respectable side of the tracks. His parents were well-known in the community, as owners of a real estate business. If this could happen to Joe, then it could happen to anybody's son!

As the issue gained further prominence, it became clear that what had happened to Joe was not in fact terribly unusual. The evidence of police violence against Aboriginal juveniles is irrefutable.¹ Now people were in a position to appreciate that the Royal Commission into Aboriginal Deaths in Custody was not 'exaggerated' or simply a reflection of 'special interests'. Similarly, the data on police violence directed against the homeless and unemployed young people, the marginalised sections of the youth population, could, perhaps, now be taken a bit more seriously.² A report released by the Youth Justice Coalition of Western Australia about the time of the Smith trial revealed that serious police misconduct was endemic in the relationship between police and young people. It found, for example, that young people using youth and legal services in WA reported that they were subject to physical violence in 30%

of cases, verbal abuse was used in over 50% and violent threats featured in 47% of those instances of police-youth contact.³

The extent and casualness of the violence used by police 'as a matter of routine' have been subject to much documentation in recent years. However, the fact that much of this violence is hidden away in police vans and police stations, and that the media tends to be rather more protective of police interests, than those of social groups such as Aborigines and young people who have less social power, have meant that rarely has police violence itself been subject to sustained public scrutiny. In the Dethridge case, however, two things shocked many viewers: the actual physicality and aggression shown by the offending officers at the police station; and the fact that other officers barely moved a muscle or blinked an eye while the assaults were going on around them. To hear about police misconduct is one thing – to see it quite another. Joe Dethridge was the face, the humanity, represented in the dry, abstract statistics, and now we were all in a position to view for ourselves the actual damage and the frightening immediacy of the assault.

The financial resources and fighting spirit of Joe's parents also had much to do with the high profile of the case. The Dethridges spent a considerable amount of time, money and energy in defending their son against trivial and trumped up legal charges, and publicly pursuing the case against the man who had broken their son's jaw. To their credit and that of their lawyer the Dethridges also realised very quickly that this case was not a one-off. Alliances were made with other parents whose children had experienced similar types of violence. Many different community groups were encouraged to become involved in discussing the issues raised by the case. The Youth Justice Coalition (WA), the Youth Legal Service, the Anglican and Uniting Churches, Aboriginal Community Groups and others used the case to illustrate and highlight the more general and deteriorating relationship between young people from many different social backgrounds and the Fremantle police. Youth workers, such as Michael House from the Fremantle Youth Service, were to claim that about 80% of the male teenagers dealt with at the court complained of verbal or physical harassment at the hands of the police.⁴ Julie Dethridge participated in many radio talkshows, television interviews and press conferences, always with a view to expressing her outrage at what had been done to her son, but, as well, stressing the need to find a constructive means to ensure that the same would never happen again.

The police were, unusually for Western Australia, on the defensive.

The Police Union and community reaction

As is often the case when individual officers or the police as a group are criticised, the most vociferous defence of the existing complaints system and of prevailing police practices was provided by the police union. The Western Australian Police Union certainly has a strong record of intervention in public debates, aggressively protecting its membership from any outside criticism whatsoever.⁵ In the month leading up to the Smith trial the just-elected president of the Police Federation of Australia and New Zealand, and WA Police Union president, Mick Brennan, publicly blasted 'cockroach' politicians, 'minority groups' and 'community watchdogs'. According to Brennan, 'We are under siege from all sides by so-called responsible people. Politicians, civil libertarians, Aboriginal lobby groups, gun lobby groups are all on the gravy train. They fire the bullets but are never prepared to substantiate

their allegations'.⁶ Even if this were the case (which it is not – see the evidence on misconduct cited above), how then should we expect the police union to respond to an instance where the officer has actually been convicted of an offence?

In the Dethridge case, the answer was simply to deny personal responsibility on the part of Smith for his actions. The union played an extraordinary role in defending Smith. First, it was involved in assisting arrangements for a 'well-wisher' to pay Sergeant Smith's court-imposed fine for the assault. Second, it tried to portray the 'main issue' as that of the adverse conditions and stresses under which the Fremantle police were working, thereby absolving Smith of blame for the incident. Third, when Smith was sacked by the Police Commissioner on 24 November 1992, the police union immediately threatened industrial action. The fact that Smith had applied for a transfer from the Fremantle lockup six weeks before the assault was seized on as part of a general focus on working conditions. On 6 December 1992 the union held a special meeting, its biggest ever, with over 1400 officers present at Leederville oval. The meeting voted for the immediate reinstatement of Sergeant Smith, and passed a motion of no confidence in the Police Commissioner and the Police Minister. After the meeting the crowd gave Smith three cheers of support when he addressed the gathering. The meeting also passed a motion restricting union members' dealings with the media because of a claimed negative bias in reporting of police and police activities.

While the police union was mobilising its membership to put pressure on the Government and the media to prevent any substantial erosion of police powers as well as to gain more resources, other sections of the community were stepping up their calls for fundamental institutional changes.

On 22 November about 1000 people attended a public rally called by the Dethridge family to discuss concerns about policing in WA. Only a few days before the rally the WA Police Department decided to apologise publicly to the family. Nevertheless, the Fremantle rally went ahead, and a series of resolutions were endorsed. These included that:

- Parliament establish an independent body to investigate complaints against the police;
- video surveillance cameras be set up at all police stations and lockups covering areas where members of the public are likely to be taken;
 - the tapes from such cameras be under the control of an independent body such as the Ombudsman;
- Parliament enact legislation to ensure that:
 - (a) when a juvenile is interviewed by police an independent adult must be present;
 - (b) every person in police custody has an immediate right to make telephone calls to family, friends and lawyer;
 - (c) every person in police custody suffering from disease or injury has an immediate right to medical attention;
 - (d) police must proceed by summons instead of arrest unless exceptional circumstances exist;
- the Government fund the Legal Aid Commission to set up a 24-hour service for people in custody to seek legal advice.

At the meeting the Youth Legal Service Co-ordinator, Christina Kadmos, summed up the thoughts of many there when she said that the mistreatment of young people by police was widespread and deep-rooted: 'I recognise that the police have a difficult job. They often have to deal with violent situations and difficult working conditions, but it is their job and there is no excuse at any time for abuse of power'.⁷

A week later, former Sergeant Desmond Smith held his own rally in Fremantle. He announced that he was launching a 'crusade' to improve police work conditions in lockups and police stations and to increase staff numbers. The 13 December 'pro-police' rally was attended by about 70 people, mostly off-duty policemen and their families.

Accountability is the issue

The Dethridge case brought to light a number of issues which had been simmering just below the surface of Western Australian political life for quite some time. The crucial underlying issue was and is the nature and extent of police power in the State. Politically, any substantial challenge to this power has invariably been thwarted, and even Police Ministers have apparently been replaced or retained at the insistence or whim of the police union. While occasionally subject to internecine squabbles, for several years now there has been an extremely close and mutually supportive relationship between the Police Minister, Police Commissioner and the Police Union. Disagreements on specific issues have not been allowed to override general agreement on the basic tasks of the police, or to threaten the privileged position and voice of the conservative men who stridently defend and advocate strong police powers and substantial social resources being put into law and order.

The political fallout from the Dethridge case took the form of a Cabinet decision to form a Police Board to help the Police Commissioner develop departmental policies. But this Board was not to have power to oversee complaints against the police. It was left to the State Ombudsman to undertake investigation into cases such as that of Joe Dethridge, and to continue to handle specific complaints.

Steps necessary to carry out real and significant changes in the accountability structures of policing were outlined by Reg Davies, an Independent member of the Legislative Council, in a speech to Parliament on 24 November. In a systematic dissertation on the problems and conflicts besetting the police force in Western Australia, Davies called for the establishment of a Select Committee into the Western Australian Police Service.⁸ Throughout 1992 Davies had been a lone voice in Parliament, constantly arguing the need for an extended review of policing in Western Australia. During this time he had been attacked by the police union, branded a 'cockroach', initially virtually ignored by the local media, and continually criticised by members of both the major political parties for supposedly casting aspersions on the Western Australian police. When the State election was called for early 1993, the persistent efforts of Davies to institute reforms in this area were relegated to the backburner once again. One can only wonder when someone with the courage, fortitude and conviction of a Reg Davies will once again put police reform back on to the political agenda in Western Australia.

Community groups, Reg Davies and the Dethridge family engaged in a sustained campaign against police abuses of power and for greater accountability to be built into the present system over a period of many months. Public opinion polls showed substantial majority support for a public inquiry into policing in WA. The Police Department attempted to respond to this pressure by issuing a public apology and by sacking the source of the public outcry. The Government of the day tried to hose down public reaction by speaking about Police Boards and the role of existing agencies such as the Ombudsman.

In the end, however, no significant changes to accountability and complaints structures have taken place. Indeed, during

the State election the Labor Party not only promised an extra 227 police officers, it openly took pride in the fact that WA has the highest ratio of police to citizens and that this would be maintained. The issues raised by the Dethridge case apparently were not of electoral interest (so much so, that both Julie Dethridge and lawyer Richard Utting ran as independent candidates in the State election to press home the police abuse issues).

Taking his sacking to the WA Industrial Relations Commission in January, Smith argued that he had been unfairly dismissed. It was argued that he had had an unblemished record for 16 years before the incident, he was widely respected in the force, he had tried to transfer from an unpleasant work environment and that he had little prospect of obtaining employment.

During the hearing Smith also admitted to falsifying an entry in the lockup's occurrence book, referring to the way in which Joseph Dethridge sustained his injuries. He was reinstated to the police force in February 1993.

References

1. See Cunneen, C., *A Study of Aboriginal Juveniles and Police Violence*, Sydney, Human Rights and Equal Opportunity Commission, 1990; and Johnson, E., *Royal Commission into Aboriginal Deaths in Custody*, Canberra, AGPS, 1991.
2. See, for example, Alder, C., 'Victims of Violence: the Case of Homeless Youth', (1991) 24(1) *Australian and New Zealand Journal of Criminology* 1-14; White, R., Underwood, R. and Omelczuk, S., 'Victims of Violence: the View From the Youth Services', (1991) 24(1) *Australian and New Zealand Journal of Criminology* 25-39; and Alder, C., O'Connor, I., Warner, K. and White, R., *Perceptions of the Treatment of Juveniles in the Legal System*, Hobart, National Clearinghouse for Youth Studies, 1992.
3. Youth Justice Coalition (WA), media release 'More evidence of police violence', Perth, 7 October 1992.
4. Quoted in Kelly, J., 'Dethridge "Not Alone"', *Fremantle Gazette*, 17.10.92.
5. See White, R. and Richards, C., 'Police Unions and Police Powers', 1992 4(2) *Current Issues in Criminal Justice* 157-174.
6. Quoted in Taylor, N., 'Cockroach MPs Hinder Police', *Sunday Times*, 4.10.92.
7. Quoted in Winterton, H., 'Bashing Rally Urges Changes', *West Australian*, 23.11.92.
8. Davies, Hon. Reg, 'A Police Force in Crisis!', speech in the WA Legislative Council, Perth, Hansard, 24 November 1992.

LEGAL STUDIES

Two articles in this edition raise questions about the role of the police in juvenile justice: 'Juvenile justice: the thickening blue wedge' by Danny Sandor (p. 104) and 'Police vidiots' by Rob White (p. 109).

Questions

1. On reading these two articles, what problems do you see in the call for increased police powers in the area of juvenile justice? What dangers lie in police progressing from being 'gatekeepers' to 'co-ordinators' of the juvenile justice system? (Sandor, p. 107)
2. Can bad working conditions for police provide a sufficient justification for abuse of police power?
3. Was the public outrage in the Dethridge case disproportionate to public concern for the reported abuses suffered by Aboriginal youth in the justice system?
4. Are internal investigations an adequate remedy to abuse of police power? Why? Do you consider it just, that officer Smith was reinstated in the Dethridge case?
5. Sandor claims that young people 'are already one of the most over-policed segments in our community'. Why should this be the case?
6. 'The rise of a victim-focused discourse is paralleled by a corresponding intolerance for the foibles of young offenders. The lack of formal political power available to young people makes them an easy mark for over-policing and the fabrication of "crime waves".'

What problems does Sandor identify in the trend to 'victim-focused discourse'?

What can be done to increase the political power of young people?

Is enough being done to educate young people about their rights on arrest?

Conversely, are the police sufficiently educated about the problems of young people?

Research

Consider the role of the media in relation to juvenile justice in general and in the Dethridge case in particular. In the Dethridge case, it can be argued that the media played a valuable role in shocking the public out of its complacency. In regard to juvenile crime, however, the media have been criticised for sensationalism. Examine the media treatment of juvenile justice over a set period (for instance, two weeks) by:

- collecting newspaper and magazine articles; and
- reporting on the news and current affairs programs on television and radio.

Does the reporting reveal a bias for or against young offenders? Is juvenile crime sensationalised?

Group discussion

- What problems posed by family group conferences are identified by Sandor? Divide into groups and consider alternatives to family group conferences.
- Critically examine the resolutions endorsed by the Fremantle rally as noted in the White article. How effective would these measures be? How difficult would it be to implement these changes? Can you suggest further measures to protect individuals on arrest?

Further reading

For discussions of some of the causes of youth crime see:

Wilson, Paul and Lincoln, Robyn, 'Young people, economic crisis, social control and crime',



- (1992) 4 *Current Issues in Criminal Justice* 110.
Symonds, Ann, 'Crime and the recession' (1992) 4 *Current Issues in Criminal Justice* 187.
Vinson, Tony, 'Crime and the recession' (1992) 4 *Current Issues in Criminal Justice* 179.

For developments in the juvenile justice system in Australian jurisdictions see:

Brezniak, Daniel and Alvarez, Pamela, 'Punishing children: the new road', (1992) 30 *Law Society Journal* 32.

Wundersitz, Joy, 'The net-widening effect of aid panels and screening panels in the South Australian juvenile justice system', (1992) 25 *Australian and New Zealand Journal of Criminology* 115.

White, Rob, 'Tough laws for hard-core politicians', (1992) 17 *Alt.LJ* 58-60.

Hill, Richard and Moyle, Paul, 'A solution to reducing juvenile recidivism rates? A day in prison', 17 (1992) *Alt.LJ* 224.

Bishop, Stephen L., 'Rehabilitation the primary aim - general deterrence not a substantial consideration', (1992) 30 *Law Society Journal* 76.

For discussions of the New Zealand approach to juvenile justice see:

Ludbrook, Robert, 'Juvenile justice - New Zealand's family oriented approach', (1992) 17 *Children Australia* 7.

Hassall, Ian, 'The Children, Young Persons and Their Families Act 1989', (1992) 17 *Children Australia* 4.

Morris, Allison, 'Youth justice in New Zealand: a new paradigm for making decisions about children and young people who commit offences', (1992) 9 *Commonwealth Judicial Journal*.

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