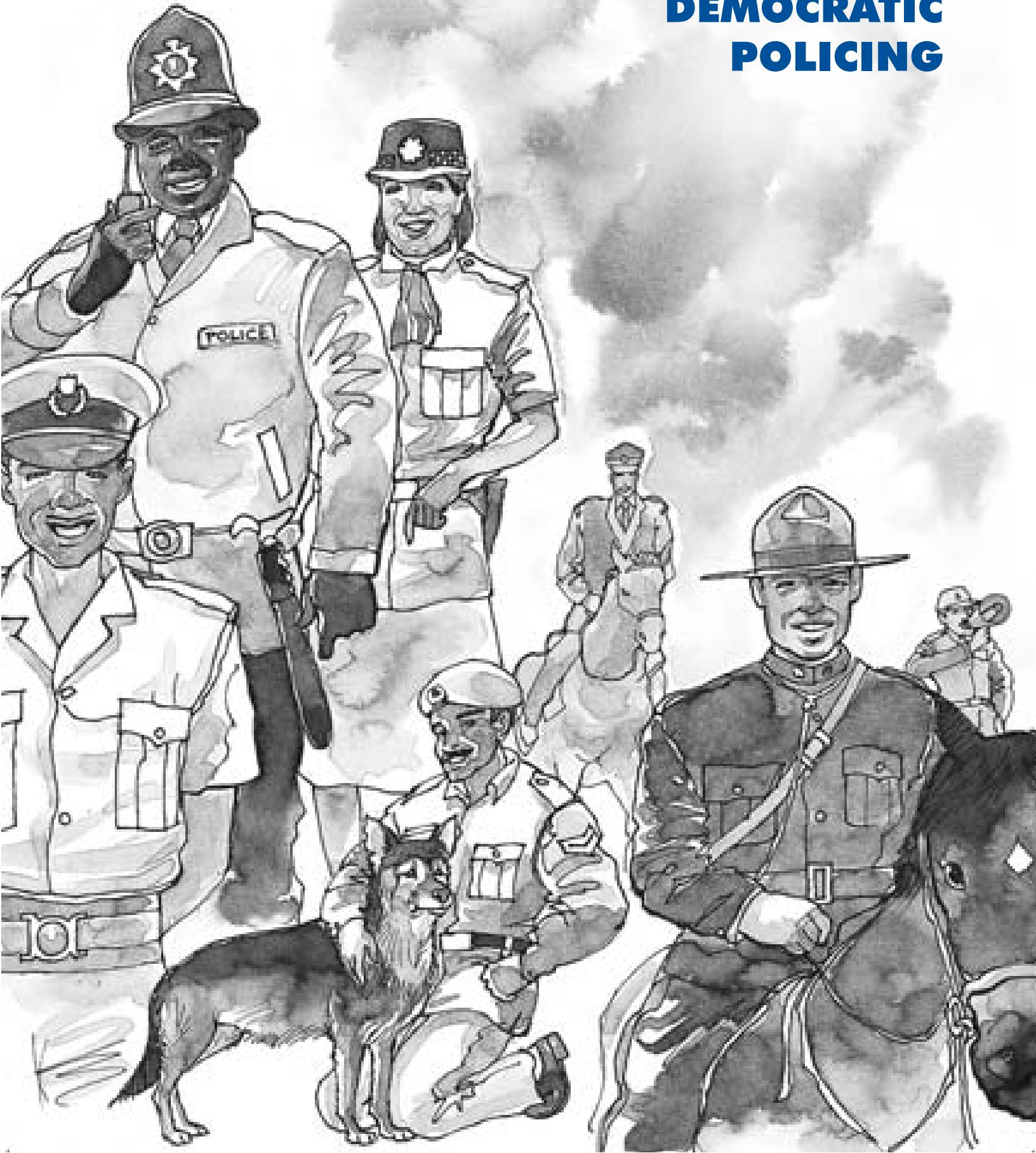


## Chapter 2

# DEMOCRATIC POLICING



# D

emocratic nations need democratic policing. Democratic policing is based on the idea of the police as protectors of the rights of citizens and the rule of law, while ensuring the safety and security of all equally. It rejects any resemblance to the regime policing of colonial times. Colonial style policing was based on the idea of police as protectors of a government foreign to the people.

Under the colonial approach, the police:

- answer predominantly to the regime in power and its bureaucracy and not to the people;
- are responsible for controlling populations, rather than protecting the community;
- tend to secure the interests of one dominant group; and
- are required to remain outside the community.

In contrast, democratic policing requires the police to:

- create the security environment which best promotes democracy;
- espouse only such methods of functioning that accord with the rule of law and do nothing to damage it; and
- order their organisational design to best achieve these ends, as well as demonstrate from within itself adherence to the principles of good governance.

Democratic policing follows from and gives practical meaning to the Commonwealth's promise of democracy and good governance. It is applicable to any context in the Commonwealth, rich or poor, large or small, diverse or homogenous. Even where police Acts have not been revamped and do not explicitly speak of the new and expanded role of the police, policing has to be reinterpreted in light of the new constitutional mandates that today put the citizen at the centre of the State's concern and place the highest value on human rights.



Increasingly, the fundamental purpose of policing is seen as being the protection and vindication of the human rights of all. In creating a new policing framework that could contribute to healing the wounds in Northern Ireland, the Independent Commission on Policing insisted that the police must "...uphold the laws that safeguard the lives of citizens. There should be no conflict between human rights and policing. Policing means protecting human rights".<sup>57</sup> As a result, the law provides an oath of office, which includes the commitment to faithfully discharge duties while "upholding fundamental human rights and according equal respect to all individuals and their traditions and beliefs".<sup>58</sup>

As the primary agency responsible for protecting human security, the police are particularly responsible for turning the promise of human rights into reality. The failure of the police to properly perform their duties has a significant effect on the ability of citizens to enjoy the full spectrum of all their human rights and can also impact negatively on the ability of governments to deliver on their mandates.

Respect for human rights is also central to the actual conduct of police work - how the police do their work. Unlike any other agency of government, the police are given wide powers, including the authority to use force against citizens. This power to infringe on citizens' freedoms carries with it a heavy burden of accountability. Good systems of governance require that the police account for the way they carry out their duties, especially for the way they use force. This ensures that the police will carefully consider the methods that they use to protect peace and order, and that incidents of police misconduct or abuse of their powers will be dealt with harshly.

## HALLMARKS OF DEMOCRATIC POLICING

Democratic policing is both a process - the way the police do their work - and an outcome. The democratic values of the Commonwealth lay down a sound framework for this.

A 'democratic' police organisation is one that:<sup>59</sup>

- **is accountable to the law, and not a law unto itself.** The rule of law is not meant for just the people while the police and government remain immune. Democratic policing requires that the police act within their boundaries and within international laws and standards. Actions of the police are always subject to court scrutiny and those who break the law face consequences both through internal disciplinary systems and the criminal law.
- **is accountable to democratic government structures and the community.** To ensure that the police do not become overly controlled by or identified with a single seat of power, democratic police independently answer to all three branches of governance, as well as to the community.
- **is transparent in its activities.** Most police activity should be open to scrutiny and subject to regular reports to outside bodies. People must be able to find out about the formulation of policy, manner of functioning and areas of priority. Information about individual behaviour, as much as broader operations, must be in the public domain.
- **gives top operational priority to protecting the safety and rights of individuals and private groups.** The police must primarily serve the people and be responsive to the needs of individuals and members of groups - especially those who are vulnerable and marginalised. In diverse and fragmented societies, police organisations must be responsive and respectful across social divides and always uphold the law without bias.

"In a democratic society, the police serve to protect, rather than impede, freedoms. The very purpose of the police is to provide a safe, orderly environment in which these freedoms can be exercised. A democratic police force is not concerned with people's beliefs or associates, their movements or conformity to state ideology. It is not even primarily concerned with the enforcement of regulations or bureaucratic regimens. Instead, the police force of a democracy is concerned strictly with the preservation of safe communities and the application of criminal law equally to all people, without fear or favour"

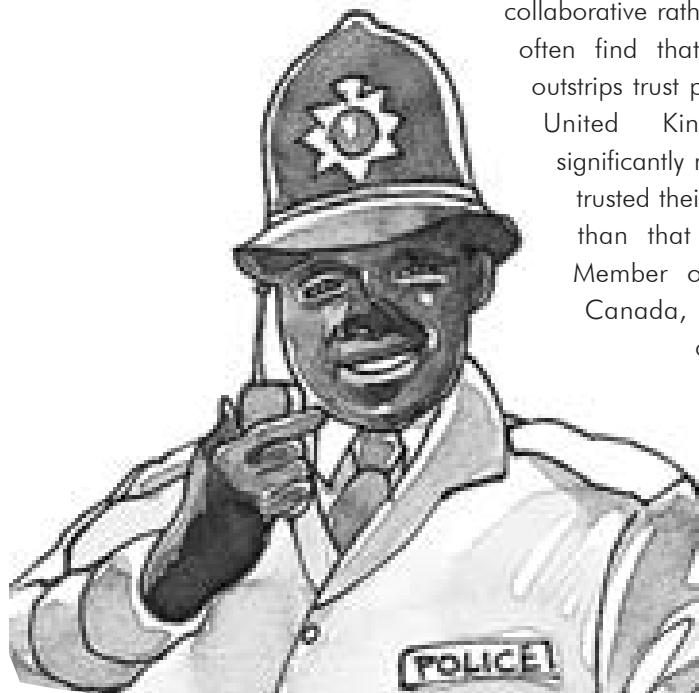
- United Nations International Police Task Force, 1996.

- **protects human rights.** This requires police to protect the right to life and dignity of the individual, as well as the exercise of democratic freedoms - freedom of speech, freedom of association, assembly and movement. They must also ensure freedom from arbitrary arrest, detention and exile, and impartiality in the administration of the law.
- **provides society with professional services.** As an organisation with huge powers in which the public places enormous trust, the police must be governed by a strong code of ethics and professional conduct and be answerable for delivering high quality services.
- **is representative of the communities it serves.** Police organisations that reflect the population they serve are more likely to enjoy their confidence and cooperation and earn the trust of vulnerable and marginalised groups who most need their protection.

A democratic approach to policing benefits the community, police officers, and governance alike. Openness allows the community to understand the challenges faced by police; and constant dialogue helps set common priorities. Responsibility for safety then becomes a shared objective and the police become allies in keeping the peace rather than instruments of government oppression. Community cooperation is more assured and information is more likely to be shared - as a result, crimes are better prevented and more easily solved.

With better performance comes a more positive public image and a boost to the morale and professional pride of the staff of an organisation that is doing an inherently difficult job.

Surveys in countries whose police take a more collaborative rather than coercive approach often find that trust in the police far outstrips trust placed in politicians. In the United Kingdom, for example, significantly more people said that they trusted their local police officer (82%) than that they trusted their local Member of Parliament (44%).<sup>60</sup> In Canada, a government survey conducted during 2003 found that 82% of people had a "great deal" or "quite a lot" of confidence in the police, while only 43% had a similar level of confidence in the federal parliament.<sup>61</sup>



## ACCOUNTABILITY IN PRACTICE

A key feature of democratic policing - in line with the checks and balances that characterise democratic systems of governance - is that the police are formally held to account in a variety of ways for their performance as much as for any wrongdoing. They must also be made to bear the consequences.

There are commonly four types of accountability or control over police organisations:

### **Government (or state) control:**

The three branches of governance - legislative, judicial and executive - provide the basic architecture for police accountability. In a thriving and active democracy, the police are likely to be regularly held accountable in all three halls of state. For instance, police chiefs are often required to appear in the legislature and answer questions from the elected representatives of the citizenry. Or they may be subject to questioning by other branches of government such as Auditors-General or Finance Departments. Where there is a strong and independent judiciary, cases may be brought in courts regarding police wrongdoing, with possible compensation for those affected, or to verify or amend decisions made by police officials.

### **Independent external control:**

The complex nature of policing and the centrality of police organisations to governments require that additional controls are put in place. Institutions such as National Human Rights Commissions, Ombudsmen and public complaints agencies can oversee the police and limit police abuse of power. At least one such independent, civilian body is desirable in any democracy, although many Commonwealth countries in fact enjoy the services of a number.

### **Internal control:**

All "well functioning accountability systems are grounded, first and foremost, on internal police mechanisms, processes, and procedures."<sup>62</sup> Reliable disciplinary systems, appropriate levels of training and supervision, and systems for monitoring, evaluating and recording performance and crime data all create the necessary apparatus to hold policing to a high standard.

### **Social control or "social accountability":**

In a democracy, holding the police accountable is not merely left to formal institutions that represent the people, but is also the right of ordinary people themselves. The media, community groups (such as crime victims, business organisations, and local civic or neighbourhood groups), and individuals all monitor and comment on police behaviour to spur them to better performance.

A democratic approach to policing benefits the community, police officers, and governance alike.

Responsibility for safety then becomes a shared objective and the police become allies in keeping the peace rather than instruments of government oppression.

There is no hard and fast rule about the form that good police accountability must take. Much depends on the circumstances of each country and the nature of the existing relationship between the police and the community. CHRI advocates that the basics of sound accountability required in most circumstances are vigilant internal processes and procedures coupled with external oversight by the three wings of government plus one independent body.

### A Model for Police Accountability: 3 + 1

An effective model includes oversight by:

- democratically elected representatives (in national parliaments if police are structured at the national level, in state legislatures if police are organised at the state level, and in local councils if policing is organised at the local level);
- an independent judiciary;
- a responsible executive (through direct or indirect policy control over the police, financial control, and horizontal oversight by other government agencies such as Auditors-General, Service Commissions and Treasuries); and
- at least one independent statutory civilian body, such as an Ombudsman or a Human Rights Commission or, ideally, a dedicated body that deals with public complaints about the police.