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### APPENDIX
ACKNOWLEDGEMENTS

This thesis includes material obtained from field interviews, media articles, departmental documents, literature reviews, speeches, parliamentary hansard and a variety of other sources including personal knowledge gained through many years of service working as a policy adviser to Police Commissioners and Ministers.

I acknowledge with appreciation the guidance and encouragement given by my two supervisors Professor Patrick Weller and Associate Professor Glyn Davis. I also thank Brian Pitman, Pam Blowers, Peter Barrow, Jennifer Dudley and others for reading and assisting with the penultimate draft and offering important suggestions on the structure and presentation of the thesis. Finally my thanks to my wife and children for their kindly support and help through many years as a student and particularly during the doctorate student years. Any errors or omissions are of course my own.

“This work has not previously been submitted for a degree or diploma in any university. To the best of my knowledge and belief, the thesis contains no material previously published or written by another person except where due reference is made in the thesis itself.”

Grant Pitman
November 1998
SYNOPSIS

Australian Police Ministers and Commissioners occupy a pivotal position in the system of law enforcement. Collectively, they are responsible for the general policy, administration and operational direction and control of policing through the Australian States. There has been in the past twenty five years a growing complexity and a variety of problems facing police agencies which are arduous and demanding. Continuing social tension of recent years have given police ministers and commissioners higher public profiles than ever before.

The research undertaken in this thesis examines the difficulties experienced between police ministers and commissioners in Queensland and New South Wales from 1970 to 1995. Three models have been developed as a framework to analyse the relationships and how they operate. The three models are called ‘Dependency’, ‘Independency’ and ‘Interdependency’.

Twenty-one police ministers, commissioners and advisers from Queensland and New South Wales were interviewed during the course of the research. Five separate case studies were developed to analyse and interpret the relationships within the context of the three models. A summary chapter of additional research data provides supporting information which was used to substantiate the case study material.

The conclusion argues that relationships operate more effectively when elements of the ‘Interdependency’ model exist. The need for further debate about the administrative, legal and management elements of the working relationship between a police minister and commissioner is essential to achieve a balance between policy, administration and operational requirements within a modern western democratic policing system.
CHAPTER 1 - INTRODUCTION

The cause of almost all relationship difficulties is rooted in the conflicting or ambiguous expectations around roles and goals (Covey 1990:194).

In the past twenty years policing issues, including police minister and commissioner relationships, have moved into the political foreground in Australia. The position of police commissioners and their relationships to ministers in a Westminster democratic system have become central to the debate about controlling police direction and resources, yet they are often based on different assumptions. The expectations of police commissioners generally are based on a belief that they make all the “operational” choices for their command.

On the other hand, police ministers believe that they have overall responsibility for police services on behalf of parliament, the government and the people. An illustration of these differing expectations and resultant conflicts can be seen in several state police jurisdictions including Queensland (Whitrod and Newnham), New South Wales (Avery and Lauer), South Australia (McKenna and Salisbury) and Victoria (Frame). Personalities of the police minister and commissioner as well as political factors will have an impact on this real and pervasive problem, but the issue is far more deep-seated. The problem arises from differing understandings of role, and extensive ambiguity in the model of responsibilities which governs the relationship. The importance of this central question can be illustrated by the Queensland experience and particularly by comments made by Sir Max Bingham of the Criminal Justice Commission.

The introduction of the Queensland Police Service Administration Act 1990 was a major attempt to define the official relationship between the Minister and the Commissioner. As Sir Max Bingham (1992:522) stated in an address to Australian Police Commissioners in 1992:

The new legislation in Queensland attempts to solve that area of difficulty by listing things that are clearly within the jurisdiction of the Commissioner, and requiring when a policy direction is given by the Minister, that it be recorded and registered and the register tabled each year in Parliament .... But there are special refinements in the relationship between Police Minister and Commissioner because of the need to maintain that political independence, in the broad sense, of the Police Service.

This thesis will critically analyse several police minister and commissioner
relationships, all of which were characterised by conflicting political and social expectations. These expectations and role conflicts are grounded in the way in which police organizations and governments are structured and administered. The thesis captures a simple hypothesis: that neither of the traditional models of the relationship, as generally espoused by commissioners and ministers, are adequate. Therefore a more complex dynamic model, called in this thesis ‘Interdependency’ should be developed to allow for descriptive accuracy and theoretical/constitutional realities.

It appears deceptively simple. Police departments in Australia are ministerial departments (Plehwe & Wettenhall 1993). A police department is designed to be accountable to ministers on administrative issues, but by convention, independent on operational issues. The police are funded by governments and required by both legislation and common law to provide a comprehensive policing service directed towards law enforcement, law and order maintenance and the provision of other social services.

Several fundamental issues have dominated the historical and legal debates on policing. First, there is the balance between state administrative and policy control and the operational independence of police to enforce the laws of parliament. Second, there is the question of how the police commissioner/minister relationship can be managed when accountability and control are defined by a range of legal, administrative and conventional processes. Third, there is the meaning of ‘operational independence’ needing to be determined. Fourth, how ‘operational independence’ interfaces with ministerial accountability and control must be resolved.

These issues need to be addressed by examining the Westminster democratic parliamentary system and the origins and development of modern policing in western democratic society. Therefore, this thesis also aims to examine and critically analyse these traditions, rules, and understandings, and consider the conventions and incomprehensions which characterise the difficult relationships between police ministers and police commissioners.

The central proposition is that the minister/commissioner relationship will work only when both sides acknowledge their interdependence and seek to manage their behaviour accordingly. This thesis will therefore finally consider policy and relationship options about the range of different conventions that might promote stable minister and police commissioner relationships.
Operational and Administrative Relationship

Police commissioners in Australia do not operate in a policy or administrative vacuum. They must negotiate directly with their ministers, (or indirectly through a board and a ministry in New South Wales and Victoria respectively), (1) for the necessary resources, policy direction and management decisions. They must also conform to a range of accountability measures determined by parliaments through legislation, such as program management. Police commissioners have claimed independence on law enforcement issues based on common law convention and interpretation of legal cases. Yet, this notion of independence must be viewed within the context of the Australian parliamentary systems which have created the police department's form and structure and which sustains the organisational direction within the historical context of modern policing. The structural, historical and ideological nature of police independence will be discussed further in chapter 5 of this thesis.

In 1829, the modern police force was established by Sir Robert Peel in England with its authority and accountability "to the citizenry through the rule of law and not from the capacity to employ deadly force" (Skolnick & McCoy 1985:103-104). The police structure had two Commissioners and was accountable to the Secretary of State as its Police Authority, with the Minister being directly answerable to the House of Commons (Peters 1990:96). However, policing structures, forms and direction in England have evolved and been refined through political changes and adjustments to the parliamentary process, and the findings of Royal Commissions of Inquiry and judicial interpretation of the role of police.

According to Plehwe (1973:76), Australia, as a colonial power adopted the English model of policing. With this model has come the common law powers of state and federal legislation. Both the English and Australian courts have suggested that commissioners' powers are vested in their oath of office as a constable of police.

......

(1) Changes to State legislation during 1993 have included or redefined the role of Police Ministries and Boards in New South Wales and Victoria. These Ministries and Boards are responsible to the Police Minister on policy development and a range of functions and advice regarding police management practices. For further information, see the Public Service Management Commission Review on the Qld Police Service 1993. The New South Wales Police Board was disbanded by the New South Wales Government in 1997 based on recommendations made at the Woods Royal Commission in May 1997.
This oath of office is lawfully binding on a police commissioner and defines responsibilities which are often not understood by a police minister. The exercising of their 'original' powers (which will be discussed further in chapter five) is based on personal discretion and their own judgements on law enforcement and operational matters and not according to the direction of the authority which employs them (Plehwe 1973:268-269).

The constitutional position of the police commissioner in Australia is complex and often ill-defined in law and by legislation, although governments have generally observed self-imposed restrictions. However, this is changing with more frequent cases of ministers issuing operational directions to police departments under their control. The structure of most police departments in Australia are similar in that police commissioners are subject to the direct control of a minister. The exceptions were New South Wales and Victoria which incorporate a Board (now disbanded) and a Ministry and to whom Commissioners have reporting responsibilities which are under the direction of the Police Minister. Variations of police boards, ministries and ministerial departments have existed in Australian history since colonization and the establishment of parliamentary governments.

In recent times Australian police commissioners have claimed they have been put into positions which potentially 'politicise' their actions in that they may be directed from time to time, whether overtly or covertly, to act or not to act to enforce laws. They have also been instructed to administer departments in ways and directions decided by governments or ministers. Police commissioners in Australian jurisdictions in the past twenty-five years have taken exception to ministerial directives and have generally come off second best. Whitrod (1976), Newnham - Queensland (1992); McKenna (1971); Salisbury - South Australia (1978); Avery (1991); Lauer - New South Wales (1992); and Acting Commissioner Frame - Victoria (1992), are the best-known examples - at least in the publicly revealed cases. The past twenty-five years provide a sufficient range of cases of conflicts between police commissioners and ministers to provide evidence for this thesis.

Some police ministers and governments have recently become conscious of the need to define the boundaries between 'control' and 'accountability'. Over the years, the debate over police commissioners' independence on and 'control of' or 'influence over' policing has turned on the distinction between 'operational' and 'administration' matters. The doctrine of 'operational independence' espoused by police commissioners covers the entire range of policing decisions including what crimes to concentrate on and what
crimes to turn a blind eye to; in which areas to deploy police; how to deploy them; how to handle order maintenance problems, and so on. Administration was seen as the need to sufficiently resource the department. This has been historically the political role of the government and in particular the minister so that police could fulfil that operational mandate. Yet, in practice the division between operational independence exercised by a commissioner, and administrative support provided by a minister has never been quite so simple.

Police ministers are accountable for policing performance, at least in the public view and thus seek control over the administrative and operational use of resources within their departments as part of their ministerial responsibilities. Police ministers argue that under the traditional Westminster public service model the minister directs and the chief executive is subordinate and implements government policy. With the growth of administrative practices in Australia, police ministers and governments are using new legal and constitutional conventions to control and govern their police departments (Lusher 1981; Fitzgerald 1989; Wood 1996). This political ‘administrative culture’, as Richard (1988) terms it, had as its core “the notion of personal service to the Crown, rather than impersonal service to the state or the public”. The new administrative balance between control, influence and accountability of police commissioners and ministers in Australia has yet to be addressed fully when analysing police and government relationships. This thesis will further examine how the players see the relationship; how they interpret notions of operational and administrative functions; and whether the models of independence, dependency or an evolving third alternative, ‘interdependency’ actually work in practice.

**Approach to Research**

This thesis follows the traditional Australian, British and American public policy process/research and literature. It will examine an institutional relationship based on convention and practice using an empirical research approach. (2) It identifies and explores a ministerial government organization. In particular, it will look at the relationship in context, examining its political and legal basis including rules, traditions, bureaucratic and social setting, detailing conventions which prevail in particular jurisdictions and asking questions about the crucial variables that

would make a successful police commissioner/minister relationship. An important part of analysing the relationship is to consider the nature of power.

There are several different approaches to the analysis of power which provide some insights into the problem. The question is which one provides the best tool for analysing the context and structure of a one to one relationship within a poorly defined institutional structure. S. Lukes’ book on *Power* (1974) illustrates a research approach to studying power within relationships. Lukes studied the function of power in relationships and developed three dimensions of how power is shared in relationships. The first dimension focuses on "behaviour in the making of decisions on issues over which there is an observable conflict of (subjective) interests, which is seen as express policy preferences" (Lukes 1974:15). This is the easiest concept to test empirically. If there are overt clashes, all that needs to be done to identify power is to see who wins, and count how often. The nature of the relationship between some ministers and commissioners have sometimes been of this nature. Often police commissioners have been observed to win publicly but at a private cost.

The second dimension views power as residing in the ability to manipulate the political agenda by preventing potential conflicts from becoming overt through observable acts of suppression. Again this is capable of empirical observation, although it requires some probing behind closed doors to ascertain how agendas are constructed. Some research suggests that commissioners and ministers regularly exercise this second dimension of power (Reiner 1991:36-37).

The police minister/commissioner relationship can therefore be studied in terms of the first two perspectives on power. However, Lukes' third dimension refers to the conceptual view that there is an ability to maintain dominance by keeping potential issues from surfacing. This is achieved not through overt actions (the second dimension), but by structural and institutional processes which avert any expressions of dissent and possibly even awareness of it. It involves the power to shape consciousness, not just to control action (Lukes 1974:21-25). The debate and criticism of Lukes' theory relates to this ‘third dimension’. Polsby (1980) argues there is a persistent failure of those who have attempted to demonstrate this alleged third dimension in empirical terms. It is through this dimension that the potential issues of conscious control between a police minister and commissioner are often difficult to research and to define empirically.

The work presented by Lukes is one perspective which is informative in structuring an
analysis. However, it is not intended to use Lukes' model on power in this thesis due to the difficulties in providing empirical evidence particularly of Lukes' third dimension. Lukes' dimensions provide a set of ideas, always useful in analysing conflict, even though it will not be used as the framework for discussion. Other authors provide alternative models to understanding or analysing political relationship issues.

An Australian political scientist, Professor Roger Wettenhall has used a public policy process approach which concentrates on a power relationship continuum in his study of Australian statutory authorities. He asks how, and to what extent governments seek to exert control over statutory agencies. He illustrates how power swings between forces seeking greater uniformity and control and those seeking greater dispersion of power, with one set of forces in the ascendancy at any particular time. The approach is called the ‘Pendulum Theory’ (Wettenhall 1968 & 1977). The theory considers the political control of independent government organizations in a continuum between dependency and independency.

Wettenhall believes that police departments should be considered as statutory authorities and their independency role better defined within the ‘Pendulum Theory’ (Wettenhall 1968 & 1977). The question is where on the continuum should a police department fall - nearer to the dependency or independency ends of the model? This theory could provide another perspective in the thesis by considering where the police minister and commissioner relationship should be and perhaps by contrast where it actually is in the ‘pendulum’ continuum. Wettenhall (1977, 1983, 1990, 1993) has drawn together a comparative analysis of statutory authorities and considered a commissioner's operational independence in several articles. Wettenhall’s theory provides a framework for analysing the police minister/commissioner relationship, though police agencies do not currently exist as statutory authorities.

Another important public policy work which could be considered in the examination of this thesis was developed by J. March and J. Olsen in their book Rediscovering Institutions (1989). These political scientists discussed the meanings and models associated with political institutions and identified some specific issues which would impact on how a police commissioner and minister would achieve "meaning from their experience" within a political relationship (March and Olsen 1989: 39).

The authors argue that political relationships develop values and meanings from
historical events, the forces acting on them and the way they interpret the decision-making process (1989: 124). Essentially this argument would view the commissioner/minister association as one which is constantly evolving, based on self-interest, the outcomes of the bargaining process and the regulation or conventions within the political institution. The application of a comprehensive theoretical framework to the relationship models and conventions developed in chapters 4 to 6 of this thesis may not necessarily mean that an actor's understanding would be static within one model but may move about within the models depending upon the issues, conventions and incomprehensions which exist at a given point in time. Although March and Olsen's approach emphasises the evolving nature of political institutions, it does not take into account the personal relationship values exhibited in a police minister/commissioner relationship.

These three research approaches provide a series of conceptual ideas with which to consider the political, historical, legal and theoretical basis of the relationship between police ministers and commissioners in Australia. Although Lukes, Wettenhall, Olsen and March provide a variety of frameworks for possible discussion about the nature of power and institutions within the context of public policy process, they may not provide the analytical framework to address many of the complexities identified in this chapter about how a police minister/commissioner relationship operates. Therefore, these three research approaches will not be used as the analytical framework for this thesis.

There is a need to develop another comprehensive framework which takes into account the contemporary nature of police minister/commissioner relationships and in particular operational independence. The comprehensive framework will be describing a bureaucratic environment. A political control continuum and the outcome of decision-making processes will depend on the issue, convention or practice existing at a given period of time. The decision-making process within the relationship will reflect how the conventions and rules work or do not work within the relationship. This thesis will develop three new models/approaches which will be used to analyse police minister/commissioner relationships. Through a series of case studies of the Queensland and New South Wales Police Services, it will be possible to ask specific questions about the model or models used by the players in formulating the way in which the relationship is defined and control is determined.

This thesis will evaluate the comments made by ministers and commissioners from interviews and examine those comments within a theoretical perspective based on a substantial literature review in chapters 4 to 6. The thesis uses the literature review
framework to develop a variety of models and arguments about why police ministers and commissioners appear to be experiencing difficulties in Australia. Public policy literature does not discuss the difficulties of a minister operating a department where ‘operational independence’ exists without a legislative base. The literature on policing will help conceptualize the problem between the police minister and commissioner concerning the notion of ‘operational independence’ and ‘ministerial control’.

The police commissioners' powers and their relationship to governments have become increasingly important because of the commissioners' roles and power in administration. Police ministers have become concerned with this power, which involves the enforcement of laws and the maintenance of order, since these are political in nature. One public policy author suggests that police commissioners are making forays into the "public political arena in order to change the content of the rules both within the police organization and at societal level" (Reiner 1979:2). Reiner further argues that there is a changing balance of power within policing and government responsibilities and that policing has become 'politicized' or controlled by party politics (Reiner 1985). Attempting to study this power relationship will require wide-ranging research about the notions of 'independence' of the police commissioner, the detailed operations of the relationship and its involvement with the government, the community and the police organization.

A public policy process approach is based on empirical methods of research. This process does not rely on the concept that facts are objective in nature, neutral or value free. Facts do not exist independently of the way we perceive subject matter to be analysed. Relationships and individuals are perceived as having their own interests to follow. Their behaviour is mediated by the conventions of institutions such as police departments, also by government direction and the organization's ability to obtain and maintain community support for the concept of 'control' and 'independence'. This study focuses on discovering evidence about the day to day structural and functional relationship between the state, police minister and the commissioner.

The public policy process approach suggests its own methodology. The analysis relies on descriptive material from secondary sources and on interviews with participants. A question has been posed: What models - independency or dependency - will identify the type of the relationship existing between a police commissioner and a police minister? With empirical research as the tool, analysis will be by exposition and comparative analysis. Evidence will be structured by a direct narrowing of the focus.
using the three models developed in chapters 4 to 6. The relationship between police commissioners and ministers, however, varies and often changes in nature, though within limits. The point of this thesis is to establish those limits and what structures them.

Chapter 2 provides a brief overview of the Queensland and New South Wales Police agencies between 1970 and 1995. The history is designed to give the reader an understanding of political and organisational issues during that period to help interpret the case study chapters.

Chapters 3 to 6 of the thesis set out the theoretical and in some instances the practical assumptions underlying the police minister/commissioner relationship and describe three models that exist in the literature within a public policy theoretical framework: the Dependency model, Independent model and the Interdependency model. These models will be viewed in the context of the legal, political and social aspects of the relationship including government, state, community and the bureaucracy relationships as they are identified. It is argued that a definite model of the relationship may not be clear. A lack of agreed goal and role definition may make it difficult for the relationship to be categorized within one model and different models ought to apply at different times.

Chapter 7 discusses the method and analysis of structured interview questions and the approach adopted by the thesis writer to interview the various police ministers and commissioners.

Chapters 8, 9 and 10 of the thesis use case studies of the Queensland Police Minister/Commissioner relationship over the past twenty-five years, based on the

(3) A word on footnoting. Throughout this thesis (except here) the Harvard reference system is used. So that a quote from page 20 of R. Reiner's book, Chief Constables will appear in the text as (Reiner 1991: 20) or (Reiner 1991) if no page is cited, with the full title of the book included in the bibliography. Where a name appears followed by a date, such as Newnham - (Newnham Interview 1994) indicates a quotation from an interview conducted for this thesis. Details of interviews also appear in the bibliography.

(4) The term "model" in this thesis refers to the framework used to predict the type of behaviour within a relationship. Chapters 4 to 6 provide exemplary types of frameworks within which a police minister/commissioner relationship operates. See Appendix A for model types.
models, but also including the legal and structural issues, and the conventions which existed in the relationship. These chapters focus on how the Queensland players view this relationship and how control is determined, arguing that the lack of role definition impedes the exercise of discretion and confuses the lines of responsibilities, the structural relationship and the functionality of the Queensland police organization itself.

Chapters 11 and 12 consider case studies drawn from the New South Wales Police Service. With the public policy framework and the three theoretical models, the analysis of an interstate police organization will show if any one explanation or a combination of all the explanations still stand and if particular structures are unique to Queensland. There may be some broader application to the models within certain social, political and legal contexts.

Chapter 13 gives further information and analysis of interview material from other police ministers and commissioners from several states as a means of providing support for the case studies. Since much can be learned from their insights, it was considered important to include additional views of how the relationship operated. This chapter adds to and acknowledges the insights gained from the five case study chapters and will provide a range of comparative arguments and issues.

Chapter 14 completes the study by assessing the extent to which the relationship is dependent on how the police minister and commissioner understand their roles and how the models might be appropriate for determining police commissioner and government responsibilities and issues in the future.

**CONCLUSION AND LIMITS OF THESIS STUDY**

The police minister/commissioner relationship is a highly visible one. Opinions from academic literature about how it should operate vary dramatically. Every academic and practitioner with whom this project has already been discussed suggested a range of views about how to understand the relationship. Many of these suggestions will be incorporated into the thesis. Nevertheless, it has become clear from the literature and general discussions that the police minister/commissioner relationship is complex, dynamic and open to a variety of interpretations. No single study could hope to capture the full range and potential of this relationship and its diverse roles and functions.
I have chosen an institutional relationship approach described by authors on power, accountability and structural frameworks because it can generate insights by interpreting power in several ways; this provides a better basis for future policy development and public inquiry. This thesis is studying the effectiveness and understanding of the relationship between the players in the context of their social, operational, administrative and policy settings. By choosing this approach it becomes necessary to define a framework and models that will inevitably exclude other interesting and diverse perspectives.

This study will concentrate on the relationship within the context of the police organization. Public debate on the relationship, however, has centred on the political and managerial performance of the players. While I assume that this relationship and police minister/commissioner social interaction is important, the belief is that the institutionalized nature of their relationship may be directly explained by many differing and varying conventions and misunderstandings between the players. This study does not systematically attempt to explain those personal views espoused by the players. Definitive explanations about individual traits will involve different theoretical perspectives and would need a researcher of different skills to examine psychological profiles and extensive social analysis to explain behavioural issues. Such material (Reiner 1988, 1991; Oliver 1987) is being researched in England and to a lesser degree in America, but is not the primary focus of this work.

There is a need for work to be done on the role relationship of the police minister and commissioner in the Australian state policing context. Research by Plehwe (1973) suggests that the external environment has an important impact which determines how decisions are made by police commissioners about policing the laws of a state. Finnane (1990) suggested that during the 1980s in Queensland, Commissioner Lewis used community support factors to influence the political leadership of Queensland. Yet there has been little serious study on how these external factors and the decision-making process of police commissioners and ministers affect the realities of policing a state in Australia. Again this relationship study will provide some insight into how this association determines policing strategies. However, it would require a different approach to the study to achieve a measure of understanding about how government and a commissioner's association impact on law enforcement practices. That too is beyond the scope of this thesis.

On reviewing interstate police structures, it was decided to concentrate efforts on police
minister and commissioner relationships in two Australian states - Queensland and New South Wales. The direct comparison provides the study with research data on differing political and legal models. The structure and relationships may differ depending on the conventions and controls operating within the commissioner/minister relationship. The origins of the historical relationship will be found in the literature. The literature discusses a variety of crucial and debatable issues relating to the understanding of modern democratic policing. The origins of the police minister/commissioner relationship unquestionably lie in an attempt by Australian parliaments to create the modern policing state.

One of the major limitations in studying police minister/commissioner relationships, using a model approach, is the classifying of the relationship by referring to the defined features in a model. Often features from different models will apply because conventions and the problem of defining the relationship are not an exacting science. Many issues will effect the relationship including the role and functions designated in legislation. Finally there are internal issues in a study of the relationship which must be acknowledged. As this thesis is primarily interested in the relationship between actions and the way in which the players achieve a transference of power, reference will need to be given to specific management functions, policing strategies and ideologies. Similarly, parliament, cabinet and other mechanisms of government will receive considerable attention. The machinery of government is important in determining the conventions between ministers and commissioners. The organisational context within which their roles and functions are defined raises more complex issues which could demand further separate and extensive analysis.

The issues addressed in any contemporary study will eventually be overtaken by historical events. It is helpful to indicate an historical span to support the argument or assumptions, so the substantive part of this study considers the time frame from 1970 to 1995. Within that time period, the various identifiable relationship combinations can be analysed; political alternatives and imperatives considered; and any emerging structural changes can be evaluated. Though details may alter, the basic thesis structure, analysis and possible conclusions should remain valid even though relationship roles and functions may change or evolve.
CHAPTER 2 - HISTORICAL EVENTS

The material in this thesis is based on historical factors and interview results which are supported by secondary literature in future chapters. Brief historical overviews of events and activities in conjunction with viewpoints of Police Commissioners and Ministers (1970-1995) are provided in this chapter. These events and activities are put into context in later chapters from interviewees’ perspectives and makes it easier for a reader to conceptualise the future case study material.

The historical segments for the Queensland and New South Wales Commissioners is not comprehensive, nor is it intended to be. Rather the intention is to reveal a pattern of relationship conventions between Police Ministers and Commissioners. On that point therefore, facts authenticating past events and activities have been primarily referenced from historical inquiries and works of Ross Johnston's book entitled, The Long Blue Line - A History of the Queensland Police (1992) with supplementary material on Queensland and New South Wales policing history from authors like Hickie (1985) and McCoy (1980).

BRIEF HISTORICAL ISSUES ON QUEENSLAND POLICING (1970 - 1995)

THE WHITROD ERA

Striking contrasts in the Police Minister/Commissioner administration dominated the Whitrod era. Whitrod always held firmly to the notion of police operational independence and that notion did not change while Hodges was Whitrod's Minister. Together the two administered with a common goal of creating an educated, efficient and corrupt free police force. Tragically though, when Hodges exited as the Police Minister, political interference in Whitrod's policing operations destroyed a progressive movement in police administration. Intrigue underlay Whitrod's demise. Accordingly, manipulation of the system by a few displaced good management for a future police organisation built on corruption.

This turbulent era started as far back as early 1970. The Queensland Coalition Government appointed the Honourable Max Hodges as Police Minister. Hodges was prepared to reform what was then the Queensland Police Force. He had advised the Premier of the inherent risks of holding the police portfolio and the need for reform
(Dickie 1988:24-25). After some research on policing, and based on a recommendation from Brigadier McKenna (South Australian Police Commissioner), Ray Whitrod, a university graduate and the Commissioner of the New Guinea Police was appointed as Police Commissioner for Queensland (Fitzgerald 1989:35; Johnston 1992:281). Reform was to be the major priority of the new Minister and Commissioner. Changes to the organisational structure and responsibilities of senior officers were paramount. Planning functions were introduced into the policing administration that determined how policing operations were to be managed.

However, the Queensland police union of employees was critical of the reform which was to be undertaken. The union took particular interest in the 'decentralisation policy' and the restructuring of the Criminal Investigation Branch. Central to the new policing philosophy was 'greater professionalization'. A new police academy and college were established and promotion by merit was then to be associated with education. Promotional opportunities outside the seniority system and growing resignation rates were used as the banner that the police union raised as 'morale destroying'; issues which subsequently became a constant problem for Commissioner Whitrod (Johnston 1992:281; Fitzgerald 1989:23). The police union objected to an "outsider" managing the organisation, and the union often made appeals to the Premier protesting about the reforms, and in 1974 the union threatened to "work to regulation" over the promotional system reforms (Johnston 1992:283; Fitzgerald 1989:36). The main criticism was that both the Minister and Commissioner had failed to communicate their objectives or "reconcile differences" with the union (Johnston 1992:284).

Perhaps the most disturbing issue that the Police Commissioner and Minister had to resolve was of allegations of corruption in the Queensland Police Force. Many of the corruption allegations were referred to in the National Hotel Royal Commission 1964 but were not substantiated. They were, however, subsequently investigated by the Fitzgerald Commission of Inquiry 1989. Commissioner Whitrod had numerous officers charged with criminal offences, but in the courts failed to adequately deal with corruption because of the "strong code of loyalty" among officers. In 1977, Hodges and Whitrod were determined to attack corruption and misconduct in the organisation, and eventually set up a Crime Intelligence Unit to deal with that specific problem (Johnston 1992:305; Dickie 1988:35; Fitzgerald 1989:37). In 1975, as a result of comments made
by Mr Justice Wanstall about illegal betting in Queensland, there were calls for a Royal Commission into alleged police impropriety. Police Minister Hodges responded by calling in two Scotland Yard detectives to investigate the allegations. However, the final report was never released publicly (Johnston 1992:282; Dickie 1988:43; Fitzgerald 1989:40-42).

In addition to the continuing problems of declining morale in the organisation, the opposition Labor party also targeted the increasing crime rate in the state. The Opposition was critical of the issue that a police minister was not solely responsible for the police as a department:

The unrest, disenchantment and discontent that presently exist within the Police Force are ample proof of ministerial responsibility, stuck haphazardly to a department to which it is totally unrelated (Queensland Parliamentary Debates 1973-74:263; February 1988:1117, 1238-9, 1438, 1482-4).

In response to the criticism, Police Minister Hodges produced crime statistics and police personnel numbers which showed what money the government was spending on police. A separate police ministry was established in December 1974 to address the morale and crime problems in Queensland (Johnston 1992:283).

Political interference by the Premier of the day appeared to be critical of the effectiveness of police management. Whitrod's approach to managing the Springbok tour of 1971 was itself criticised by the Premier as being too 'softly softly' an approach, a point supported by the police union (Dickie 1988:29). A further incident in 1976 where a police officer struck a student demonstrator at that time with a police baton led to the Commissioner appealing for an investigation into the circumstances. The Premier, cabinet and the union had this request abandoned. Since the Police Minister had openly supported the Commissioner on this issue, it finally contributed to the Minister's relocation to a different portfolio (Dickie 1988:45). At the time Hodges commented that the Premier believed that the police reforms were "moving too fast". As the Police Minister said:

I hope the clean-up which the Police Commissioner, Mr. Whitrod, and I began in the force will be completed without interference from other people, people outside the police portfolio, and that the many honest officers in the force will co-operate to the full (Australian 14 August 1976:1).

Another incident which became a detriment to police operational leadership related to a failed police raid at Cedar Bay in 1976 which resulted in the police shooting several
people. Although the Commissioner recommended an investigation and that appropriate charges be laid against the police officers, the charges were not proven (Fitzgerald 1989:43).

The final issue which culminated in the eventual demise of the Commissioner’s appointment during this period was the appointment of Inspector T.M. Lewis to the rank of Assistant Commissioner; an appointment made against the recommendations of the incumbent Commissioner and Hodges (Dickie 1988:46-48; Fitzgerald 1989:42). On the 15 November 1976, Commissioner Whitrod resigned. At the press conference Whitrod was critical of the Premier being involved in a range of policing matters:

In fairness to the Honourable the Premier, I believe he does not regard those actions as ‘interference’, but rather as routine type instructions to be given to any public service head (quoted in Dickie 1988:46).

The Premier viewed the issue differently and believed that the government had a right to direct the commissioner in all matters, including operational matters:

The government’s view seems to be that the police are just another public service department accountable to the premier and cabinet through the police minister, and therefore rightly subject to directions, not only on matters of general policy but also in specific cases (Wettenhall 1977:20-21).

Of course the Commissioner relied on the legal precedent, the Blackburn Case, which existed at the time saying:

With Lord Denning, one of our greatest legal authorities, I believe as a police commissioner I am answerable, not to a person, not to the Executive Council, but to the law....All I assert is that there ought to be a minimum of interference by the political authority (Wettenhall 1977:20-21).

This view was not reinforced by the newly appointed Police Minister Tom Newberry who stated that:

The Commissioner runs the force, subject to the direction of his minister...What Mr Whitrod considers to be political interference is, as I see it, only responsible interest and concern by the government. There is no more political control over the police than there is over any other arm of the public service (Johnston 1992:285).

Whitrod’s parting words related to the ongoing corruption in the police force and his perception of unnecessary political interference. The police union, however, saw it as a
triumph. Both the Premier and the Police Union had effectively reversed the reform processes which were implemented. The newly appointed Police Commissioner Terry Lewis then managed to acquire the support of the police union (Fitzgerald 1989:43-46).

**THE LEWIS ERA**

Commissioner Lewis's regime started on an institutionally corrupt base - the features of which Whitrod and Hodges had set out to eliminate from the 1970s, but without success before Lewis's appointment. Lewis's ingenuity as a department head experienced in the wiles of policing stifled all ministerial efforts to challenge allegations of impropriety attributable to and during his term in office. In the end, it was the outcome of investigative journalism that began Lewis's downfall, not ministerial astuteness in responsible government.

Lewis's tenure began with a 'meteoric' rise in the executive ranks through Governor-in-Council appointments contrary to Whitrod's advice to government. From being Inspector of Police at Charleville, Lewis was promoted to Assistant Commissioner rank and then to Commissioner on the 22 November 1976 (Johnston 1992:285), seeking a much lower profile than Whitrod. Tension and conflict with the union, personnel and the community all reduced.

The police department had seven ministers from varying conservative backgrounds in this era. Significantly, the overriding feature in the political arena was the involvement of the Premier in overviewing policing functions and the direction of the Police Force.

The Lucas Inquiry (1977) recommended greater supervision in the senior ranks, and also recommended the appointment of an Assistant Commissioner for Administration to improve efficiencies and specialised technical functions in the organisation. Very few recommendations were however implemented (Dickie 1988:53; Fitzgerald 1989:46-48). Later, the government imposed a public service auditing function in 1983-4 under the Financial Administration and Audit Act 1997 (Qld) which required the police force to review expenditure so as to ensure better utilisation of resources.

It was well known that the conservative government had often used police as an
essential component in a law and order campaign; a campaign that focused on harsher penalties for drug and abortion offences, and an increase in police powers to deal with anti-social behaviour. The conservative government in 1985 involved the police heavily in South East Queensland Electricity Board industrial disputes, requiring active enforcement techniques be used to prevent future pickets and demonstrations. Similar types of government and policing strategies were adopted for demonstrations during the late 1970 and 1980s. This approach, adopted by the government to control demonstrations, was totally supported by the Police Commissioner and the organisation (Johnston 1992:286; Dickie 1988:54; Fitzgerald 1989:49-50).

Nevertheless, public confidence in police was still low. In 1983, when the police force conducted a public survey on police education and training, the results showed a positive response to police performance, but police were still deficient in communication and support regarding issues concerning the elderly, ethnic citizens and juveniles within the community. Other public surveys showed a poor public image of the Queensland Police. A gallup poll in 1986 showed that 40% of Queensland still thought that the police were doing a good job (Johnston 1992:287).

During the Lewis administration there were continuing allegations of police corruption, malpractice and abuse of police powers. The Fitzgerald Inquiry Report (1989:49) made specific reference to the controlling influence of senior officers from 1976 to 1987 who had been allegedly involved in corruption. The Williams Royal Commission into Drugs (1980) referred to the Commissioner as being corrupt. Official corruption allegations were raised by the Opposition police spokesperson Kevin Hooper:

> Despite the ‘head-in-the-sand’ attitude of the Bjelke-Petersen Government, it is a fact of life that the lucrative drugs, prostitution and gambling rackets in Queensland have now become a multi-million-dollar industry reaching into all sections of Queensland life and it is controlled by a Queensland mafia (Queensland Parliamentary Debates 1981-2:285; 5/9/88:2508-10, 2581, 2615).

Further allegations of corruption associated with the government were raised by Hooper, the Opposition police spokesperson, who suggested that “crimes of this magnitude could not operate without political and police permission at the highest level” (Johnston 1992:287). The Fitzgerald Inquiry Report (1989:83) made reference to the involvement of police ministers and ministers of the Crown, the police commissioner
and public officials in corrupt practices.

In 1982, two police officers made further charges concerning police corruption and organised crime (Queensland Parliamentary Debates 1981-2:287, 4292-7, 4311, 4421, 4516). As a result of these allegations, new Police Minister Russ Hinze introduced legislation in 1982 creating the Police Complaints Tribunal to deal with police corruption (Johnston 1992:305). The Queensland Government had recommended legislative changes in 1978 for cleaning-up the problem by tightening the laws on prostitution, but the draft provisions were never enacted (Johnston 1992:358). In 1983, Police Minister W. Glasson sought to stamp out prostitution, gambling and the possible association with police corruption (Sturgess 1985:21; Fitzgerald 1989:68); but soon after, Glasson was sacked as Police Minister (Dickie 1988:149). However, in 1985, Des Sturgess, the Director of Prosecutions, headed an inquiry into sexual offences involving children. No official public action resulted (Sturgess 1985:7; Johnston 1992:358; Fitzgerald 1989:68).

In 1987 a story presented by ABC's "Four Corners" portrayed a graphic picture of police corruption in Queensland operating in brothels and illegal casinos (Dickie 1988:133-135). The Police Minister, W. Gunn who had previously ordered the closure of the brothels eventually established a Commission of Inquiry into the allegations and, on the 26 May 1987, appointed Tony Fitzgerald QC to investigate police corruption (Fitzgerald 1989:2-3). As a result of this Inquiry and subsequent charges arising from the evidence, public confidence in the state police was further eroded, after Commissioner Terry Lewis was suspended and later convicted of official corruption (Johnston 1992:287).

**THE REDMOND ERA**

For Acting Commissioner Redmond, the Commissioner/Minister relationship was indeed a volatile one. The policing system and executives were being exposed by a Commission of Inquiry as improper, archaic or corrupt practices with transparent accountability being exacted after many years of continuous National Party government. While the Westminster system of responsible government and its model for policing kept perspective as it should have under Inquiry regulation, in reality it was not truly in force.

Redmond was under compulsory requirements to competently manage, though not
acknowledged, a Police Department for that period while having an extraordinary structure imposed upon it by a Commission of Inquiry with the complications of ministerial burgeoning for political survival as allegations of police corruption regularly surfaced in Inquiry hearings.

During this era, an incumbent Police Minister took charge of the police portfolio heeding little advice from the Acting Commissioner. The Minister had his own team of legal, press and expert advisers on policing to deal with the daily catastrophes proceeding from the Fitzgerald Inquiry. That meant the Acting Commissioner was virtually left by himself to manage the operations and administration of the police force.

Under these stringent and formidable conditions, Redmond was given the Commissioner's Office in an acting capacity while serving as the appointed Deputy Commissioner. His task was to manage the Police Service during the Commission of Inquiry into Police Misconduct after Lewis had been suspended on 21 September 1987 for the duration of the inquiry (Fitzgerald 1989:71). The Fitzgerald Inquiry lasted for almost two years with an interim senior police group managing the organisation. Stories of police corruption, irregular practices and political behaviour with their links to the private sector, permeated the news, tarnishing the public image of policing in Queensland. Public esteem for the police and police officer morale was extremely low as the Queensland Police Department's operations were put under a 'microscope'. Specific issues such as the role and functions of policing, policing independence, legislation drafting, funding, training staffing and their relationship with the community and the government were scrutinised (Johnston 1992:366).

The Acting Commissioner appeared before the Fitzgerald Inquiry to disclose the government's policy and the police policy, on prostitution and gambling in Queensland (Fitzgerald 1989:192). Redmond had received substantial criticism regarding his role in the 'Whiskey Au Go Go' case, a murder and extortion investigation which tainted his further progress in the police department (Dickie 1988:33). The Acting Commissioner was also heavily criticised by the Fitzgerald Inquiry Report (1989:74-75) for his overseeing role of the Police Licensing Branch from 1982 to 1987. Redmond was not to be part of Fitzgerald's blueprint for a reformed police organisation and it was recommended that he be encouraged to retire after a limited transition (Courier Mail 5/7/89; Fitzgerald 1989). The conservative government had been supportive of Redmond
during the Fitzgerald Inquiry but believed that he was a liability to future policing of
the state as well as the political chances of the government at the next election.

THE NEWNHAM ERA

The cause to rebuild the Queensland Police Service, free from corruption, in contrast to
the institutionally corrupt and debilitated administrative system of the past would have
been the ideal situation for Commissioner Newnham and Minister Mackenroth to a
build a responsible relationship for police management at the top level. But it was not.
Newnham believed fiercely that in reforming for a new police organisation required no
executive interference. Mackenroth ascribed to the incoming government's mandate for
a new open and accountable police service to meet expected public standards without
reference to past policing practices.

Under these arrangements, the relationship could not work. The Minister and the
Commissioner had serious differences and conflict in the relationship despite striving
for new reforms in policing and government conventions. Newnham's approach
ultimately sparked an official misconduct inquiry into certain activities on his part. An
appeal outcome against an adverse verdict later vindicated him. But ultimately neither
Newnham nor Mackenroth continued in the police portfolio after that debacle.

Prior to and in the lead up to Newnham's appointment under National Party rule, the
Fitzgerald Report of the Commission of Inquiry into Possible Illegal Activities and
Associated Police Misconduct was released on 3 July 1989. With it came substantial
change to the policing organisation. Commissioner Lewis had been charged with
criminal offences after Fitzgerald had outlined broad sweeping changes. The Police
Service was expected to eradicate corruption and rebuild community trust and
confidence, with honesty and integrity, whilst other social and political changes were
also required. The major reforms which were anticipated included the establishment of
a Criminal Justice Commission to overview possible corruption and associated issues in
Queensland, the reorganisation of the Queensland Police Service, a review of the
electoral and administrative processes in Queensland and an implementation strategy
for the period of transition. On 1 November 1989, only one month before the pending
state elections, Commissioner Noel Newnham, previously an Assistant Commissioner
from Victoria, took the oath of office as the new Police Commissioner (Johnston 1992:369). Newnham's contract had been negotiated by the outgoing conservative government prior to the end of 1989 (Courier Mail 27/6/92:32).

On 2 December 1989, the conservative government lost power after 32 years in office and the Goss Labor government was installed, largely due to an electoral reaction to the evidence of corruption in police and government sectors (Dickie 1988:370).

Commissioner Newnham was expected to implement all of the 132 Fitzgerald Report recommendations during his three year term of administration. The Labor government came to power in late 1989 with a mandate or a "demand from the public that there be reforms, particularly within the police department" (Courier Mail 27/6/92:32). Newnham was expected to reform the organisation totally, yet still maintain law and order throughout the state.

Criticism by the Labor government of the day and particularly Police Minister Terry Mackenroth about the rising crime rate, the appointment and salaries of senior personnel, the introduction of community-based policing, the Commissioner's personal association with the head of the Criminal Justice Commission (CJC), Sir Max Bingham, and other issues, led to a clash between the Police Minister and the Commissioner (Courier Mail 7/10/92).

R. Chesterman, the CJC Tribunal Chair, was later to also criticize (during a public inquiry) the close relationship between Sir Max Bingham and the Police Commissioner (Chesterman 1992). A letter from Mackenroth to the Police Commissioner on the 10 December 1991 accused the commissioner of incompetence and of taking a taxpayer funded holiday with his wife (Chesterman 1992:8-9). The outcome was an appearance by the Police Commissioner before the Criminal Justice Commission Misconduct Tribunal over the failure to refund an airfare payment of $2102 (Chesterman 1992:29-30).

The findings of the Tribunal chair, Chesterman, was that Newnham was guilty of misconduct. Public rallies and a media campaign were held to argue that the Commissioner should retain his position. They were supported by senior police officers as well as public officials (Courier Mail 2/5/92:30). The findings were later set aside by
Justice Moynihan of the Supreme Court, indicating that the tribunal had made an error in law (Queensland CJC Report 1992).

Minister Mackenroth also accused the commissioner of hampering the Fitzgerald reform process and recommended that he resign (News Mail 14/3/92:4). In return, the Head of the Criminal Justice Commission (CJC), Sir Max Bingham, suggested that there was an anti-Newnham campaign resulting from a clash between Labor's political program and the reform agenda:

Politically, while current rhetoric dictates that each and every member of the Legislative Assembly will loudly proclaim his or her commitment to reform, the actual experience of the CJC suggests that the practical manifestations of reform are not so very welcome after all (Time 11 May 1992:57).

Issues specifically raised by Mackenroth related to policing of prostitution as a priority, closure of one-man stations, computer contracts, the police band, ‘booze’ buses and the removal of corrupt police officers from the organisation using the superannuation payout system (Gold Coast Bulletin 18/3/1992:3). 

Ironically, a similar fate awaited the police minister who was required to step down as a result of the alleged misuse of travel entitlements (Queensland CJC Report March 1992). The Police Commissioner also had a dislike for the minister's policy adviser, an ex police officer, Garry Hannigan, who not only had extensive views on police corruption, but also held academic and legal qualifications (Australian 8/3/92:6). The CJC Chair, Sir Max Bingham, recommended to the Premier the removal of the policy adviser to another portfolio (Australian 19/3/92:9). However Mackenroth's parting letter to the police commissioner over alleged travel rorts had a significant impact on the organisation. All of these factors influenced the Labor government in the final decision not to reappoint Noel Newnham due also to its diminishing respect for the CJC (Courier Mail 27/6/92:32).

Taken together, the findings of official misconduct against Newnham, a CJC inquiry into a car racket involving improper police practices called Operation Trident and another inquiry into an investigation on aboriginal mistreatment called the 'Condren Inquiry', were not helpful for public perceptions of police in Queensland (Queensland CJC Report November 1992).

The Queensland Police Union was not supportive of the changes and constantly raised issues regarding the low morale of police, the need for extra police, the need for the
government to focus on law and order problems, the fact that prostitution was being ignored and had become more widespread since the Fitzgerald Inquiry, and the use of the Fitzgerald reform process by many people for their own purposes (Sunday Mail 12/7/92). These issues, and a vote of no confidence by the union in Police Commissioner Newnham, left the way open for the appointment of a new commissioner (Sunday Mail 19/7/92:2).

**THE O'SULLIVAN ERA**

O'Sullivan was mooted as a Police Commissioner for Queensland in the 1987-89 Fitzgerald Commission of Inquiry due to his integrity and preparation for managerial change after serving as the senior police investigator for the Inquiry. When O'Sullivan took office, the turmoil of change, greater public trust in the police, the stability of government after the Inquiry, and new accountability processes were substantially in place. Acting with a lower profile and under expanded government decision making, the circumstances suited a more co-operative Minister/Commissioner relationship using the Westminster model as in the past. Yet despite a more satisfactory playing field, a ploy developed between the police union and the opposition police spokesperson was attempted to unseat O'Sullivan in a change of government.

Police Commissioner Jim O'Sullivan was appointed the Police Commissioner on 1 November 1992 under a re-elected Labor government. The new Police Minister, Paul Braddy, remained in this portfolio until a change of government in February 1996. Russell Cooper, a conservative government elected member was appointed the next Police Minister.

Commissioner O'Sullivan had been the special investigator of police matters for the Fitzgerald Inquiry and was recommended by Fitzgerald as a possible police commissioner for the future (Fitzgerald 1989:339-340). During the period of reform after the Fitzgerald Inquiry, O'Sullivan became the Deputy Commissioner for Operations and was highly critical of the lack of emphasis on operational work and the amount of paperwork police had to do (Courier Mail 12/12/92:30).

Early in the administration of Commissioner O'Sullivan, differences between himself and the Deputy Commissioner Support Services developed, which resulted in the Deputy Commissioner’s contract being terminated (Courier Mail 12/12/92:30). Deputy
Commissioner Blizzard, a Newnham appointee, believed that as a result of his sacking the Fitzgerald reform process would be derailed. At the same time, the government required the Public Sector Management Commission to review the department. The government and particularly the Commissioner were also criticized for the appointment of Greg Early to Assistant Commissioner. He had previously been the top aide to disgraced Commissioner Lewis (Courier Mail 12/12/92:31).

During Commissioner O'Sullivan's administration, the Labor government introduced controversial new prostitution laws which were supported by the Commissioner. There were also allegations of politicization of the police service which the CJC investigated and was found to be unsubstantiated (Sunday Mail 24/1/93:62).

The focus of the government and the police commissioner was to reduce the crime rate. Other issues addressed by the Commissioner and the Public Sector Management Commission Review (1993) included police university education and training, support services functions, civilianization, the policing role and the re-structuring of senior level police headquarters personnel. The police union at time was, however, supportive of the new police commissioner and minister. The union believed that changes in leadership would assist the operational police officer. However this was to change by early 1996 when the union actively campaigned in a state by-election, after which the Labor government lost power. Prior to the by-election, the next Police Minister, Russell Cooper had endorsed, a 'Memorandum of Understanding' with the police union with the intention of securing the Commissioner's dismissal (Queensland CJC Report December 1996).

Controversies in Queensland policing also had their counterparts in New South Wales. The experiences of New South Wales police commissioners and ministers reflected similar turmoil. Issues of politicisation, police corruption, public inquiries into police administration and differences between Police Ministers and Commissioner were regularly reported in parliament and by the media in New South Wales.
BRIEF HISTORICAL ISSUES ON NEW SOUTH WALES POLICING (1970-1995)

Events leading into the 1980s saw assertions by authors like Hickie (1985) and McCoy (1980) that New South Wales Police Commissioners and governments were generally seen as corrupt with Premiers a part of the criminality of the community. Under the premiership of Robert Askin between 1965-75 was estimated that:

Askin and his police commissioners were paid approximately $100,000 each in bribes a year...and by the mid 1970s casino bribe payments to senior police and politicians were calculated ...to total $1.4 million a year, a statistic which reveals how they were able to remain open for so long (Hickie 1985:60).

This deviation from the service ideal of policing became a problem that eroded the morale of the policing organisation in New South Wales.

Prior to the 1980s, three police commissioners had set the pattern for performance of the police organisation - Bill McKay, Norman Allan and Fred Hanson. Hickie argues that McKay who operated before and after World War II left a legacy of unprofessional conduct for the police which seemingly became a form of art. The next two commissioners who had come up through the ranks had been well trained in the organisational values of the day. Norman Allan, the Commissioner during the 1960s and early 1970s was a brilliant administrator and crucial figure in the organised crime scene (Hickie 1985:269). It was believed that Allan wielded the ultimate power in New South Wales, save only the Premier - Askin. During Allan’s term as Commissioner the government faced an open scandal regarding the ‘cool room’ - the centre for pay-offs and free goods for police. In 1971, what became known as the Arantz Affair depicted Allan’s administration as being corrupt (Hickie 1985:270-1). Allan retired soon after the Arantz Affair, and that allowed another Police Commissioner, Hanson, to come under the influence of Premier Askin.

Police Commissioner Hanson followed and became "Askin's chief organiser in the illegal casino pay-offs system" (Hickie 1985:59,276). Perhaps Hanson's approach and government support can best be understood from a statement made by the Independent MLA John Hatton in the NSW parliament in 1980:

Commissioner Hanson was appointed in 1973. That appointment
coincided with police investigations into mafia infiltration in New South Wales clubs. It coincided with a sudden change in the direction of the police investigation, which amounted to a cover-up for criminal interests (Hickie 1985:273).

Hanson’s final legacy was the nomination of his successor Merv Woods in 1978 who retired suddenly in 1979 after corruption allegations. Further issues of police corruption in Kings Cross and Darlinghurst business centres came to notice (Dempster 1992:164-5). Commissioner Wood announced at the time of his appointment in 1976 "that there would be no changes to police policy towards casinos" which continued the tolerant approach adopted by his predecessor Commissioner Hanson (McCoy 1980:209; Hickie 1985:183).

Premier Wran was feeling "acutely uncomfortable at the continual charges that his government had merely taken over where Askin's left off as protectors of casino chiefs. Wran met Wood and determined that the casinos were to be closed 'once and for all by December 1977' " (Hickie 1985:183). Other clashes with the Premier included Wood's failure to report serious allegations of SP betting in April 1979, the appointment of Bill Allen to a senior position by Wran and finally a government investigation into Wood and others over an anonymous document (Hickie 1985:314-315). Police Commissioner James Lees followed for a short administrative period. The newly re-elected Labor government in 1979 commissioned Justice Lusher to review the administration of the New South Wales Police Force to improve the organisation's performance (NSW Police Annual Reports 1979-1980).

For a short period from 1981, Commissioner Lee Abbott assisted with the introduction of the reforms recommended by the Lusher report; however he retired in 1984. That same year a NSW police officer had been shot, and there were allegations of police involvement in the incident. A series of investigations by police and external authorities resulted in several trials, though each failed to successfully resolve the reasons for the shooting (Dempster 1992:182-200). Highlighted in the Lusher report were issues relating to the police minister and commissioner relationship, education and training changes, disciplinary and anti-corruption strategies for the organisation, the role, function and structure of the organisation and how the community should be integrated into the policing needs (Harrison et al 1988; Lusher 1981).
A Police Board was recommended by the Lusher Report to reduce political interference. An act of parliament established the NSW Police Board in 1983. Board members were appointed in January 1984 (NSW Police Board Annual Report 1988-89:10). Under Section 5(2) of the New South Wales Police Board Act 1983 the Board is subject to the control and direction of the Police Minister in the exercise of its functions. Certain sections of the Act define the functions of the Board and in general terms include: improving the efficiency and effectiveness of the organisation such as planning, policy advice to the Minister, modernizing personnel practices, research into policing methods, resource allocation, appointment of senior officers and transfer recommendations (NSW Police Board Annual Report 1988-89:11). However, the Commissioner of Police was to retain responsibility for the management of the police organisation, its operational command and day-to-day management and was required to implement the decisions of the Board.

**THE AVERY ERA**

Commissioner Avery was appointed by the newly established New South Wales Police Board (NSW Police Board Annual Report 1986-87:6). On his retirement in March 1991, John Avery was described by the Police Board as "an honest and reforming" person (NSW Police Board Annual Report 1990-91:18). Police Minister Peter Anderson recommended that the Police Board and the newly appointed Commissioner Avery review the Lusher Report recommendations and oversee the implementation of the recommendations to bring the "police into line with the community needs" (NSW Police Board Annual Report 1984-85:41). Anderson used the Lusher document as the blueprint for reform and policy direction of the New South Wales police organisation. Reforms included regionalization, improved education training systems, civilianization, restructuring of the organisation and redefining the services' direction based on community-based policing initiatives. It was believed that the reforms had changed the nature of corruption in the NSW Police organisation (Lusher 1981:21-24).

The Minister and Commissioner had an amicable relationship. However, the Police Employees Association was critical when the Minister took an active role in managing the operational plans and development of crime control and other policing strategies. The Minister took an active role in these areas due to the public perception of the increasing crime trends in New South Wales. This resulted in criticisms of loss of
morale and confidence in the Minister by the Police Association. As a result the Minister was replaced in 1985. The government did not want any further tensions prior to an upcoming election, so the election saw a heavy emphasis on law and order issues.

The following Police Minister, George Paciullo and Commissioner Avery were constantly focusing on operational efficiencies in the late 1980s. Corruption in the police force was a regular problem and organisational reform of the structure received considerable attention with the police minister taking an active part in the management changes and allocation of staff to specific functions. The Police Board commented that the Commissioner was losing "managerial capability to organise and allocate police strengths according to changing needs" (NSW Police Board Annual Report 1986-87:5). Integrity and honesty were central planks in the change process for Avery and the NSW Police Service. Central to the organisational reforms was a desire to restructure the education and training programs and the need for community representatives advising on how to improve the standard of police performance (NSW Police Board Annual Report 1986-87:6-7). Managerial reforms and the development of regionalization included strengthening accountability at all levels, civilianization of certain police positions, improving the delegation of authority to appropriate levels and more community involvement in the decision-making process of the organisation. As a result of the Wilenski report in 1984 into the promotion system of the New South Wales Public Sector, seniority in the force was replaced by promotion on merit after consultation with the police association (NSW Police Board Annual Report 1986-87:6).

The general police membership did not accept the new Police Board nor the further powers given to the State Ombudsman to deal with complaints against police in 1986. There was still a lack of confidence in the New South Wales police by the government. The group affected was the corrupt element in the organisation, as well as those who had relied on the seniority system to advance further in their career. This criticism of the Board was also expressed by civilians in the organisation (NSW Police Board Annual Report 1986-87:8-9).

During 1988 there was a change to conservative government. Ted Pickering was appointed the new police minister. The new Minister requested a "searching review of expenditure and resource utilisation" (NSW Police Board Annual Report 1987-88:12).
During the Avery and Pickering partnership three major incidents occurred which affected the performance of the organisation - the Blackburn, Gundy and Brennan cases. The Gundy and Brennan issues were police operations which went wrong, subsequently receiving substantial media attraction. The Harry Blackburn issue was particularly important. A retired police superintendent was arrested in a blaze of publicity and charged with a series of sexual assaults. Soon after, the charges were withdrawn, but the circumstances warranted an inquiry by a Royal Commission resulting in major criticisms of investigation techniques of police and the administrative skills of the Police Commissioner and the Deputy Commissioner. Also in 1989-90 the key operational position of Deputy Commissioner - State Commander, lay vacant for almost nine months while investigations were made into anonymous allegations of corruption which in subsequent events proved to be unfounded (NSW Police Board Annual Report 1989-90:16). Avery retired due to ill-health in 1991. However, personal advisers suggested that his early retirement was the result of the difficulties experienced with the police minister (Daily Telegraph Mirror 14/11/92:22). Deputy Commissioner Lauer became the successful applicant for the New South Wales Police Commissioner's position.

**THE LAUER ERA**

Police Commissioner Tony Lauer's history shows an uncommon ability to survive major allegations. Most notably, he survived stinging criticism in 1989 from Justice Jack Lee for his role in the bungled investigation of the former police superintendent Harry Blackburn on alleged rape charges (NSW Police Board Annual Report 1990-91:19). The following year, he successfully defended allegations in the Independent Commission Against Corruption (ICAC) that he had set up the disgraced businessman Frank Hakim with possession of heroin.

Despite the criticism that hung over him from the Blackburn affair, Lauer was promoted by cabinet in 1991 as the only choice to replace the retiring Police Commissioner, John Avery. He was enthusiastically supported by the people who mattered - the then Police Minister T. Pickering, and the closest advisers to the then Premier, Nick Greiner. Among his strongest supporters at the time was the head of cabinet office, Gary Sturgess, whose support for the fight against corruption was
manifest in the framing of the Independent Commission Against Corruption Act. Sturgess was helped by a steering committee comprising among others, Chief Superintendent Tony Lauer, as he was then. Sturgess and his colleagues saw Lauer as the right man to continue the uncompromising stand against corruption when the Commissioner's job became vacant in 1991. As far as the politicians were concerned, Lauer exhibited what was termed "all the right qualities" (Sydney Morning Herald 1/4/93:4).

Later, Commissioner Lauer came under heavy criticism from the previous Police Minister Ted Pickering on the 21 March 1991 (NSW Police Board Annual Report 1990-91:13). Issues centered around his involvement in or knowledge of corrupt practices in the New South Wales police service. Many of these claims were not substantiated by the Crime Commission investigation and he was supported by the Premier of the day and the Police Minister, Terry Griffiths (NSW Crime Commission Annual Report 1992-3:9). Other investigations including the theft of drugs and major corruption allegations were eventually to cause the early retirement of the commissioner. Minister Griffiths strongly supported the police commissioner during this period of parliamentary criticism by the previous police minister (Daily Telegraph Mirror 23/10/93:27).

During 1991 the Government agreed to create a position of Inspector-General who was to audit and overview the managerial performance of the organisation in terms of the efficiency and effectiveness of the service. The appointment was given to Don Wilson, a Deputy Commissioner of the Royal Canadian Mounted Police (NSW Police Board Annual Report 1990-91:17).

There was much criticism by the NSW Police Association about promotion through merit selection. A Parliamentary Select Committee of the Legislative Council produced a report in 1991 recommending 54 changes to the promotional system. These recommendations were to have an impact on the Police Minister, the Police Board and the Commissioner, as well as on the management of the entire organisation (NSW Police Board Annual Report 1990-91:21). The government had also established an Independent Commission Against Corruption to review corruption allegations in the NSW Police Service and the community (NSW Police Board Annual Report 1990-91:22).

Commissioner Lauer's primary objective upon coming to office was "to make the
environment of NSW the safest in the Commonwealth” (NSW Police Board Annual Report 1990-91:23). This vision had been adopted by the Police Board and the government. Minister Pickering had also endorsed several changes affecting the Police Board with some measure of permanency of board appointments in June 1991 (NSW Police Board Annual Report 1990-91:28-29), as well as a green paper prepared by the NSW Police Service for the government on accepting the use of volunteers in policing establishments in 1992 (NSW Police Annual Report 1991-92:16). Also in the same year, the ABC program called "Cop it Sweet" drew considerable criticism from the public regarding the attitudes of police officers and their treatment of the public. The program brought disciplinary action, and changes to the police training curriculum (NSW Police Board Annual Report 1991-92:17-18).

Two major scandals which affected Lauer's administration related to the Angus Rigg and Harry Blackburn affairs. The Rigg affair was further aggravated by the police commissioner reporting to the media that Pickering had received information about an 18 year old youth who had attempted to hang himself in a police cell in 1992 (NSW Office of Ombudsman Report 1993). The minister had directed the commissioner not to hold a second press conference on the issue, but to no avail. Pickering was also accused by the New South Wales Police Association of being too obsessive in his concerns about police corruption. This may have "got the relationship off on the wrong foot" and the result was an "irretrievable breakdown" for reconciliation purposes (NSW Parliamentary Inquiry 1993:214). Pickering resigned on 21 October 1992.

Pickering in 1993 told Parliament that he was:

> Satisfied that Mr Lauer has demonstrated a lack of managerial capacity and more importantly, that he does not possess the required personal integrity to hold the high office of commissioner of police. I am confident that a majority of the cabinet agree with this assessment, but regrettablly the government and the opposition are loath to take appropriate action out of a genuine and well-placed concern at the possibility of politically motivated reprisals by elements of the police service (Sydney Morning Herald 27/10/93:1).

Pickering's allegation - which gathered momentum from his resignation - was that Lauer and the 16,000 strong Force were "out of control, too powerful, all but beyond ministerial/parliamentary scrutiny and constraint". Pickering never accused Lauer of corruption, however he strongly suggested that he was disdainful of ministerial
A select parliamentary committee into the Lauer and Pickering relationship difficulties in 1992 had noticed verbal threats between the two personalities and an allegation by the ex-Police Minister regarding the withholding of evidence by the Police Commissioner. In a parliamentary speech Pickering argued heavily for a parliamentary committee to overview the relationship between the two individuals and to ensure Lauer implemented the minister's directions. The Police Board was seen to side with the police commissioner on most issues (NSW Parliamentary Inquiry Attachment 1993:102).

Pickering later told a NSW Parliamentary Committee on Police Administration (1993:209) that following up outstanding operational policing issues was difficult. "(I)n Avery's time, such issues could be discussed with beneficial effect, but with Lauer you either wrote, or it didn't happen". Pickering resigned as police minister after a dispute with Lauer about whether police had adequately briefed him on Angus Rigg's attempt to commit suicide in a police cell in 1991 (NSW Office of Ombudsman Report 1993; NSW Parliamentary Inquiry 1993:21-22).

Pickering told the Legislative Council next day that his working relationship with Commissioner Lauer "had been irretrievably destroyed by the commissioner's actions...If the public interest was to be served, the situation could not be allowed to continue for another day". David Landa, the New South Wales Ombudsman was reported in the Sun Herald as having told the Parliamentary Committee of Inquiry:

I do not see the Police Board...has contributed anything of value...I simply saw the board as being an extension of the Police Commissioner's Office. It may seem strange that anyone could oppose the appointment to the board of the former Director-General of Cabinet, Gary Sturgess. He probably knows more about corrupt police than anyone in NSW, except the corrupt themselves. Mr Pickering's concern was that Lauer's desire for a good public relations image was deterring him from pursuing internal management issues including, no doubt, the issue of police corruption (Sun Herald 4/7/93:8-9; NSW Parliamentary Inquiry 1993).

The appointment of the next Police Minister Griffiths saw a new direction, focusing on remedying a defective organisational structure, improving career pathing and training for senior officers, and increasing police on the street (Sydney Morning Herald
Griffiths saw no problems working with Lauer. This Minister had previous experience in the military and as Minister for Justice and Correctional Services (Daily Telegraph 23/9/92:4). The minister went on to comment that Lauer was the "best commissioner the State has ever had". Lauer was later cleared on the Frenchs Forrest drug theft scandal after a Crime Commission investigation. This was after T. Pickering had raised serious allegations of corruption in the top levels of the organisation. Griffiths argued that the alleged corrupt police were trying to get rid of Lauer:

Don't underestimate that there are some corrupt police that would like to see Tony Lauer gone and see me gone as Minister (Australian 2/11/93:5).

Communication lines between Griffiths and the Lauer were excellent. This was based on the belief that Griffiths' previous military experience and "his understanding of the chain of command and the responsibility of commanders, was important in the policing context" (Canberra Times 7/4/93:2).

However, Griffiths later acknowledged that the Police Force was exposed to "opportunistic corruption" in drug, gaming and vice squads. Pickering disputed Griffiths' denial of the existence of entrenched police corruption. Griffiths also angered Pickering by suggesting he was behind a "public campaign" to discredit the state government (Australian 1/11/93:3). Pickering's frustration with the Police Service's resistance and inability to counter entrenched corruption was the reason for his asking the National Crime Authority for assistance. He cited the failure of the State Crime Commission's operation "Asset" as evidence that senior management of the NSW Police Service was unwilling or unable proactively to investigate corrupt police as opposed to simply investigating complaints against police. The operation was to follow the money trail by looking at the personal assets of individual police officers to see if any were living beyond the means provided by their police salaries (NSW Crime Commission Annual Report 1991-2).

By being selective about information received from the Crime Commission investigation, Griffiths ensured that the news media had not been able to present a truly balanced picture of the Frenchs Forrest incident regarding the shooting of a police officer and missing drugs. All the evidence before the State Crime Commission has been subjected to a standing suppression order and, as such, could not be reported without breaching the law. The only sections that could be reported were those that attracted the privilege of the parliament. Griffiths also rejected the establishment of a standing

Griffiths saw structural defects in the policing system and wanted to make major changes similar to the ones introduced into the Correctional Services two years earlier (Sydney Morning Herald 21/1/93:1). However, the Minister was unable to achieve any of his objectives. Griffiths resigned from office in 1994 after serious allegations about his conduct were raised by his female ministerial staff.

Minister Garry West of the Liberal government was a brief appointment after the resignation of Griffiths following these allegations. Public safety, further corruption allegations and major crime problems were the key issues during his administration (NSW Police Service Annual Report 1993-4:6-7).

The new Labor Police Minister, Paul Whelan, appointed in March 1995, was to overview the organisation during a period when the government was attempting to make the streets of NSW safer and to manage the effects of the Royal Commission into Police Corruption. The NSW Police Board in 1984 had referred to the "dark shadow of corruption" over the police. Measures for controlling the NSW Police Service were focused on key areas such as professionalism, corruption prevention, accountability and supervision. Following the Wood's Royal Commission, Whelan had the responsibility to develop a future NSW Police Service that possessed a high level of trust and confidence following the Woods Royal Commission.

The Royal Commission into the NSW Police Service had commenced in May 1994 primarily due to the influence of several key politicians, in particular, independent MLC John Hatton. On 5 February 1996, the Hon Justice J Wood, Royal Commissioner, presented an interim report to the NSW Government on his initial findings. Commissioner Lauer retired several weeks later. The Royal Commission recommended significant changes to the New South Wales Police Service, including: the establishment of a Police Corruption Commission; managerial restructuring; adoption of anti-corruption measures; changes to human resource management practices; new disciplinary systems; and new senior police executives. The Commission's concluding comments suggested that corruption had an historical cyclical affect and the NSW police should learn from these lessons (Interim Report Royal Commission into the NSW
CONCLUSION AND OTHER SOURCES

The historical data presented in this chapter characterise the police minister and commissioner relationship as one of conflicting political and social expectations. Based on historical factors referenced in this material, there appears to be some difficulty for police commissioners and ministers to operate effectively. However, these relationship difficulties need to be explored in greater depth, combining the historical facts which can be analysed on the basis of established relationship models. A more complex hybrid model may need to be developed to deal with the realities found in history and contemporary issues.

Against this historical background, it is difficult to totally define the role and relationship functions between police commissioners and ministers. There is little significant data about how and why police commissioners and ministers utilise their scarce and non-renewable resources, their time to develop and implement policy, their opportunities to assess the need for change or perform other duties, or their ability to provide leadership for necessary improvements. All these occur within a political environment rich with misperception concerning the police commissioner's role, and are hampered by other impediments to proper executive performance.

This thesis further examines this political environment by scrutinising other literature in the field, reports over a period of twenty-five years, interviews with ex-commissioners and ex-ministers and public experience available from history. A study in public policy processes must naturally begin with the body of literature that developed the approach. Hence there are numerous references to the extensive British, American and Australian literature on policing, government relations and public policy contained within the analysis.

In England, and to a lesser degree the United States of America, an extensive and diverse body of literature is available about the varying relationships which exist between a police minister and commissioner. Unfortunately, similar literature on Australian police minister/commissioner relationships is extremely limited. Royal commissions, media references and, more recently, academic literature about political issues in policing, still leave many gaps. A systematic study of contemporary police
minister/commissioner relationships in Australia has yet to be published which could be attributed to a low level of academic interest. Obtaining any current information about this relationship will largely depend on personal contacts and media reports. It is the purpose of this thesis to introduce new material that will redress the shortfall in the literature on police commissioner/minister relationships in Australia.

Ministers and commissioners generally do not release information about their internal affairs, except for annual reports, and in more recent times, policy directions required under legislation. Nevertheless, some internal knowledge of recent relationship issues including the government's views based on the Queensland Public Sector Management Commission Report 1993 and some localised information have been included in this study. Statements from ministers and commissioners, other police advisers, annual reports, speeches of commissioners and ministers, articles from the media, royal commissions, internal newsletters and public debates are used in this study. Access to printed primary and secondary material was enhanced by numerous interviews with those in and around the players. The initial research has been with people keen to respond with descriptive and historical material.

This thesis draws on writings about this relationship, including those of Jefferson and Grimshaw (1984), Marshall (1985), Milte and Weber (1977), Oliver (1987), Reiner (1988, 1991), numerous articles including Bersten (1990), Finnane (1990), Plehwe (1973), Wettenhall (1977), and Wiltshire (1992), and various government reports and inquiries which touch upon aspects of the relationship's operation. The most important of these public inquiries are the Fitzgerald Commission of Inquiry (1989), the South Australian Royal Commissions (1971 & 1978), the English Royal Commission (1962), the NSW Lusher Commission of Inquiry (1981), the NSW Office of Ombudsman Report 1993 and the NSW Wood's Royal Commission 1997. These independent inquiries in Australia and England were delivered to their respective governments after extensive research and consultation. Each of these reports were critical and, in the case of Fitzgerald (1989), highly critical of many aspects of the minister/commissioner relationship. Each of the reports urged that the relationship, and in particular the accountability processes, be redefined based on experiences both in Australia and overseas. The recommendations of the Lusher (1981) and Fitzgerald (1989) Inquiries became the basis for major internal changes to policing legislation in the 1980s and 1990s, and these further affected the
operational relationship between minister and commissioner. The Fitzgerald Commission recommended a traditional minister/commissioner relationship, based on the Westminster system of government, with a number of new accountability processes, whilst it rejected the Lusher model of a police board. It is these ideological differences which will make comparative analysis in this thesis worthy of closer examination.

These commissions of inquiry and their outcomes continue to provide useful information on the context (both internally, politically and legally) upon which an analysis can be developed. The thesis draws on this material, as it provides helpful insights and parallels about how the relationship existed and possible future developments.
CHAPTER 3 - INTRODUCTION TO LITERATURE REVIEW

We believe that people who work in government are not the problem; the system in which they work is the problem (Osborne 1992: xviii).

INTRODUCTION

These next three chapters use the substantive literature to determine whether there are any theoretical models which may explain the relationship between the commissioner of police and the ministerial role of executive government. These models are explored within the Australian context. The concept of ‘relationship models’ has been developed from the literature on the subject. Specific models have been used to categorize various Australian and overseas authors’ views on the subject of police commissioner/police minister relationships in the Westminster system. Because policing is generally a function of the states in the Australian system, the next three chapters concentrate on the literature related to the state tier of government, though much of the literature and other material to support the models in these chapters comes from overseas sources for consideration in the Australian context.

The dominant sources for the models come from policing, political, administrative ideas and contemporary management literature. The three models constructed by the thesis writer have been called the ‘Dependency’, ‘Independency’ and ‘Interdependency’ models. The third model of ‘interdependency’ is still evolving and has its roots in the new public sector management theory. This process of identifying models is a convenient way to organize the literature into a framework to determine current theoretical perspectives. By adopting this approach it is possible to interpret the literature and the three theoretical models. An emerging model of ‘interdependency’ developed from the literature may also provide a new theoretical or hybrid perspective to analyse the police commissioner/minister relationship.

These next three chapters will:

• examine the roles of each of the two players, their legal and moral obligations and associated conventions;
• establish a public policy framework to enhance the understanding of the relationship;
• study alternative motivations and past conflicts based on other primary inquiries, empirical research and investigations from a variety of sources;
evaluate the theories and evidence to determine which relationship model the information falls into and whether there is an inter-relationship framework;
emphasise the complexity of issues involved and the debates which have developed;
propose solutions to the problems identified in the literature involving the models and conventions;
survey other basic management literature;
recommend administrative changes to conventions based on managing contemporary policing and democratic government processes;
Review the traditional ministerial accountability and conventional independence of police commissioners within the Westminster system; and
comprehend the problem by defining the relationship through notions of control, accountability, administration, policy and operations within the policing structure.

To develop an understanding of how these models may be defined, it will be necessary to provide a brief background of the conventions and historical developments in this relationship field. An overview of the literature will highlight the models and give some initial information on issues involving this relationship. Finally, there is an assumption made that no one specific model or comprehensive theory explains all the conventions and behaviours related to this relationship. Three models which have been developed come from explaining the emerging historical experience. These models will provide a basis for further research, examination and analysis arising from this thesis.

BRIEF BACKGROUND TO MODELS

The historical development about how a police structure interacts with a government is highlighted in the ‘operational relationship’ between the police minister and police commissioner. When in England in 1829 the Home Office Secretary, Sir Robert Peel persuaded parliament to introduce a modern policing system, debate centred on the use of force, liberty and democracy, and the control of police under a Westminster system of government. This debate led to two diverse approaches being taken to deal with the issues. The first was to control police through the executive arm of government, that is through the traditional approach of ministerial governance. The second approach was to employ the notion of a separation of powers. The police were to be accountable to the judiciary and the law but independent of the executive. The second approach became the legal view in the late 19th to early 20th century. However, in times of social crisis, there appears “a potential for
destructive divisions between ministers and police commissioners over the ill-defined boundary of political responsibility for police and operational autonomy (Finnane 1994:40).

In more recent times, there has been an attempt by practitioners and theorists to develop an approach of mutual agreement between the players concerning their roles and responsibilities. This emerging approach has been developed because of the continuing problems with the other two positions (ministerial responsibility and operational independence) and the new insights gained from behavioural management and administrative studies (Avery 1981; Bennis 1984; Geller 1985; Bersten 1990; Reiner 1991; Wiltshire 1992; Covey 1992). Historical developments provide the basis upon which three relationship models can be explained and used to analyse the behaviour of police ministers and commissioners of police in several Australian states.

There exists in the literature an unequivocal dichotomy between the proponents of the unfettered political independence of the commissioner of police and the adherents to the model of governmental control through dependency. There are inescapable statutory pronouncements including a majority of the Police Acts in Australia subordinating the police commissioner to the will of the minister (Finnane 1994:33). These issues are examined further in later chapters. However, there are also many incompatibilities and conflicts which serve to show that the real dilemma of the situation lies somewhere between poles of dependency and independency. In the ‘middle ground’ is an unstated sphere of mutuality or interdependency rather than individuality, inducement and direction by control. Each of these three positions - dependency, independency and interdependency - will be examined and then contrasted.

An understanding of these relationship positions and the complexity of issues surrounding each and their relevance to policing theory will require a further scrutiny of other supporting literature. The three models to emerge from the literature will have generally definable parameters within the policing field. The models will also display some features which constantly interact and change according to the dynamic political circumstance at a given period in history. The main characteristics can be explained briefly here.

First, the legal and conventional background of a dependent relationship between a police commissioner and the policing role of government is essential for appreciating the fundamental nature of a Westminster system of ‘responsible government’. Veno and Veno
(1989:134) explained that policing developed from a need for public order. Policing was created to enforce society's laws. Gaze and Jones (1990:357) recognized that police can also impose indirect sanctions on individuals where laws do not exist. Many authors (Marshall 1965; Bright 1971; Mitchell 1978; MacDonald 1981; Spencer 1985; Simey 1988; Fitzgerald 1989) suggest police need to be accountable to the government to ensure such indirect sanctions are not exercised. However, the rule of law dictates that conduct is not punishable if the conduct is not illegal - nullum crimen sine lege (no crime without law). This restricts the police and officials to discharge their functions in accordance with the law. Chisholm and Nettheim (1988:115) stress that the rule of law has evolved through four basic tenets: officials only gain their power from the law and not from the holding of office; only parliament, being the people's elected and accountable representatives, can enact legislation; executive government must be responsible to the parliament; and the judiciary must be independent.(1)

Following this logic, the high office of police commissioner does not put its bearer above the law. The commissioner is accountable to the law like every other citizen. Derham, Maher and Waller (1991:188) take the point of public accountability further:

> There is embedded in the common law the view that the administration of justice must be carried on publicly, in the full light of day so that public scrutiny and criticism of it may not be obscured.

In a study of the political background of the police commissioner's relationship with a minister of the crown, it is necessary to consider the government's responsibility to the public. Under the Westminster model, responsible government requires that ministers must be elected members of parliament. However, there are variations based on constitutional requirements (Brugger & Jaensch 1985:88-89). Ministers are responsible to parliament for their respective departments and the respective departmental heads are responsible to their minister. This concept is supported by Enright (1987), who suggests that the principal functions of parliament are to legislate and to supervise the executive. This executive includes the government departments responsible for executing the laws, regulations and policies of the government and this includes police departments.

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(1) For information on the ‘Rule of Law’ doctrine the following texts will assist: Walker 1988; Radzinowicz 1977 and Weiner 1976.
Two facts therefore emerge from the model of responsible government in the Westminster system. First, the commissioner of police is accountable to the law like every other citizen and second, the concept of responsible government dictates that police commissioners and departments should be accountable to their ministers who are in turn responsible to the parliament. However, there is a convention that suggests police commissioners in the Westminster system are independent of the executive.

Second, the notion of the independence of the police commissioner from political intrusion has its genesis in British legal and political experience and ideology. However, there exist important constitutional differences between Australia and Britain. Australia's federal, state and local government systems are based on both constitutional and common law principles. But various British legal and political principles on policing have transcended the political and cultural boundaries of the two countries, as described by Waller (1979/80:250):

Inevitably policing in Australia has been substantially influenced by English history and experiences, and sometimes planned and directed by men like Salisbury ...who had been trained and had served in English forces.

The many influential proponents of this model who advocate the concept of an autonomous police commissioner unshackled by executive government draw succour from adherence to ancient common law mandates and judicial interpretations. This proposition, while trenchant, is more a sentimental approach than a realistic one. Its appeal lies in the fondly held belief that the constable, including the chief constable or commissioner, in common law, is in possession of "original" powers unfettered by allegiances other than to the law itself.

The thesis that officers commanding a police force are, or should be independent, relies for its force not so much on compelling legal reasoning as the view that law enforcement should be manifestly impartial and that the function of the police is in some way analogous to that of the courts and, should therefore be similarly shielded from even the appearance of politically motivated interference (Plehwe 1973:269).

The central issue is that under the responsible government theory there are problems in applying the doctrine of independence to the police. The current ministerial and operational independence conventions make it unclear who is responsible for what in police matters. The chain of responsibility through the police hierarchy to the commissioner, to the minister
responsible for the police, to the parliament is often broken. Once broken, responsibility and accountability of the police to the parliament may be unclear in a particular case. Such ambiguity leads to the practical problem of a vacuum in accountability. For example, Aboriginal deaths in police custody resulted in a Royal Commission in Australia (Royal Commission into Aboriginal Deaths in Custody 1991). A police officer has the power to arrest and place in custody aborigines who break the law. A police commissioner can develop administrative guidelines on custody issues but cannot direct a police officer on legal responsibilities. A police commissioner is accountable to a police minister on Aboriginal policing matters but within the limits of operational constructs determined by convention and legal mandates.

Third, the fundamental problem of defining an interdependency relationship is often debated in the literature by attempting to determine how a police minister can have more effective supervision of a police commissioner without compromising the commissioner's impartiality in enforcing the law. The result is often to redefine the institutional relationship's rules and conventions. Rather than focusing on traditional models or modifying administrative structures there may be a need for greater personal trust and confidence within the relationship by better defining the relationship expectations.

Marshall (1978:60) argued that the constitutional and trust relationship between the state and the police provides some indication of the appropriate relationship:

To the question whether civil liberties and impartial justice are more to be expected of chief constables than from elected politicians (whether on police committees or in the House of Commons or in ministerial departments) many...would feel justified in placing more trust in the former.

How to achieve the co-operative effort between a commissioner and a minister, using both parties' talents and abilities to create a superior policing system for the community is the difficult question discussed in the interdependency approach. Also the notion of interdependency which proposes the co-operative approach has yet to define how to manage the power of balance between the extremes of political, legal, ideological and bureaucratic power. When a commissioner, minister, government and the parliament who represent the community have established a clearer understanding of what is expected from each other, and are accordingly made accountable for the results they achieve, their work together will then be made more meaningful and achievable. Institutional arrangements which will achieve this
clearer understanding are not easy to identify and perhaps the dilemma can not be resolved since there will always be a difference between the government and parliament as the people's representatives in managing police affairs. Some of the basic differences between a government and police commissioner have been presented in the literature on how police commissioners manage police organizations. A brief summary of that literature is analysed next to provide further insight into the complex role of a police commissioner.

BRIEF LITERATURE OVERVIEW - POLICE COMMISSIONER

Knowledge about the role of the police commissioner in a liberal democratic society is very limited. The body of empirical research on police commissioners in Australia and overseas is minuscule in comparison with studies on field police officers. There are some autobiographies and books written by commissioners, such as Jenkins (1970), Ahern (1972), E. Davis (1978), Murphy and Plate (1977), John Alderson (1979, 1984) and Avery (1981) which have made substantial contributions. However, an initial search of the literature from the turn of this century to 1980 revealed no book-length research on police chiefs. Since 1980 several authors including Waller (1980), Hughes (1980), Brennan (1983), Geller (1985), Oliver (1987) and Reiner (1988, 1991), Moore (1993), Bryett et al (1994), and Finnane (1994), and a few American, Australian, Canadian, New Zealand and British research papers, have focused on the personal characteristics and political processes involving police commissioners and, to a lesser extent, police ministers.

Current public debate has focused largely on the commissioners. Research on policing has concentrated on the street officers. The senior management of police departments represents, as Reiner (1985:65) argues "the greatest gap in the growing body of knowledge ... accumulated about the police". Research on police ministers is practically non-existent. General comments have been written by numerous authors overseas and in Australia on significant events and issues affecting police commissioners and ministers. However, several police ministers and government officials have provided insights into this difficult relationship (Simey 1988; Cockburn 1979; Geller 1985; Pickering 1992). A study of the relationship of commissioner and minister in the Australian context would add to the limited body of knowledge existing in this field.

The position of commissioner and its relationship to that of police minister in the Australian
system of responsible government has in recent times been central to the debate on controlling police direction. The debate however has continued for decades internationally. The 1962 Royal Commission in England put its views plainly about this issue: "The problem of controlling the police can be re-stated as the problem of controlling chief constables" (par.102). This recurring relationship problem has led to more recent inquiries world-wide on this important relationship and its impact on the government and the community.

In the past thirty years, several major inquiries into police and government relationships were undertaken in Australia, England, America and Canada. These include Germann (1962); English Royal Commission (1962); Bright Royal Commission (1971); Grosman (1975); National Advisory Commission (1976); Salisbury Commission (1978); Bussom et al. (1981); Lusher Commission (1981); Mayo (1983); MacDonald Canadian Commission of Inquiry (1981); Neesham Inquiry (1985); Fitzgerald Commission (1989); and the Sheehy Report (1993). The focus of these inquiries generally has been on how to better define the traditional structures and conventions which currently exist, in particular within the context of the independent model.

The general political, legal and social literature on the relationship has generally been based on political concepts and theories of accountability, control, and ministerial and parliamentary responsibilities and functions as they apply to policing in a liberal democratic society. Authors such as Marshall (1965), Plehwe (1974), Murphy (1975), Wettenhall (1977), Alderson (1979), Reiner (1985), Lustgarten (1986), Oliver (1987), Bersten (1990), Wiltshire (1992), Bryett et al (1994), and Finnane (1994) have used these concepts to develop an understanding of the relationship between the government and police administrators generally. Many of the concepts developed by these authors have been incorporated into one or more of the models considered in this literature review.

The police management literature has defined the roles and functional levels of police commissioners within police organizations (Barnard 1938; Holden, Fish, and Smith 1951; Holden, Pederson, and Germame 1968; Whitrod 1976; Burger 1978; Klein, Murphy 1979; Avery 1981, Witham 1983 and Reiner 1991). Other essential descriptive functions and procedures of the police chief are often defined, as Geller (1985:398) reported "to provide a sense of purpose, ethical content, and direction for all others in the organisation to follow". The management of direction and change is stated to be the contemporary imperative for
commissioners in all management tasks and competencies and is seen as the panacea to all management relationship problems, according to Drucker (1973), Alderson (1979), Avery (1981) and Couper (1983). However, there are only a few articles and books in all police literature that deal with police executives managing political change (Murphy 1975; Geller 1985; Alderson 1979 & 1984; Avery 1981). This body of knowledge may lack clear definition in understanding the dynamics of the commissioner/minister relationship during change. In his book, "Police Passages", Stratton (1984) states "the evolution of law enforcement takes place within the evolution of the society it serves. The two cannot be separated." The literature on management and the policing environment has yet to be fully developed and may only provide some useful insights into the models and contemporary policing issues.

Police agencies are frequently cited as being slow to adapt to change (More 1983; Smith 1992; Wettenhall 1993), and administratively insulated (Goldstein 1977; Schlacter and Stewart 1980). Efforts to effect sweeping organizational reform have frequently been disastrous (More 1975; Sherman et al 1973; Edgar 1977; Szynkowski 1981). At the same time, numerous scholars have observed that future management strategies will have to be premised upon creativity and receptivity to change (Johnson 1975; Swank 1975; Wycoff and Kelling 1978; Souryal 1981; Gerardo 1982; Hernandez 1982). This thesis suggests that a new model of management may be emerging and may affect how relationship structures are determined or developed. The traditional bureaucratic model is nevertheless overwhelmingly pervasive and persistent in police services (Guyot 1979; Archambeault and Fenwick 1983a; Archambeault and Weirman 1983b).

A review of the literature dealing with attempts to bring about organizational change in the police sector indicates that when changes by police commissioners and governments are made with careful planning, proper training and incremental implementation, they are more frequently successful. Police administrators strongly support the principles found critical to achieving organizational excellence in the private sector, but simply do not believe they can implement them in the policing world (Hoover & Mader 1992:31-32). The difficulty in achieving management excellence is often stated by commissioners as a problem of defining the political relationship and conventions (Plehwe 1974; Murphy 1975; Avery 1981; Oliver 1987; Reiner 1991; Skolnick & Fyle 1993).

The dominant impression that the literature records about policing leadership in a liberal
democratic society is that it is marked by its evolutionary, rather than revolutionary, character. No one model or approach provides a framework for understanding or structuring this complex and vexed relationship. It will require a number of models to be researched, examined and analysed to achieve a better understanding of how this relationship operates. As Lee (1901:31) in "A History of the Police in England" has pointed out, the management of policing:

Is not the creation of any theorist nor the product of any speculative school; it is the child of centuries of conflict and experiment.

To evaluate this child of conflict it will be necessary to examine and understand how the relationship between police commissioner and minister operates. The three models which will be developed from the available literature will discuss the roles and conventions associated with the commissioner/ minister relationship. They will need to be viewed within a framework which moves progressively through a political, historical and legal continuum of dynamic change in western democratic society. In the next three chapters the models have been called the 'Dependency Model', 'Independency Model', and the 'Interdependency Model'.
CHAPTER 4 - THE DEPENDENCY MODEL

The ‘dependency’ model in this research thesis relies heavily on the conventions of ‘ministerial responsibility’ in a Westminster system of government. This thesis introduces and develops the ‘dependency’ model of the police/commissioner relationship as one in which a police commissioner is subservient to the police minister and is accountable to the minister for the administration and operations of the department. The police minister is responsible for the policy direction of the department. The absolute extreme of this model requires the police commissioner to go through the minister for approval of all policy, administrative and operational needs. A police commissioner is responsible to a minister and the (police) minister to parliament. In practice however, this theory may not hold true within the policing portfolio due to a range of issues to be discussed here and elsewhere in the following chapters. The range of interpretations of the Westminster doctrine has a significant impact on this model.

According to Weller (1981:13) the Westminster doctrine is based on the principle that, "ministers are meant to be responsible for all the actions taken by their departmental officials. In practice the doctrine has probably never been literally true. Yet it remains central to the whole theory of Westminster since officials are responsible to the minister and the latter to parliament". Weller (1981:60-70) argues further that the Westminster model is premised on the idea that public servants carry out the instructions of ministers. Ministers are elected and public servants are responsible to ministers who are themselves responsible to parliament. Central to the concept is the notion that the public service works on the principles of neutrality, anonymity and professionalism. The theory does not mean that public servants are involved only in administering ministerial policy. They can and do become involved in making policy proposals, shaping alternatives and giving advice to the minister of the crown.

The theoretical dichotomy between policy, administration and operations as separate activities helps sustain the myth of the non-political role of the police commissioner. A century of academic and legal argument about this dichotomy has done little to foster a paradigm shift in political or public thinking. Professor Emy (1976:27) has written that the "distinction between policy and administration as separate activities can no longer be upheld. While policy making was ‘political’ because it took place in the struggle for power, administration was regarded as ‘rational’ because its aim was to attach the most efficient means to prescribed ends". Policy and administration cannot be divided so
simply, as two distinguished articles by Sir John Crawford (1954, 1960) made clear. The basic role of the public service in our system, according to Cole (1979:151), has not changed. That role "is to assist governments in thinking through and implementing their plans and policies."

The most common responsibilities of a minister as perceived by public servants according to Weller (1981:71-73), were to "win in cabinet, express and articulate the department’s needs there, and be effective, loyal advocates." If ministers do not get involved, they concede power to the public servants (Boyle 1980:7-8). This was the case as identified by the Fitzgerald Inquiry (1989) into police misconduct.

Sir Henry Bland, who inquired into the Victorian State Public Service (Victoria) in the mid-1970s, broadly defined the role and functions of the ministerial department as follows:

Formally the Minister is the department. Without a Minister there cannot be a department.... The Permanent Head is the Minister's adviser and the manager of the department's staff...and remember, Parliaments do not provide funds for Permanent Heads. Funds are provided for departments, ie. the relevant Ministers (Bland 1975:12).

Many of these conventions and ministerial processes (although not covering the whole political field) apply to the governance of police departments by police ministers in Australia. But conventions are not always easily identifiable as the literature indicates (Lusher 1981; Fitzgerald 1989; Wettenhall 1993; Finnane 1994). Hence, any political conventions identified in a particular case, although being part of or a variation of the Westminster system of government, may not exist in all police departments studied in this thesis.

Literature on the dependency model comes predominantly from Britain, and it again cannot be assumed that all the principles discussed apply directly to Australian circumstances. Australia has a different political environment shaped by its own traditions, conventions, legal procedures and other social conditions. However, many historical conventions and legal views on how to police society have been transported into the Australian Westminster system. This literature review does not however intend to test the British model against Australian practice but to emphasis the critical issues and debates which exist within the societal and policing context of Australia.
The fundamental structural characteristic of the Westminster system is that it rests upon convention rather than statute. Dicey's classic 19th century definition of a convention was 'a rule not judicially enforced or recognized' (Marshall 1985:38). This definition and earlier writings by J.S. Mill (1947) both emphasised that conventions represent ideals of political morality rather than legality. More recently, Professor Wade described a convention as "an obligation the only imperative of which is conscience" (Ellis 1980:369). Conventions provide a constraint in respect of matters having no legal sanction. Parliamentary conventions have evolved to provide a constraint to "secure those powers conferred on all major governmental persons and agencies are exercised in accordance with principles of democratic accountability" (Marshall 1985:33).

A convention however is not merely descriptive of a past behavioural custom. Implicitly, a convention is an expectation that its rule of behaviour will continue to be observed in the future. Conventions evolve as a response to particular needs, and derive validity from satisfying them. If conventions are found to be ineffective, or if the attendant circumstances change, they may be modified or even abandoned. Alternatively, as Marshall (1985:34) remarked:

A convention's existence may not be doubted but many of its applications to particular factual situations may be open to argument. This is certainly true of the major conventions of collective and individual ministerial responsibility.

This issue is central to the debate about how the 'dependent' model operates. Police ministers' and commissioners' rules of behaviour in a Westminster system often appear to be ineffective and modified due to changing circumstances. The resultant effect is that future expectations are ill-defined.

The view that the minister's role is to give directions to a departmental head appears to be a critical issue. Several British authors have discussed this issue and have labelled the models as the 'Directive Model of Accountability' (Morgan and Maggs 1985) or the 'Subordinate and Obedient Model' (Marshall 1978). Basically, both authors saw this model as having ministerial control with an ability by the minister to direct and veto operational policing decisions. However, other source material will provide the model with differing insights and debates into the workings of ministers and police commissioners within the Westminster and policing systems.

Discussion about this dependency model will focus on the history of ministerial control,
the approaches used to control police commissioners, the British and Australian context and some relevant fundamental issues and debates.

BRITISH APPROACH - CONTROLLING THE POLICE COMMISSIONER

British history shows that the administrative and ministerial control of police and, in particular the police commissioner, has been on the political agenda for over a century. Operational independence by a police commissioner was not the approach the Permanent Secretary, Godfrey Lushington (1880), believed the government wanted. As result of a series of rows with Police Commissioner Warren, the government wanted the police commissioners subordinate to the Secretary of State who was responsible for a Home Office Police Department (Lustgarten 1986:35).

Henry Matthews, the Home Secretary in 1888, believed that the intention of the legislature was to establish ministerial responsibility for the metropolitan police force, "not for every detail of the management of the force, but in regard to the general policy of the police in the discharge of their duty" (Marshall 1965:30-32). Reiner (1991:13) argued that in the nineteenth century it was generally accepted that watch committees, another administrative process of external public control similar to current police boards, did have the power to instruct their chief officers on law enforcement policy. Watch committees applied only to County and and Borough Police Forces (not the Metropolitan Police) which were governed in a way much closer to the Australian model.

In Britain, J.E.Simon (1957), Joint Under-Secretary of State, spoke about the "general accountability" principles operating between the Metropolitan Police Commissioner and the Home Secretary (Marshall 1965:80). Butler (the Home Secretary) introducing the new Police Act 1964 into the House of Commons, on the 9 May 1963 used the following words in the debate:

A Minister ought not to have responsibility without power....I am quite convinced that it would be wrong for one man or one government to be in charge directly of the whole police of this country. Our constitution is based on checks and balances. This has kept our liberty through the generations (Marshall 1965:85-86).

Even recent new structural changes to English Police Forces have seen overall policy control remaining with the Home Office. Operational and administrative control is to be shared between police commissioners and local police authorities (Clarke 1993:14-15).
The similarity of comments by Home Secretaries between 1888 and 1993 indicates an acceptance of the traditional role of ministerial governance. The general view by Home Office Secretaries in England is that ministers are responsible for policy direction for police and the police commissioner is responsible for the implementation or administration of policy. But how much control or influence should a minister have over policy, administration and operational activities, and directing the affairs of the police commissioner? Most of the British literature argues there are two major dimensions to this question with the police commissioner's position being at the centre of the issue. First, there is stronger control by government. Second, where sharing of control occurs between the police minister and commissioner, there is a bias that favours the government.

**THE APPROACHES (1) CONTROL BY POLICE MINISTER (2) SHARED CONTROL WITH THE POLICE COMMISSIONER**

The strong version of directive control, according to some authors (Straw 1979; Brogden 1988; Oliver 1987) is based on the specific overseeing by the police minister of general administrative policy, focussing on operational policies or implementation of policies. Basically, this view would see government control extended to include particular operations such as public demonstrations.(1) The traditional approach of the ‘Independency Model’ will be discussed in the next section of this chapter. That model removes all law enforcement decisions, including general operational and administrative policy decisions from the political arena, and is quite distinct from the approach involving democratic intervention to direct the police commissioner. To achieve this change would require the transferring of the duty to enforce the law from a commissioner to a democratic community.

Current Labour party policy in England, strongly influenced by Jack Straw's two private member's bills (1979 & 1980), makes the distinction between the two versions of increased political control to reduce the operational independence of chief constables. Straw's reason for developing the bills came from a belief that:

....

(1) In the British system of policing, a tripartite system of accountability exists. The Police Commissioner is accountable to both the Home Office and local government authorities for the delivery of the policing service. The current British Government stance is to move the operational and administrative control from the Home Office to local authorities (Clarke, 1993). Oliver (1987) provides more material on the operations of the system.
some of the Chief Constables have not confined themselves to policing policies but have been willing to engage in political controversy (Alderson 1984:104).

In response to this statement, Chief Constable Anderton commented,

...does it mean that Chiefs of Police should be legally required to take orders from elected representatives, not all of whom are well advised and properly motivated, and who have no justifiable reason for taking command? (Alderson 1984:104).

Straw's basic assertion was that the Police Act 1964 had failed to bring about the real intention of the British Royal Commission (1962) into Policing, which was to control the power of chief constables and to make them accountable to locally elected representatives of the community. In Oliver's view, "a police authority has effectively no power over the operation and organisation of the police force in its area" (Oliver 1987:69). However, Straw maintained that power and control were concentrated in the Home Office. He believed that there was a real need to have a shift in the balance of power back to the people. In 1993, the then current Home Secretary, Sir Kenneth Clark, in an address to the British Parliament, agreed there needed to be a shift in power as it related or may relate to the Home Office, the Police Commissioner and Local Authorities. However, the Home Office still maintains the policy direction of policing in England by using national policing standards for local authorities (Clarke 1993:14-15).

Straw's argument against the strong directive approach as bringing police into politics was expressed in four fundamental views:

1. Law and order is fundamentally a political issue. It is often described as the first duty of the State.

2. The special nature of police work means that there must be a wide area of independent professional discretion in relation to particular operations or cases.

3. Chief Constables no longer appear content to adopt a quiet professional role.

4. The success of the police depends, ultimately, not on the number of vehicles, firearms, riot shields, or computer terminals available to it, but rather upon the confidence of the public (Oliver 1987:73).

Brogden (1988) believes that Straw's strong version ignores the discretionary aspect of much law enforcement work involving individuals, whether to deal with them according
to law or otherwise. A commissioner's discretion to construct policies is often echoed in
cases of individuals dealt with by constables eg., the exercise of judgement to prosecute
or not.(2) Brogden (1988:162-163) is arguing in effect that this approach, "would mean
that an elected democratic authority should have a contribution to make both at the
level of commissioner decisions, and at the level of constable, for some of their
decisions".

Marshall (1978:61) claimed however that there are problems with the policy-making
process using what he labelled the 'subordinate and obedient mode' of political
accountability:

Civil liberties and the impartial treatment of individuals may
require the police to be partly buttressed from overt political
pressure.

Marshall saw a problem with partisan influence on law enforcement policies and
suggested a different form of accountability was required:

Law Enforcement policy is made by the exercise of executive
discretion but it requires a special style of accountability which
our institutions have not as yet fully succeeded in providing
(Oliver 1987:65).

Many British critics have remarked that the boundaries of function, responsibility, and
power between the points of the triangle (referring to the tripartite system of policing
accountability) in England were ill-defined. They contained the seeds of future conflict
once the political roles were defined.

According to Plehwe (1973:276), these poorly defined roles have resulted in ministers
deciding law enforcement policy in some instances and declining to do so in others. No
principles have been formulated to determine when intervention is appropriate. A key
question is: Should police commissioners retain the statutory duty to make sure that
the law is enforced, or merely have a duty delegated to them by the government? The
answer to this question and social consensus about policing became difficult to agree
during the late 1960s in England and overseas.

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(2) The term 'police commissioner' and 'chief constable' have differing legal status in the
British policing system (Gillance and Khan (1975:56). All members of the British Police
Forces, regardless of rank, hold the common law office of constable. Two exceptions
exist, the Metropolitan and City of London Police Commissioners (Reiner 1991:11). In
this chapter, the terms Police Commissioner or Chief Constable are often used
generically unless specifically addressing issues about their status.
The second or weaker version of this dependency approach is where the police commissioner has the responsibility for operational decisions, but law enforcement policy is under democratic and hence ministerial control.

Alderson, a police practitioner, supported the proposition for the public to discuss policing issues with police commissioners. His objection to interference by police committees was the obvious danger of allowing party politics to devalue the conventional independence of the police. (3) In a lecture to a command course at the Police College, Bramshill in 1976, Alderson has been reported as saying of the ‘police job’ that it is "too professional, the issues too remote and too diverse for the lay committee to grasp all but the occasional issue" (Oliver 1987:71). Not surprisingly, this is the line taken by many senior police officers in England and Australia (Whitrod 1976; Salisbury 1978; Reiner 1991).

Margaret Simey, a Liverpool council member, reinforced this view about police commissioners controlling the law and order debate during the Thatcher era in England. Commissioners were often contemptuous of the local authorities and other directive influence on police commissioners:

Accountability is essentially a political process, since it is the means whereby a public service submits to the scrutiny of those whom it is designed to serve. The proper safeguard against the exercise of improper political interference is not to ban politics from policing but to ensure that the elaborate system of checks and balances, which already exists but is seldom invoked, is brought into effective operation (Oliver 1987:74).

Simey believed that police authorities had failed to make police more accountable and that police professionalism had increased the autonomy of chief constables.

Straw's weak version rightly recognises the political nature of the chief constable's law enforcement responsibilities. But it fails to recognise the inevitable confusions that would flow from assigning general policies to one form of authority (the democratic), and particular operations to another (the legal). Straw's bill to control the operational policy of policing, struck at the heart of a chief constable’s

(3) Police committees in England are generally established with representatives from the Local Council, Community members and police and to review police operational policies and resources. Debates about their role and functions, particularly in local governments are extensively discussed by Oliver (1987), in, Marshall (1978), Benyon (1986) and Savage (1984).
operational independence, the current traditional, legal model of policing. It was fiercely opposed by the police commissioners in England at the time.

The President of the Association of Chief Police Officers, Alan Goodson, saw it as "the thin end of a wedge" and warned, "Once you allow political interference to play any part at all you are changing the complete nature of policing in this country" (Jefferson & Grimshaw 1984:79). Tony Judge, editor of the Police Federation's magazine, reported that such proposals as those contained in the Bill could mean only, "Naked, political interference, ..... destroy[ing] the operational independence of the police service" (Jefferson & Grimshaw 1984:79). As Waddington (1983:28-30) has stated concerning the ideology of subordinate control of police commissioners, "It is incumbent upon those who advocate increased political accountability and control, to show that this is likely to lead to a more impartial and neutral police force, not less".

Clearly, the two objectives to create an impartial service immune from outside influence and at the same time provide it with some form of external control, appears to be incompatible. Proposals which were presented as evidence at several British inquiries indicated a preference for the ministerial approach to responsible government but independent control by commissioners on operational issues. This was the model accepted by the English Royal Commission Report (1962) and by Parliament in 1964. Yet contemporary history and practices indicate that English Parliaments and Governments do not accept this view of operational independence as being the ultimate consequence of political and administrative control of police commissioners. Evidence suggests otherwise, with the Home Office regularly involved in operational policing affairs. (4)

THE AUSTRALIAN CONTEXT

The constitutional position of police commissioners in Australia generally is that they are subject to the direction of a minister.(5) Yet Finnane (1994:38) argues there is historical evidence to suggest that "police commissioners have developed a substantial administrative and policy autonomy in spite of legislation usually subjecting them to the direction of the minister."

......

(4) See comments by Alderson 1984, Loveday 1986, Morgan 1987, who have recorded the heavy involvement of the Home Office in operational policing affairs during the 1980s.
Police commissioners are placed in a position which potentially ‘ politicises’ their actions, for example street demonstrations, in that they may be directed from time to time, whether overtly or covertly, to act or not to act to enforce a law and administer the department as decided by the parliament. For some Australian commissioners who have taken exception to ministerial directives for varying reasons, the end result has been their careers coming to an end, at least in the publicly revealed cases. McKenna (1971), Whitrod in Queensland (1976), Salisbury (1978), Avery (1991), Lauer (1992), Acting Commissioner Frame (1992) and Newnham (1992) are the best-known examples.

This politicisation of police commissioners may be the result of emerging trends in the public sector. Emy and Hughes (1988:339) noted a new style of public service: "this new form is a flexible and, arguably, at higher levels a more politicised structure akin to the civil service in the United States rather than the United Kingdom." Police commissioners may not be neutral between government and opposition, nor are they neutral between policies. Finnane (1990: 224), suggests that under the Lewis administration, it was evident that the:

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\text{low profile of the police administration was not matched by a passive role in the matter of police policy-making. Evidence suggests that there was no need of ‘aggressive intervention’ in public policy-making, for the police were already well placed to determine policy.}
\]

Finnane (1990:224-226) believes that police commissioners have always been partners with ministers in the development of policy, in the assessment of its impact and in the implementation of solutions. Finnane (1994:33) and other authors cited in his book suggests that policing decisions have been influenced by government ministers or the police themselves have ..... played a role in policy-making and law-making." Politicization, according to Finnane (1990) and others becomes possible due to the use of the public service for party purposes, and the appointment or promotion of senior police officers through party influence. The integration of policing and political organizational values are often complex and difficult to define in the Australian policing context.

Several writers have written about the status of police ministers and

(5) In Australia, Police Commissioners (including the Chief Commissioner - Victoria) hold the office of constable under common law (Hope 1979 : 43 & Lusher 1981 : 681). The term ‘office of constable’ has been specifically included in Australian legislation including Section 3.2 of the Police Service Administration Act 1990 (Qld), (Bryett 1994 : 30).
commissioners. Plehwe and Wettenhall (1973:265-285 & 1993:1-120), both political scientists, have examined the constitutional status of Australian police forces, particularly those of Victoria and New South Wales, in the light of authoritative English conventions about the common law powers and obligations of police. The finding was that, while the Australian position is complex and ill-defined, nevertheless governments do generally observe self-imposed limitations in issuing instructions to police commissioners in respect of the direction of the forces under their control. Again, Plehwe (1974: 316-335) has described the special position of the (London) Metropolitan Police in England, which has often been seen as a model for the Australian state forces. Wettenhall (1977:12-23 & 1993:1-20) has reviewed several Australian developments including the implication of the Whitrod resignation. Wettenhall's recommendation was that the formal status of the Australian police commissioner/forces be established as statutory authorities. He urged not only that they should continue to hold such a status, but also that it should be respected by the politicians with whom they have to relate.

As for the status of Australian Police Acts, Wettenhall (1977, 1993) and the more recent Public Sector Management Commission Review of the Queensland Police Service (1993), have given a useful Australian synopsis:

(1) a single head official known as the commissioner, who is generally charged with the superintendence, general control and/or management of the service. There are administrative variations to this within Australia, namely, New South Wales (Police Board and Ministry) and Victoria (Police Ministry and Board ... and the Act authorise the commissioner to make regulations, rules and/or orders as necessary for the general governance of the respective services.

In no case is the management of the service vested directly in a minister. Of course, as with all ministerial departments, ministers must accept ultimate responsibility to answer for the department in cabinet and parliament, and it is therefore important to consider the sets of arrangements the six acts have established to govern relationships between police departments and their associated ministers. These arrangements operate mainly in respect of appointments, the making of regulations, and the ministerial directive power (if any). However, in the past decade, Police Acts have been defining the legislative status of ministerial directives, e.g., Queensland, Australian Federal Police, South Australia, and Western Australia (As quoted in Wiltshire 1992:21-22).

The Lusher Report, (1981:710-720), a major study of New South Wales Police administration, does deal with the meaning of the expression "subject to the direction of
the Minister”. The meaning of this expression will determine the degree of executive control over the commissioner. It is interesting to compare Lusher's interpretation of the phrase with judicial interpretation of Lee J. in the last-quoted paragraph of his judgement in Griffiths v Haines (Unreported, Supreme Court, New South Wales, 20 May 1982, noted (1983) 57 A.L.J. 108).

There are three initial possibilities according to Lusher (1981:710) in defining commissioner/minister relations:

(i) the Minister may direct the Commissioner in respect to any matter whatsoever; or
(ii) the Minister has only a limited power of direction and this is confined to certain matters; or
(iii) the Minister cannot direct the Commissioner in any way at all, and the clause is meaningless.

The third interpretation can be rejected, according to Lusher J., at the outset. According to basic rules of statutory interpretation, the words in a statute must be given some meaning where possible.

The first interpretation is the broader of the remaining two possibilities. It would permit a direction to the commissioner on any grounds whatsoever in respect of any matter coming under the broad subject of police services. It seems, from the case cited (Griffith v Haines), and Parliamentary Hansard debates in 1976, that the Queensland Government considers the first of these alternatives is an accurate assessment of its control over the Commissioner of Police.

An analysis of the attitudes expressed by members of the Queensland Government in November 1976 highlights a number of assertions about executive control and the office of commissioner. A popular reason for claiming police accountability to the executive by the Queensland Government is the view that the commissioner of police is a nominated officer, and that he/she is not elected as is the government of the day. The Premier, Mr. Bjelke-Petersen, said at page 1927 (probably) based on a crown law opinion (Queensland Parliamentary Debates, 30/11/1976):

The Government is answerable to the people for the effective administration of the law. The Commissioner of Police is not

.....

(6) Much of the 1976 Queensland Parliamentary debate was occasioned by the resignation of Commissioner R. Whitrod who criticized the Queensland Government for interfering in the administration of the police department.
answerable to the people.....While the Commissioner is required to act in accordance with the Police Act, it must be remembered that he is an officer of the Crown. Who put him there? What laws is he subject to? He is certainly not a law unto himself. Matters of policy are not matters for the decision of the Commissioner.... The responsibility of the Police Commissioner is to administer the law - administer the Police Force.

Mr. Byrne, then Liberal Member for Belmont, and Mr. Newberry, the Queensland Police Minister, supported the Premier's stand (QPD 1934). They were critical of the Police Commissioner's insistence on operational independence in the administration of the police department (Queensland Parliamentary Debates, 30/11/1976).

The argument that the "Commissioner is not subject to election has a half-statement, as is pointed out by Mr. Justice Lusher (1981: 708). The fact is that police as well as judges are controlled by the law. The law is not the product of a particular person or party, but is the manifested will of the parliament as a whole. The distinction between the government of the day, and the parliament as the total people's representative body, is under-emphasised by Justice Lusher. As one Labor speaker observed, in another similar debate, "it was unfortunate that the Police Commissioner was responsible to one Minister, rather than parliament as a whole, since the Minister might have an interest in preventing the discussion of certain allegations" (N.S.W. Parliamentary Debates 1968 : 779-80).

Lusher (1981: 710) however recognized the limitations of a minister's power, referring to the independence of the office of constable as the basis for police independence which is discussed further in the independent model. However, Lusher (1981 : 711) believed that the issue of ministerial direction was not to give a complete and unfettered power of direction to the Minister. It was only in a limited and qualified sense, specifically directed at the exercise of police in law enforcement and that a direction must be lawful and not violate the oath of a constable.

Referring to the Bright Report 1971, (7) Lusher (1981: 718) argued that political decisions should not be made by a commissioner and such discussions should

(7) The Dunstan Labor Government in South Australia sought to limit the role of police in preventing street demonstrations in Adelaide during the Vietnam war era. Police Commissioner McKinna considered the government was intruding on his area of responsibility.
balance compliance with government directions with impartiality of administration. Thus, much of what Lusher presented rested on the legal interpretation and public opinion about how to separate the roles of the police commissioner and the government. The problematic issue of managing the police still rested on how resources were allocated to operational matters and how to delineate between independence and accountability for the use of those resources. Bright J. (South Australia Royal Commission 1971:79-81) made the relationship between the government and the police force a central theme of his inquiry. He clearly appreciated the views of the Commissioner, applauding his strong sense of duty, his fidelity to his oath of office, and stated that he must be and was invested with large discretionary powers. In the general day to day business of law enforcement, Bright J. said, the Commissioner should be free from the control and even the guidance of the government. But he stated that in a system of responsible government it is ultimately a Minister of the State who is answerable in parliament and to the parliament for any operational matters, "especially matters which have some political colour, (and the commissioner should) discuss the situation with the minister who is ultimately responsible to Parliament" (Waller 1980:244).

Finnane (1994:39) maintains that even after the South Australian Police Regulations Act was amended in 1972 to give power to the government to control the police commissioner, ambiguities remained as to the areas of responsibility of the government. The Mitchell report (8) (South Australia Royal Commission 1978) addresses itself firmly to the question of distribution of powers in a democratic society (Waller 1980:265).

Judge Mitchell (1978:81) recognized that the relationship between the police and the executive was largely governed by convention and not by statute. Bryett et al (1994:17) maintain that the impact of the decisions given by both Royal Commissions in South Australia was to subordinate the notion of independence to the requirements of a liberal democratic government. This view was also supported by two political scientists, Plehwe and Wettenhall (1979:76).

But the police, including the office of police commissioner, are not just an arm of the public service. That the responsible minister of the crown can view them in this way is surely sufficient cause to reflect on the conventions and roles of

(8) The South Australian Premier, Don Dunstan dismissed Commissioner Salisbury in 1977 after he was found by a Royal Commission to have failed to disclose matters relating to special branch files in South Australia.
ministerial relationships with police commissioners. If these conventions have continuing merit, then it may well be a matter of some urgency to re-educate society in the reasoning behind the conditions for their existence. The Westminster model certainly attempts to give distinctive answers. The claim is that commissioners provide operational direction and advice. Police ministers determine the general lines of policy and make the final decisions on which option should be adopted. The police commissioner then implements the policy through operational directives (Lusher 1981, Fitzgerald 1989).

Thus the balance between ministerial control and influence is a difficult proposition, due to the informal processes which are rarely detected by the public. In some instances police commissioners may be carrying out what they believe to be the orders of the government, and even if this is not the case, they are not clearly seen to be acting independently, for example, the enforcement of prostitution laws (Fitzgerald 1989:130 & 278; Finnane 1994:42). It is probably true to say that:

> Few Australians believe that party political considerations often influence law enforcement, but this is due to confidence in the Ministers concerned rather than to any general conviction that police forces are independent (Plehwe 1973: 281).

CONCLUSION - SUBORDINATE AND OBEDIENT APPROACH

The strong government approach emphasizes what Geoffrey Marshall (1965) has called the ‘subordinate and obedient’ approach of accountability which is usually linked with the familiar hierarchical ‘dependant’ model of administration and implementation. The importance of ministerial accountability is that policy, administration and implementation are a great deal more complex than the model suggests, with its emphasis on ministerial control. Circumstances dictate that ministers in fact are unable to control using the ‘subordinate and obedient’ approach due to the complexity of community, judicial, police and other administrative functions.

On the other hand, modern police commissioners undertake a wider range of tasks - often loosely called ‘advisory’ or ‘consultative’ accountability related to a network model of interrelationships and draw on their community members from a diverse range of sources for alternative advice. This growing nexus of interdependence between the government, police agencies and the community is to be discussed further in chapter
six, labelled the ‘interdependency model’.

The issues involved in the ‘dependent’ model relate to control of policy, administrative and operational constructs within the Westminster system. It has been argued that this model is based on the traditional public service approach of ministerial direction and chief executive subordination. However, with the growth of administrative processes has come increased political domination of the executive arm of government over the legislature and constitutional systems of governance. This development of ‘tyranny of the executive’, as it has been characterised by a Canadian legislator, may be at the core of the relationship dilemma between a police minister and commissioner (Goldsmith 1991:134-135). This domination or control will often bring a police commissioner who is operating under the concept of operational independence into direct conflict with government direction.

Police commissioners in Australia have to respond to public criticism, and are often attacked or blamed for the actions of their departments. This has increased the demands for public accountability (Whitrod 1976; Pickering 1992; Newnham [Media Reports] 1992). Police commissioners often disagree in public with the direction of their ministers or government, yet when they espouse a different direction, they are accused of entering the political arena. As Weller and Grattan (1981:9) suggest, in the case of public accountability “the image has changed; the reality is probably the same.”

Comments by authors such as Wettenhall (1977, 1993), Wilenski (1979), Weller and Grattan (1981) and Keating (1990) about the relationship between minister and public servant stress the political role of the public service. Ministers do have considerable power and they exercise it, but the public service also exercises considerable power and for many of its actions is in no way accountable to the public. This concept applies to how a police commissioner manages the department's policy implementation objectives and will be examined further in the next section of this chapter. The issue for the minister and government, as Musolf (1959:ix) described it, is ‘an exercise in artful government’.

The dependent model assumes ministers determine policy. Police commissioners then implement it. The old politics/administration/operations dichotomy becomes a cornerstone issue in the commissioner/minister relationship, as will be discussed further in other sections of this chapter. Yet the police policy/administration/operations
dichotomy is far more complicated than the model suggests. Both ministers and police commissioners are often responsible for developing policy and specific operational issues in the broad sense which often determine the framework for policing policies (Weller & Grattan 1981:11). The policy, administrative and operations roles are often determined by the policing legislation of each State. These various Acts of Parliament, as discussed in chapter 7, provide scope for police ministers and commissioners to define policy, administration and operational direction in a broad sense. This often promotes an change in roles which will be discussed further in the literature review chapters. This interchange of roles will affect in general terms how the models are to be examined and applied to specific case studies.

In theory, administrative policy direction is provided by the minister and the government and not the public servant (Jennings 1966:149). In practice according to Weller and Grattan (1981), it must come from a range of sources. For example "One factor in determining the minister's initiating capacity is the knowledge he might have of his portfolio before he got the job" (Weller & Grattan 1981:51).

In view of the complicated problems inherent in the minister and permanent head relationship, there are many complexities to be resolved. It is not surprising Parker (1976:180) claimed that: "the time-worn question of the relation between ministers, public servants and the public ...poses the most serious, and unresolved, dilemma of present forms and norms of responsible government". This may be at the "crux of the problem with the minister and departmental head relationship when the final analysis is examined" (Royal Commission on Financial Management and Accountability Report 1979: 22). Like so many problems in this minister/commissioner relationship in recent times, the diagnosis may relate to defects of machinery and defects of structure, organization and processes of both parliament and government (Australian Royal Commission 1976:21; Marshall 1985:35).

If the convention of ministerial responsibility for a police department is to retain any validity at all, it is to be, as the Royal Commission on Australian Government Administration (1976:par.4.2.18) reported, that the checks and balances should remain such that "there is no way in which a minister should avoid answering for his department in Parliament and in public." The approach to improve ministerial accountability to parliament in some Australian states is for parliament to scrutinize police ministerial policy directives, hence the often-heard demand that all ministerial
directives should be in writing and given wide publicity (Fitzgerald 1989 & South Australian Royal Commissions 1971 & 1978). Yet whatever the statute prescribes, there will always be police commissioners who will not insist on securing such a clarification, or ministers seeking greater informal control by not defining responsibilities and accountabilities for policy and administrative decisions.

In keeping with much of the present Westminster re-thinking which underlies government executive practice, Wettenhall (1983(b):33-34) believes the accountability of police departments will be enhanced if ministers are given greater authority over them. However we often lament that ministers do not account adequately for what goes on in ministerial departments (Chester 1979:52-53). The problem lies in part in the heavy use of a police minister's discretionary powers allowed by statute and convention. The power they wield through informal (extra-legal) pressure on police commissioners is often described as the "myth of ministerial accountability". There is a vital question according to Wettenhall (1983(b):23): "Why do we go on augmenting ministerial powers over Police commissioners in the name of accountability while we do nothing to ensure that Australian police ministers are themselves accountable for the exercise of those powers?" Wettenhall (1983(b): 23), argues that the basic Westminster notion that the "government" of ministers is the executive of parliament requires the deepest scrutiny.

The way government uses a police department to control society comes close to the centre of the fundamental constitutional question of responsible government and how police ministers and commissioners are used in the political process.

A summary of the dependency model, presented below, does provide a range of features about how police ministers view their role and functions in controlling a police commissioner and department in a modern democratic society. The conventions and legislation governing this difficult relationship may vary in different policing jurisdictions within the Westminster system of government, but the model is conclusive in its summation that there is a growing belief that police ministers should have more control over police commissioners. Police commissioners on the other hand may view their responsibilities differently. The ‘independency’ model explores this alternative understanding of the police commissioner/minister relationship.
SUMMARY OF THE DEPENDENCY MODEL:

1. The commissioner of police is accountable to the police minister and the government within the Westminster system of Government.
2. The police minister is responsible for the policy and administrative direction of the department.
3. The police commissioner is responsible for implementing the instructions of the police minister and becomes subordinate and obedient to the police minister.
4. The police minister has power over appointment and dismissal of the police commissioner.
5. The police commissioner is an adviser to the police minister.
6. The police minister can be called to account for the actions of the department.
7. The police minister is often required to make political decisions which impact on operational strategies.
8. The government through the police minister controls the use of coercive force and influences operational decisions which often influence the liberty of the community.
CHAPTER 5 - THE INDEPENDENCY MODEL

The basic assumption underlying the ‘dependency’ model is that the police minister is responsible for the police department under the Westminster system of government. The police commissioner is accountable to the police minister for the administrative and operational functions of the department. In comparison, this thesis introduces and develops the ‘independency’ model of the police minister/commissioner relationship as one in which a police commissioner is operationally independent of the police minister and is responsible, accountable, self reliant and able to make decisions. The common law development of the ‘office of constable’ adds another dimension to this model. Independence in the extreme is a reaction to dependency and to having the minister control the police commissioner, to define the commissioner’s role, to manipulate the commissioner’s right to enforce the law and administer the department to achieve that objective.

The notion of ‘operational independence’ and its application to the Office of the Commissioner and Constable has been the subject of judicial, academic and political debate in many common law countries for most of this century. Commentators on English law (Marshall 1960, 1965, 1973 and 1978; Keith-Lucas 1960; Chester 1960; Plehwe 1974; Gillance and Khan 1975; Pike 1985; Oliver 1987), Australia (Plehwe 1973; Whitrod 1976; Wettenhall 1977; Milte & Weber 1977; Waller 1980; Haag 1980), Scotland (Reith 1952; Mitchell 1962), New Zealand (Cull 1975; Hunter 1985; Cameron & Young 1986), Canada (McDougall 1971 a and b; Tardif 1974; Sharman 1977; Edwards 1970 and 1980; Ouellette 1978; Grosman 1975; Gregory 1979) and to a lesser extent, the United States of America (Robinson 1975; Goldstein 1977) have considered the concept of police operational independence as it applies to their countries. Royal Commissions in England, Australia and Canada (United Kingdom, Royal Commission 1928, 1962, 1981 a and b; South Australia, Royal Commission 1971 and 1978; Victoria, 1985; New South Wales 1981; Queensland 1989; Canadian Royal Commission and Inquiries 1977, 1978, 1979 and three in 1981) have deliberated on the subject and generally endorsed the concept of police operational independence. The doctrine of ‘operational independence’, outlined from general legalistic inquiries and debates about how police commissioners and governments are to operate within the Westminster system of government, is the crux of this model.

The doctrine of ‘operational independence’ has become the conventional constitutional wisdom for the performance of a police commissioner in the Westminster system. Much of
the ideological debate centres on English political, economic and social issues. The doctrine covers the entire range of "policing policy" decisions - what crimes to concentrate on and what crimes to turn a blind eye to, which areas to deploy police in, how to deploy them, how to handle demonstrations and so on.

Elite theorists like Duncan Campbell (1987:12), claim that this doctrine of ‘operational independence’ has enabled chief constables in England to emerge as a privileged elite in how they use their resources and accountable only to the central government generally. "As things stand, Chief Constables are literally a law unto themselves as to how they deploy their forces." Reiner (1991:237) states that the police have become "virtually impervious to any control by elected political bodies, and are adamant in remaining so." In his report on the disorders at Brixton 1981 (Scarman Report 1981:Par.4.59), Lord Scarman defined ‘operational independence’ as the power to make law enforcement decisions without political influence. He suggested the police commissioner had a professional judgement similar to a lawyer. So how does a government control a commissioner or influence the operational, administrative or policy direction of a ministerial department where the notion of ‘operational independence’ exists?

Over the years, the ‘operational independence’ debate on ‘control of’ or ‘influence over’ policing has turned on the distinction between ‘operational’ matters and ‘administration’. The line taken and developed by successive English Chief Constables, particularly since the Royal Commission Report of 1962, is that law enforcement, deployment of manpower policy and what the Police Act 1964 refers to as ‘direction and control’ of the force are solely the responsibility of the chief constable. This model suggests that independent and impartial policing should not be governed on a day to day basis by partisan politicians (Royal Commission 1962:26 & Oaksey Committee 1944). The debate on ‘operational independence’ of a police commissioner has its foundation in British common law and history. To fully understand the application of this model in the Australian and British context, a review of the British literature is essential.

**BRITISH DEBATE ON ‘OPERATIONAL INDEPENDENCE’**

This contemporary notion of ‘operational independence’ has a much broader relationship to other issues of accountability and executive control. Accountability was to be redefined for the English Government by a Royal Commission, as described by Critchley (1978:274), who
was appointed Clerk to the 1962 English Royal Commission:

Its genesis was, basically, concern about the means of controlling the police and bringing them to account when things went wrong: in short, it was the means for a redefinition, acceptable to Parliament, of the constitutional position of the police in the State.

Critchley (in Alderson 1984:93) pointed out the necessity for police independence in operational issues, "no one should have the power to give him (the Chief Constable) orders even on broad matters of policy. The Chief Constable should be free within the limits of his duties, to act as he saw fit both in enforcing the law in individual cases, and also on questions of policy". This matrix of 'control' and 'independence' is the framework in which the police commissioner must operate and in theory, with a minimum of direction and command by a minister of the Crown (English Royal Commission 1962:38).

This conclusion is endorsed by Marshall (1965:28), who wrote "the compatibility of common law constabulary powers with administrative direction by police authorities and justices seems to have been assumed by all the statutory provisions in the nineteenth century". Neither political policy control nor interference by executive control were, at the time, regarded as being in any way unconstitutional. Nevertheless, while the general position was clear the precise lines of responsibility were never satisfactorily defined. This is well-illustrated by the 1929 English Royal Commission Report. Inevitably, conflict arose between chief constables and local police authorities regarding the precise boundaries of their authority over policy making and ‘operational independence’ on law enforcement matters (Hewitt 1991:324).

The English Royal Commission (1962) accepted a need to satisfy the public demand for having some influence over how they were policed, but recognized a dilemma over how a chief constable could become ‘accountable’ without becoming ‘subordinate’ in a way that might affect the chief constable’s operational ‘impartiality’. Accountability was to be achieved through reports to responsible governments and superimposing effective government inspection through Her Majesty's Inspectorate. Oliver has suggested that the Home Office has extensive power over Chief Constables who do not satisfy the annual examination by one of Her Majesty's inspectorate (Oliver 1987:96). The Home Office Secretary has power to appoint Inspectors of Constabulary with a duty to inquire into and report on the state of the force and its efficiency. General reports of accountability are
presented annually to Parliament. The chief constable is brought under direct control of either central or local government (Oliver 1987:20-21).

The English Royal Commission (1962) and the Police Act 1964 clearly intended to tilt the balance towards the centre of executive control and maintaining the ‘rule of law’. The English history of legislation concerning police commissioners, police organizations and accountability reflects a perennially repeated clash of rhetorics over these two issues, re-emerging in the debates around the 1829, 1835, 1839, 1856, 1888, 1919, and 1964 Acts.

Since 1964 the balance towards executive control has had undisputed sway in practice. However explicit support for it has faded away to such a degree that Lustgarten (1986:117) remarked, "The one point that commands near-universal agreement is that a national police force is undesirable". Clarke noted that a national police force is undesirable because it would make overt its de facto control, appear to be reducing the independence of police and because of the possibility of corruption by a national government (Reiner 1991:22; Clarke 1993:5).

The English Royal Commission (1962) addressed the legal and constitutional position of chief constables and the officers under their control. It is clear from the evidence given to the Commission that the basis for the ‘operational independent’ nature of a constable’s office (which included the chief constable/commissioner’s position) arose from the fact that the courts had held that there was no relationship of master and servant between a police authority and a constable/chief constable or between the crown and the constable/chief constable - thus denying that the constable/chief constable is a servant of either a local or central authority.

The courts have asserted the independent character of the office of constable. These views were summed up and reinforced by Lord Denning and Lord Justice Salmon respectively in Reg. V Commissioner of Police the Metropolis, Ex-parte Blackburn, (1968, 2 Q.B. 118):

> I have no hesitation in holding that, like every Constable in the land, he should be, and is, independent of the executive....No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone.
However, the Court of Appeal in the Blackburn case (1968:135-6) assumed that the Metropolitan Commissioner enjoyed the same status as any chief constable, but the judges' comments on this point may constitute mere obiter dicta (Plehwe 1973:270 & 1993:4). Gordon Orr (1986:50) states that the 1962 English Royal Commission was not suggesting that there be a limited immunity from executive control extended to the general policy decisions relating to the discharge by police chiefs' duties. He further suggests that it follows that great caution should be exercised in applying the obiter dictum of Lord Denning in the Blackburn case at face value. Orr (1986:62) and Bryett (1990:14) support this view by reference to the McDonald Report (1981:1005-1006) on the Royal Canadian Mounted Police:

We take it to be axiomatic that in a democratic state the police must never be allowed to become a law unto themselves....The government must fulfil its democratic mandate by ensuring that in the final analysis it is the government that is in control of the police, and accountable for it.

The judicial system however saw political influence as a major threat to the 'operational independence' of the police and with a consequent loss of impartiality and respect for police in democratic society (Pike 1985:176). In England, the police have been historically associated with the law of the land rather than with politics (Alderson 1979; Brodgen 1982). R v Chief Constable of the Devon and Cornwall Constabulary ex p. C.E. G. B. (1981) 3 All ER 826, at 833, the judge discussed extensively the 'original powers of operational independence' of a constable including a chief constable (Lustgarten 1986 :14 & Reiner 1991:19-20).

However, in evidence submitted to the 1962 English Royal Commission it was suggested that:

Confusion about the independence of the police in enforcing the law has arisen because it has been insufficiently realised that the maintenance of public order is an executive function which, strictly speaking, is everybody's business but which has become for the most part the monopoly of the police. Freedom from outside interference properly attaches only to judicial functions (Marshall 1965:71).

As Marshall (1965:117-118) further points out, the judicial analogy often used by English
jurists like Lord Scarman is also defective because, he argues, judges are "at least in principle ... rule-governed and their decisions can be corrected by appellate tribunals". Marshall (1965:64), MacQuarie (1985:176), Plehwe (1973 :269; 1974:310; 1993:5) & Canadian Royal Commission (1981:1005-1006) do not support Lord Denning's notion of 'operational independence' of commissioners due to the legal status associated with the office of constable:

Yet no inconsistency seems to have been observed in citing a Chief Officer's status as a common law constable as in itself sufficient to establish that he must be immune from any specific instructions as to the manner in which he carries out the duties of his office (Plehwe 1973:269).

With respect to this particular passage in the Blackburn case, Lustgarten (1986:64-65) has remarked appositely "seldom have so many errors of law and logic been compressed into one paragraph". Much of the discussion on this doctrine has centred on the legal interpretation of 'operational independence'.

The Chief Constable is not the servant of the local authority in the sense the chief executive or education officer is (Fisher v. Oldham Corporation 1930). The courts held that there are certain duties connected with the enforcement of the law which shall be entirely impartial as referred to in the Blackburn Case 1968. As it turned out, the Home Secretary (Hewitt 1991) made it abundantly clear when introducing the resultant Police Act (1964) in Parliament that while he accepted a statutory duty to promote the efficiency of the police, this did not include a statutory responsibility as recommended in the Commission's report. This distinction according to Hewitt (1991:325) was an important one for "it demonstrates the position adopted by successive Home Secretaries to the present day". The main reason is that it continues to adopt Peel's implementation of policing and the legal interpretation of the time 1829 and as decided in 1964.

Professor Wade at the 1962 English Royal Commission suggests that confusion about the 'operational independence' of the police and the police commissioner in enforcing the law has arisen because enforcement of the law was an executive function but one which has become for the most part monopolized by the police (Marshall 1965:71, 117-118). The extent to which an English police authority (Police Act 1964) might influence operational law enforcement decision-making remains a matter for negotiation. The Home Secretary, according to Hewitt (1991:325), reminded the parties when making decisions that the government's role does not extend into the area of operational responsibilities of the chief
constable, except for the Metropolitan Police. The Home Secretary acts only as a facilitator to resolve relationship problems. Generally the position taken by the government is well-summed up by Lustgarten (1986:67) who writes: "The doctrine of constabulary independence has embedded itself in the lore and learning of both judges and police and it is inconceivable that without parliamentary intervention the courts would resile from the position they have reached."

Pike (1985:21) maintains, in the light of representations from police authorities, that they should have some control over a police force which they were required to maintain. The English Royal Commission (1962) recognised this conflict which was essentially a rival claim to the former power exercised by the justices over the police. The Commission, in referring to the position of chief constables said their claim to a large measure of constitutional independence had been contested by representatives of some police authorities not merely on legal grounds, but on the grounds that a police authority ought, in the public interest, to have some control over the force which it appoints and hence over the chief constable who commands it. The Commission concluded that chief constables ought to be subject to more effective supervision, but argued that:

> The problem is to move towards this objective without compromising the Chief Constable's impartiality in enforcing the law in a particular case (Royal Commission 1962:Par.92).

However the trend in the 1980s and 1990s in England has seen political developments along the lines of operational and administrative advice to the commissioners of police. Other countries such as Australia have followed a similar pattern. However, there have also been misunderstandings of where the division between ‘operation independence’ and administrative functions should be. This has led to a much greater control over police commissioners and the transference of professional and political independence away from the police and into the hands of politicians.

It seems that the debate according to Oliver (1987) and Reiner (1985 & 1991) is now no longer about the existence of ‘operational independence’ but rather, whether or not it is a desirable thing and whether or not police commissioners are under a sufficient degree of control. Certainly, many people have expressed doubts about the ability of governments to control commissioners of police, and this seems as Oliver (1987:42) has commented "to have stemmed from the rigid defence of the police position by some police commissioners on
the one hand, and the uncertainty of how far the government can go in exercising their functions on the other."

There is a considerable difference between ‘influence’ and ‘interference’ on operational policing matters. It is becoming clear from historical evidence that the Home Office is involved in specific operational decisions, particularly in the public order area. Morgan (1987), Lustgarten (1986), Marshall (1985) and Loveday (1986) provide conclusive evidence of the growing Home Office intervention in the policing of labour disputes. Alderson (1984:97), Reiner (1991:274), Oliver (1987:96), Marshall (1965:119 & 1985:264) also acknowledge the involvement of the Home Office in administrative functions which require the Home Secretary's approval prior to implementation and their circulars and resource allocations are treated as virtually mandatory. Plehwe (1973:270 & 1974:327 & 330) maintains that the Home Secretary's powers over the London Metropolitan Police are substantially the same as any minister exercises over a department. Police authorities and the Home Secretary were given statutory functions to maintain and promote respectively the efficiency of police forces. The functions of a police authority were "also subjected to close scrutiny by the Home Secretary but the Act provided for a collective control of the police service in such a way that a chief constable found himself accountable not only to the law, but to local police authorities and the Home Secretary" (Pike 1985:21).

In the text of the then Home Secretary's speech to Parliament in 1993, Sir Kenneth Clarke reaffirmed the ‘operational independence’ of police and the police commissioner but the accountability process was to be modified:

> I am sure the house will agree that the principle of operational independence must remain. No Home Secretary and no police authority must be able to direct a chief constable in the conduct of any investigation or in the handling of an operation  (Clarke 1993:14-15).

This notion of ‘operational independence’ by the 1962 English Royal Commission required police authorities and police commissioners to decide best practice between ‘operational independence’ and ‘administrative control’. Central government in England will continue to determine national policing policy which will determine policing standards and impact on the doctrine of ‘operational independence’.

‘Operational independence’ in the British literature is based on a legalistic, political and historical development of policing in that country. The independency model argues that ‘operational independence’ allows the police commissioner to enforce the law impartially
and without interference from the government or the police minister. The difficulties expressed in the British literature about the independency model are based on how to distinguish operational independence within the functions of policy and administration. Police commissioners in England have a belief that they should be ‘independent’ from political control and influence. The approach argued by the Australian literature is that Australian police commissioners operate under a similar paradigm.

AUSTRALIAN CONTEXT

The constitutional position of police commissioners in Australia is complex and ill-defined. However, governments generally observe self-imposed restrictions in issuing directions to police commissioners in respect of the direction of the forces under their control. Plehwe (1979:76) has described the Australian context as similar to the London Metropolitan Police "which has often been seen as the model for the Australian state forces."

Australian legislation provides that police officers including police commissioners possess all the common law powers of constables and any other legislative rights conferred upon them. Unlike public servants, police officers exercise powers directly from the law and not indirectly delegated from the Minister. Both the English and Australian courts have suggested that the exercising of these ‘original’ powers is based on the constable’s own judgement and not according to the direction of the authority which employs them (Plehwe 1973:268-269; Tobias 1977:247; Davidson 1980:16; Wettenhall 1993:2-3 & 7). However, with the changes in the 20th century and the need for greater efficiency and effectiveness within our complex policing institutions, Gillance and Khan (1975: 61) argue the autonomy and discretion of constables has been transferred to the police commissioner.

Australian police commissioners, like English chief constables, have achieved a measure of ‘operational independence’. This principle of ‘operational independence’ has been endorsed in Australia by legal interpretation (Enever v R (1906) 3 CLR 969; Attorney General for N.S.W. v The Perpetual Trustee Company Limited and other (1951-1952) 85 CLR 237 and Byrne v Hoare 1965 Qd R 135). However, sustaining the ‘operational independence’ of the office of Commissioner in Australia based on common law principles has not been fully endorsed by the political systems in legislation. The lack of ‘operational independence’ may have been caused by the commissioner being subject to executive direction in matters of
administrative policy by state governments and various police acts, and no other requirements to share the control of police with other elected representatives as is the case in England. This sharing with other elected representatives on policing responsibilities may change with the 1994 Review of Commonwealth Law Enforcement Arrangements (Coad Report 1994). The report promotes the idea of further Commonwealth government involvement in state policing affairs. As Marshall (1965:118) points out, certain operational cases raise many questions of administrative policy, and how this issue is resolved is often determined by the relationship agreement between the commissioner and the government.

Robert Mark (1977:56) referred to the operational independence of English police in these terms: "The fact that the British police are answerable to the law, that we act on behalf of the community and not under the mantle of government, makes us the least powerful, the most accountable and therefore the most acceptable police in the world". A similar concept has been adopted in Australia. Ascoli (1979:11), further stated that the Australian police commissioner is:

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\text{the servant of Crown and people, answerable to Parliament, in its capacity of vox populi...He, and every member of his force, is subject to the same law of which they are the executive arm...He is, by definition, as impartial in his field as the judiciary.}
\]

Although Avery (1981:63) argues that policing policy is a matter for parliament, the performance of those policies should be monitored by the courts. In the South Australian Royal Commission (1971:78) a similar comment was made that the "Commissioner of Police and his force ought (not) to be placed in a situation where they have to take the responsibility for what many reputable citizens regard as a political type decision." A similar view was expressed by Senator Wright representing the Federal Attorney-General in 1970 (Bryett 1994:33).

The public and political approach adopted in many Australian governments is to observe self-imposed limitations in issuing instructions, though apparently no limits apply to the right to require reports from the commissioner. This approach offers a way of reconciling the principle that law enforcement should be "manifestly free from partisan political interference with the need for accountability as a safeguard against police partiality" (Plehwe 1973:280). Yet, the reality of executive control on Australian police commissioners shows otherwise. This is particularly evident in recent inquiries in Queensland (1989,
At a packed press conference on 29 November 1976, after his resignation had taken effect, Mr. R.W. Whitrod the Queensland Police Commissioner indicated that, for him, the crucial issue was the question of the Government-Police Commissioner relationship:

> With Lord Denning, one of our greatest legal authorities, I believe as a Police Commissioner I am answerable, not to a person, not to the executive council, but to the law.... Yet I am not claiming that there ought to be complete independence of action for the Commissioner. All I assert is that there ought to be a minimum of interference by the political authority (Wettenhall 1977:20-21).

Shortly after the resignation of Mr. R.W. Whitrod, Mr. Newberry, then Minister for Police, referred to Section 6(1) of the Queensland Police Act and the need for executive control. He argued against Whitrod's comments, based on legal advice:

> What Mr. Whitrod considers to be political interference is, as I see it, only responsible interest and concern by the Government. After all, the Government is responsible to the people, the Commissioner is not (Queensland Parliamentary Debates 30/11/1976:1922).

Under Section 6(1), Police Act (1937-70), the Queensland Police Commissioner is by statute "subject to the direction of the Minister". However the Commissioner is not required to obey an unlawful order or commit an illegal act.

Articles by Wettenhall (1977 & 1993) and Plehwe (1979) discuss a range of issues regarding the tensions between the Labor Government of South Australia under the premiership of Don Dunstan and the ‘operational independence’ of two Police Commissioners, McKinna and Salisbury. McKinna’s case involved a decision by him not to issue a permit for a public demonstration. This decision was contrary to Labor Party policy on peaceable assemblies. Commissioner Salisbury had served as a Chief Constable in England. In Salisbury's case, the failure to provide the Government with accurate advice on special branch files was the problematic issue. Salisbury believed he was accountable to the law and parliament at both state and federal level over secrecy provisions on special branch files. The two resultant Royal Commissions (1971 and 1977) supported the Government's views for greater executive control and not the traditional doctrine of
‘operational independency’. The public assembly laws and Police Acts were changed. Both Commissioners were dismissed (Plehwe 1993:269 & Bryett 1994:51). The approach ran counter to the opinions of three future public inquiries - Lusher, 1981 and Fitzgerald, 1989 and the Queensland Public Sector Management Review into the Queensland Police Service (1993:2 & 37). Professor Wettenhall's articles (1977 & 1993) recommended that a police commissioner's relationship with government should be treated as a statutory authority, with the establishment of a board to promote the notion of ‘operational independence’.

The introduction of police boards into Australia has been another means of providing ‘operational independence’ from political interference and control. Boards have also changed the role of the police minister and commissioner in the Westminster system. An illustration in contemporary times of a police board's role is the New South Wales Police Board (Lusher 1981) and to some degree Victoria's, although it was not introduced until 1992 (Neesham 1985:553). Much of the debate about police boards have parallels with the English tripartite relationship of policing governance.

The New South Wales (NSW) Board was supposed to eliminate the politician's ability to influence the promotion and selection of senior police officers, development of policy, personnel practices and future planning (Lusher 1981). The Minister has a different role to other interstate ministerial colleagues in how the police department was to be administered. Under the NSW Police Board legislation, the Minister is called to account for the department's direction and actions according to the conventions of ministerial responsibility but is not able to influence the Board's decisions (Pickering 1991). This view that a police board would fail to reduce political influence is supported by Hogg and Hawker (1983:160 & 221) in that the notion of police independence employed by Lusher (1981) was ambiguous and failed to improve the relationship. The legislation does give the Minister power to give lawful instructions to the Police Board and the Commissioner.

Police boards are not a new phenomenon and were a part of England, Wales, Australia (particularly South Australia) and U.S. at the turn of this century. American experience shows a variety of functions associated with police boards. Swanton (1979:129) argues that there is essentially no justification for them due to their limited number and their inability to provide a power of balance between control and independence in the political system over a lengthy period of time. However, police boards do provide some advantages to the community by protecting and strengthening the commissioner of police from undue
incursion by elements of the body politic. They add credibility, enhance the image of police, provide a ‘window into the police’, and give a broader base for accountability the commissioner outside of the political arena (Harrison et al 1988).

Swanton (1979:125-127) commented that police boards in America did no help the problem of accountability and decision-making by:

- supporting poor performing chief executives;
- improving the poor leadership style of police chiefs;
- rarely exercising the principle of personal accountability; and
- facilitating the handling of a major crisis at the local management level and not at the police chief or board level.

A previous New South Wales (NSW) Police Minister's comments on these issues about the Police Board, the Police Commissioner and ministerial responsibility tend to reflect Swanton's views (Pickering 1992).

However, Swanton (1979:118-129) alluded to other factors about boards:

- A police board management style tends to frustrate the career - police managers and often impedes police professionalism;
- The issue of whether good citizens on boards are politically unbiased;
- The potential conflict which occurs between a sense of purpose and the political and public support of the board and those of the commissioner;
- Boards have little influence on police performance including preventing corruption or preventing politicians from exercising their influence within the department; and
- Boards have difficulty identifying clear lines of leadership and accountability due to the nature of police work.

Many of these comments have been reflected in comments in media articles and speeches given by Mr. T. Pickering (1992), a previous NSW Police Minister, and previous media reports by the Chair of the NSW Police Board (1986-1987:5).

Wiltshire (1992:505) however argues that a police board would be a desirable buffer between Commissioner and Minister:

> At any event it is desirable to prevent the intervention of private secretaries or letter-writing from both parties, features of a recent Queensland breakdown of relationship between commissioner and minister (1990-1992). As well as a board there is a place for a parliamentary committee on policing to enhance and direct accountability of both commissioner and minister.
The Fitzgerald Commission (1989:279) acknowledged the police board concept but believed that it was not appropriate in a Westminster system of government. It supported the police Commissioner's operational discretion:

The Commissioner of Police should continue to have the independent discretion to act or refrain from acting against an offender. The Minister should have no power to direct him to act, or not to act in any matter coming within his discretion under laws relating to police powers.

The reasons for the problems between the NSW Police Board, Minister and Commissioners had become obvious during 1990-92 in speeches (New South Wales Police Weekly 24/2/92:13-18) and media reports (Sun Herald 7/2/1993; Sydney Morning Herald 26/9/1992, 23/9/92, 26/3/94; Daily Telegraph 14/11/1992; The Australian 24/11/1992; 23/9/1992) by the then New South Wales Police Minister, Mr Pickering on the 7/2/92. During one of Mr. Pickering's speeches (1992), he commented that the Police Minister who is accountable to Parliament when the "police get it wrong" finds the relationship between the Police Minister and the Board "complex and unusual". Although the Board is independent of the Minister, the Minister is empowered to give directions to the Board and Commissioner on the administration of the Police Service. Pickering recommended changes to this relationship in a parliamentary bill to make the Commissioner more accountable to the Minister (Wettenhall 1993:18).

According to Keith Bryett (1990:9) there is no easy solution to the balance between 'ministerial responsibility' and 'operational independence'. Police boards are just one option. Several states were considering establishing a board to create greater operational independence of police commissioners (Queensland PSMC Report 1993). But a board failed to stop the most recent relationship problems between a previous NSW Police Minister and Commissioners. Boards have been regularly tried in the United States and overseas but inquiries have found that they "quickly became political" (The Australian 24/11/92:9). Following the Fitzgerald Inquiry (1989), the Queensland Government opted for a Criminal Justice Commission overviewed by an all-party parliamentary committee rather than a police board. But again it failed to head off the crisis between Newnham and Mackenroth (Media Reports 1991-1992; Bingham 1992). Bryett says it is the personal relationship between the police commissioner and the minister that is crucial and suggests "more
thought be given to compatibility when the police ministry is being allocated in state cabinets" (The Australian 24/11/92:9).

It is well understood that as a general rule, the minister of police should not intervene when the police are engaged in investigating suspected offences and deciding whether to arrest and prosecute alleged offenders (Cameron & Young 1986:53). The problem of reconciling the tension between the minister and the police commissioner in matters of 'operational independence' on law enforcement relates to the acknowledged legitimate political role and the belief that the minister is to provide the people with the best government and this will often require a political action. The NSW police board model established by Lusher (1981) was to limit the extent of Ministerial involvement in details of management.

The notion of police 'operational independence' and the use of boards has many similarities with statutory authorities (Davis 1985; Wettenhall 1968, 1977, 1983(a), 1993; Forrest 1983; Sawer 1983; Kramer 1983; Marshall 1986). Wettenhall (1977:12-13) believed that the fundamental concept of a statutory authority would support the notion of 'operational independence' by a government and would win favour with police commissioners in Australia. This concept related to a non-ministerial department being established, incorporated in statute, with a degree of autonomy and the ability to recruit their own staff.

The essential difference between a statutory authority and a police department is that there is a division of responsibility based on legal and common law principles for enforcing the law rather than for commercial venture. Even Wettenhall (1977:15 & 1979:76), referring to the South Australian Royal Commission (1971), acknowledges the responsibility of executive government "is still a part of executive operation. In a system of responsible government there must ultimately be a Minister of State answerable in parliament and to parliament for any executive operation."

Wettenhall (1977:23 & 1993:1) believed that the police service was similar to the national broadcasting commission and that a statutory authority appeared to be the most appropriate means devised for "administering these insulated activities" of a police commissioner. But police functions have different purposes and functions. Greater executive control was needed due to the police functions, and the police ability to use coercive force and influence the liberty of the community. Even the accountability
processes between Australian and English parliaments show a different interpretation of ministerial accountability for statutory authorities.

In Britain, ministers usually do not answer parliamentary questions on matters outside their legal powers; in Australia, on the other hand, it is usual for ministers to obtain information on all aspects of the operation of semi-independent agencies and to transmit this information to parliament (Plehwe 1979:83).

An analysis of this system would suggest that police boards in Australia and elsewhere are only another mechanism designed to sustain a commissioner's 'operational independence' in law enforcement. To some degree administration functions of police boards have failed to take into account the conventions of ministerial responsibility in the Westminster system.

**CONCLUSION - OPERATIONAL INDEPENDENCE**

The ‘independent’ model in this chapter deals with how governments, judiciary and police commissioners have developed the separation of powers, roles and responsibilities between policy, administrative and operational functions in policing western democratic societies. The difficulty in the ‘operational independence’ paradigm appears to be how to define and regulate the legal doctrine of ‘operational independence’ between the administrative and policy role of the minister and operational control of a police commissioner (Bryett 1990:15).

The current position in Australia is that the government is responsible for appointing and controlling a commissioner of police. Policing has been designated a function of executive government. The executive has claimed the duty to provide the police force, as it has a duty to provide a system of courts of justice; but, once these services are provided, they operate in accordance with the will of the people through the parliaments, and not at the whim of the Executive (Glasbrook Bros. v. Glamorgan County Council (1925) A.C. 270). Thus a measure of ‘operational independence’ is tolerated in theory but not in practice.

Wiltshire (1992) provides a comprehensive summary of how a government should manage the notion of ‘operational independency’. Wiltshire offered a few tentative comments on this model addressing modern and historical issues whilst taking into account contemporary public sector management practices:
A distinction needs to be made between the dual loyalties of police commissioners to the law and to the policy of the government of the day regarding public administration. Governments will always have to give due regard to the essential operational independence of the police commissioner when matters of law enforcement are involved; police commissioners will have to accept that for administrative purposes and other aspects of public policy they are part of the public sector and will be expected to act within the parameters of the elected government's wishes. The distinction will, of course, not always be totally clear, but these can be working guidelines.

Where government, or more expressly a minister, sees a need to intervene in the administration of the police in a manner which impinges in any way on the law enforcement process, a recoup concept should apply and the minister's direction be made public, in parliament, in the commissioner's report, or in some other specific direction, eg. by regulation.

Ideally there should be a single line appropriation for the police service, the commissioner should have independence in resource deployment, and ministers should keep out of this territory. Nonetheless the commissioner should be obliged to demonstrate that maximum efficiency and effectiveness are being pursued, and be so accountable to parliament through a committee (Wiltshire 1992:505-506).

Wiltshire's extensive review of the literature on this relationship problem provides some new and renewed insights into the controversy. However, he does not deal with the difficult questions of the ideological difference between executive control and the rule of law which is critical to this model (Lustgarten 1986:34 & Finnane 1994:51).

The importance of preserving the ‘operational independence’ of the police use of resources, and the nature of this independence constantly referred to by police commissioners, is often used as a scapegoat for a range of social, economic, political and policing issues.

The literature on this model is extensive and provides a variety of modifications or adaptations to how this model can be integrated or balanced with or within the ‘Dependency Model’. Yet the literature has difficulty dealing with personal and specific political relationship differences as discussed in this section of the thesis. There appears to be few long-term solutions in how this model will resolve relationship difficulties.

Another emerging body of literature which emphasises the need to better define the expectations between governments and chief executive officers, including relationships like
the police minister and commissioner, is being developed in management and contemporary public sector literature from the views of some successful police executive practitioners and researchers on the subject. This emerging alternative model (Interdependency Model) may provide another approach to managing the police minister/commissioner relationship.

**SUMMARY OF INDEPENDENCY FEATURES:**

1. The police commissioner is independent from political intrusion, has a wide area of independent professional discretion and is legally accountable for law enforcement decisions.
2. The use of police boards/ministries assists the commissioner with shared responsibility, broadens the accountability of a police commissioner, reduces political incursion, increases public credibility and operational independency.
3. The police commissioner has control over the operational and administration functions of the police organization.
4. The police commissioner is under a minimum amount of direction/control by the minister but is required to provide reports.
5. The common law or original powers status of a police commissioner (office of constable) limit the instruction which can be given by a police minister.
6. The police commissioner enforces the law and influences greatly the policy decisions of a police minister.
7. The police commissioner is accountable and responsible to the minister through reports and inspections.
8. Police independence is a reaction to political dependence in having the police minister control, define, use and manipulate the police commissioner.
CHAPTER 6 - THE INTERDEPENDENCY MODEL

Building upon the framework of the ‘dependent’ and ‘independent’ models, this thesis puts forward an ‘interdependency’ model. The ‘interdependency model’ for is based on the notion that through a combined effort of co-operative achievement and using both parties’ talents and abilities, a superior policing system can be created for the community. In contrast to the ‘dependent’ and ‘independent’ models, the ‘interdependency’ model, based on research developed in this thesis, argues that the difficulties identified within the other models can be overcome by greater clarity of roles and personal understanding of governmental processes. The challenge of achieving the policing mandate in the ‘interdependency’ model will require the parties to manage and balance the functions of policy, administration and operations in a Westminster system of government. The determination of how roles and goals are perceived by commissioners and ministers often relates to their personal understanding and interpretations of the conventions and processes that operate within government.

The cause of almost all relationship difficulties is rooted in conflicting or ambiguous expectations around roles and goals (Covey 1990:194). Covey (1990:49) sees a variety of leadership models based on a personal development maturity continuum from dependency to independency to interdependency, similar to the psychological profile of a whole of human experience. On the other hand, policing and political authors like Plehwe (1973), Wettenhall (1993), Marshall (1985), Reiner (1991), Bryett (1994) and other researchers often view this relationship as a power/political continuum. There are absolutes with ‘dependency’ and ‘independency’ at the ends and the notion of ‘interdependency’ lying in the middle of the continuum. This approach fosters the cooperative approach but often relies on the power of balance between the extremes of political and bureaucratic structures to achieve success and less on leadership and management practices.

Many of the theoretical perspectives regarding the ‘interdependency model’ and associated concepts of shared commitment, co-operative networking, environmental relatedness and co-operation, participatory management, value leadership, empowerment, and performance-enhancing culture have been part of a body of knowledge known as ‘management theory’. The practices of private/public sector thinking have been reflected in the development of contemporary policing and particularly police management and government ideology (Wettenhall 1993 & Bryett 1994). Many management theorists (Hames 1994; Covey 1990; Clemens & Meyer 1987;
Kotter & Heskett 1992; De Pree 1989) have argued that for this model to be effective, it is essential for roles and expectations to be clearly defined and relationships to be built on trust, honesty and commitment. Managers and people need to be “liberated, to be involved, to be accountable, and to reach for their potential” (DePree 1989:85). Extensive historical research in management theory by Clemens and Meyer (1987:157), in a book entitled The Classic Touch - Lessons in Leadership from Homer to Hemingway suggests that the political philosopher John Stuart Mill presents a most persuasive argument for participative leadership in organizations.

While the traditional bureaucracy like a police agency may have an effective means of administration in a more stable context of the industrial age, it simply lacks effectiveness in a chaotic and changing environment. Theoretical management approaches are critical of centralized and inflexible bureaucracies whose leadership finds difficulty in grappling with flexibility and innovation (Hames 1994:120). The management literature (Covey 1990; Kotter et al 1992:148) generally believes that future leadership relationships will need "to differentiate basic values and behaviours that aid adaptation from the more specific practices needed to perform well today". With this philosophy in mind, police ministers and commissioners will need to determine what values and behaviours are important in their relationship to police a democratic society.

Baker (1989:25) believed that the tragedy of the public service which includes a police department is that it "limits the potential of its people, locking it away in a suffocating culture which, far from empowering its people, all too often depowers them". Keating (1990:387) went further and believed that once "individual public servants have established a clearer understanding of what is expected from them, and are accordingly made accountable for the results they achieve, their work is made more meaningful and more satisfying". The emphasis in this model is that the government should favour the notion of partnership between government, the public service and the community rather than the traditional governmental approach of controlling the decision-making process of the bureaucracy.

The common problem this model will need to explore is the vexed issue of accountability, which includes and is often much wider than mere accountability to ministers. Wettenhall (1983:52) claims that to achieve this wider accountability, we need to be:

Prepared to carry out this exploration seriously and jointly, then the likelihood is that the whole fabric of mutual (social) accountabilities will be greatly improved.
Wettenhall (1983:22-23) developed a model that attempted to define this challenge more fully. The theoretical model used by Wettenhall to describe relationship difficulties between police ministers and commissioners has parallels with statutory authorities. In terms of Wettenhall's "pendulum theory" there is always a tension between the forces seeking greater uniformity and control ("the uniformity pole") and those seeking greater diversity and dispersion of power ("the diversity pole") with one set of forces in the ascendancy at any particular time. There is considerable irony, according to Wettenhall, in the fact that:

Having fought in the late nineteenth century to distance the statutory corporation from the "meddling" of politicians, hailed as a great administrative reform of the period, one hundred years later we have made determined moves to bring the wayward flock back into the executive and legislature fold. Perhaps the answer lies in a new political maturity and confidence in the greater managerial competence of government and its advisers. Perhaps it lies simply in the size and the importance of the flock (as cited in Curnow & Saunders 1983:4).

Within Wettenhall's stance (1968:352-353) there are several general points to be made about the machinery of government and the 'pendulum theory'. They relate to the rivalry of forces between standardization and greater flexibility. Government processes will continue to dynamically reflect the oscillations of the pendulum swinging between the pole of integration and the pole of diversity. The important question is not to see the two forces as irreconcilable opposites, but to recognize the close interaction between them, and seek to discover how best to maximize the virtues of each administration (Wettenhall 1968:359).

Research from overseas sources gives an insight into the variety of interdependency approaches which have been suggested. The English literature focuses on public policy theory and policing ideology whereas the American experience emphasises management practices. Australian authors, however, rely on political and systems approaches to applying the interdependency model.

**BRITISH APPROACH**

The model is often referred to in the British policing literature as 'policing by consent' which suggests that a government is committed to the maintenance of operational
independence for the police but balancing it with governmental responsibilities and community needs. The practical application of ‘policing by consent’ means that various levels of responsibility need to be allocated to specific roles and functions which are clearly defined (Marshall 1965). The ‘policing by consent’ model of accountability emphasises the notion of a government and administration organisation having clearly defined delegated responsibilities. The approach to monitor the performance of these delegated responsibilities is through reports to the parliament.

The traditional British police commissioner's duty is to submit an annual report to government on how his/her stewardship role and functions are operating. However these reports are often vague and generalised. Contemporary governments require police stewardships to be fuller and more transparent, although in England, police ministers usually do not answer parliamentary questions on operational policing matters. The converse is true in Australia. It is usual for British ministers to obtain information on all aspects of any government operations including semi-independent agencies and to transmit this information to parliament (Plehwe 1979:83). Plehwe argues that "there is no inconsistency between the readiness to answer questions and the frequent assertions that Ministers do not control the Commissioner. Since the Minister can and does obtain reports on all aspects of police activity, he possesses complete supervisory power and is accountable to Parliament for the way he exercises this power" (Plehwe 1973:283). The substantive problem in this approach is how the traditional conventions and practices of a Westminster system actually operate between a police commissioner and minister when the policy of a commissioner becomes a major political issue.

The commissioner's decision-making process is often controlled by the ‘strong parliamentary’ approach, with its emphasis on ministerial control which seems likely to encourage the kind of secrecy and general reticence which already characterizes departmental behaviour. This allows only the most sterile debate and questioning in parliament over policing policies. The alternative approach is to define the police minister/commissioner relationship in terms of shared or mutual accountability.

"Mutual accountability" between a minister and a departmental head, according to authors like MacKenzie (in Smith & Hague, 1971), Barker (1982), Forrest (1983) and Marshall (1984) places a much greater burden on the parliament as a whole to ensure openness and accountability. The main thrust of this approach is that while ‘upward
accountability’ (to parliament and ultimately to the people) remains extremely important, much greater consideration should be given to horizontal line accountability to peer and other reference groups and to downward accountability to clients (Forrest 1983:100-101). However, Barker (1982:17-18) argues that upward, horizontal and downward accountability is difficult to follow in a particular policy field. Mutual accountability should enjoy minimum upward accountability in making its decisions but accept maximum outward or downward answerability by joining in public discussions on its field and work. It was MacKenzie who believed the phrase "mutual accountability" was a way of describing this criss-crossing network of responsibilities, controls, answerabilities and influence (as cited in Barker 1982:6).

Marshall (1984:119) believed in the constitutional need for change through his theory of "explanatory accountability". Waller (1980:262-263) cites Marshall who says that intervention in routine police commissioner's decisions should be avoided, but argued for "executive decisions....on at least some occasions to be open to an effective challenge by the public and their elected representatives." This model has some similarities to the workings of statutory authorities and parliament, where a "Minister gives information or explanations to the House without possessing any substantial executive authority to issue instructions to those from whom the information is obtained" (Waller 1980:263). Marshall (1984:146) advocates that this approach should apply to all "police operations and prosecution matters, even....to general policies", and this would require a police commissioner and minister to justify their actions and policies publicly and would make them more accountable to the community they serve.

However, as government policies affect a police commissioner's decision-making processes and use of limited resources will affect how certain crimes are policed in particular geographical areas, this approach will definitely affect the proper limits of a police commissioner's relationship with the government. The result may be instructions to the commissioner on generic policy matters but independence on individual cases (Plehwe 1973:270). A police commissioner will need to exercise value judgements which are integral to our system of government, in which the conflicts between the different legitimating principles of government and the rule of law often appear irreconcilable. This value judgement approach will need a differing relationship arrangement. As Wilenski (1983:27) maintains, "we need to develop a coherent theory to accommodate this reality".

Where a police commissioner is not required to supply comprehensive details this
circumstance may lead to an intentional or unintentional presentation of partial and misleading accounts or unsatisfactory explanations. Often explanations are presented in vague generalities to achieve ‘the public interest’ which often embodies controversial political choices. The explanation given may also reveal an acceptable policy. The approach presented by Marshall (1984:144) to addressing this problem is that a police commissioner is replaced by a "body of rules or conventions that restricts the politicians' scope of intervention in police operations".

Lord Scarman (NACRO Annual Conference 1985) recognised the needs for some operational policing issues to be scrutinised through local consultation. A 1985 Home Office Circular No.2, did stress this need for policy transparency:

The Police should be ready to discuss all police aims and policy, including operational matters...and where appropriate...the police should be ready to give prior notice of their intention to mount major police operations (Home Office Circular - 2/85 Arrangements for Local Consultation between the community and the police outside London).

This notion of 'transparency' between the police commissioner, the community and the government was further developed by Sir Brian Cubbon (Permanent Secretary in the Home Office) in September 1981 when he indicated that consultation with the community was a means of "obliging the police to take account of the wishes of the community and should also be seen as a way of ensuring that the community sees it as a duty to support and help the police and so help themselves" (Morgan & Maggs 1984:6). Research by Morgan and Maggs (1984) based on this method of consultation called "transparent accountability" demonstrates how a police commissioner's decision-making is legitimised. It is emphasised, however, that senior police officers dominate the consultative process, because of their understanding, knowledge and command of the information. In 1993, Sir Kenneth Clark emphasised that this was the approach the central government was taking to strengthen 'mutual and transparent accountability' within the tripartite relationship of policing governance.

The fundamental principle for this model is that a police commissioner is in partnership with central governments, local governments and the community. Government provides the resources and administrative framework. The police commissioner is to provide the professional judgement as to how law enforcement and order maintenance will best be achieved for the community. Alderson (1984:115) recognised the need for a different administrative structure to facilitate local
accountability which was community based. However, Plehwe (1973:280) does recognize a difficulty in this approach:

Consultations often take place between Ministers and Commissioners and between their subordinates, even if the Government has no intention of issuing instructions. For these reasons, it is often not clear whether the police are acting independently or not. The line between consultation and instruction is hard to define in practice when communication is frequent and areas of authority are ill-defined.

A rationalised definition of accountability is essential if this model is to be adopted and police commissioners are to continue to be responsible to the rule of law, which was the preferred approach by the English Royal Commission (1962). The ‘rule of law’ is implicit in the English Police Acts, and is described by Marshall (1978) as the basis for ‘the explanatory and co-operative’ approach. Using this approach, the chief constable is able to maintain professional integrity, remains answerable to the law, and may be called upon to give an account of the policies and actions to those who have a legitimate interest in them. However, professional integrity is often effected by political influence over law enforcement policies.

Political interference or influence exerts pressures on the police commissioner and particularly law enforcement policies which causes constant changes and this may often occur daily. Peters (1990:96) suggests that it is a cross which has been borne with varying degrees of acquiescence by police commissioners from "the arrival of the 'new police' in the early part of the nineteenth century up to the present time". To manage policy change will require a review of police minister/commissioner's accountabilities and a better definition of their roles.

Much of the debate about the commissioner/minister relationship is about control, power and accountability. The analysis of this model may include various interpretations of accountability and what effect power or control has on accountability processes. Margaret Simey (1988: 118) puts the case for control and accountability thus:

Accountability is not about control but about responsibility for the way in which control is exercised...In other words, accountability is not an administrative tool but a moral principle.

The model of police accountability outlined by Simey (1989:10), from her experience in the United Kingdom City of Liverpool, provides one concrete example of the way in which the involvement of the community at a policy level is feasible, and one which
recognizes the practical difficulties involved: regular open meetings between the police authority, chief constable and members of the communities being policed, and openness of all authority meetings to the public are the beginnings of greater collective accountability between a locally elected official and a police commissioner (Simey 1989:10).

The lack of accountability to the public in England has been one of the major factors in the deteriorating relationship between the police commissioner, the government and the community. The reason for this lack of accountability, Spencer maintains (1985: 2-3), has been "the unwillingness of the elected officials to ask for it and to scrutinise police policies on low crime clear up rates, the use of force etc".

Although Dr. Waddington (1983:28-30) concluded that this lack of consultation and scrutiny of police policies provides a suitable political scapegoat for failure in policing by the whole of government, the result for a police commissioner who fails to define police policy adequately to a police minister or the government is often dismissal and changes to the Police Act to make it easy to remove a future police commissioner. Professor Goodhart commenting on the 1962 English Royal Commission report referred to the power of dismissal and a weakness in the power relationship between governments and chief constables:

The emphasis placed in the report on the power to enforce dismissal is, I believe, evidence of the weakness of the present system, because no private organisations could function efficiently if the only method of control lay in the threat of dismissal...This virtually uncontrolled position of the Chief Constable is unique and I find it difficult to accept the view that to give such unfettered power to chief constables is in accord with a democratic form of government on which so much emphasis has been placed (as cited in Alderson 1984:98).

Plehwe (1973) argues that a police commissioner's tenure should not be linked to executive control but to parliamentary control. Where a party prevails in government, the outcome for public failure will often be the dismissal of the police commissioner. Plehwe believes again that the statutory authority model provides the answer to this issue and would also better define the roles and responsibilities between a police commissioner and the government.

The development of this model in the English literature, it is believed, would secure greater democratic accountability of the government and police commissioners beyond the current delicate balance between the growing power of the police with defective
democratic accountability and the excessive party political manipulation of police powers. To achieve this balance, Alderson (1984), Bersten (1990), Oliver (1987) and others have recognised a need for an inquiry into the changing roles of police commissioners and methods of accountability which are evolving from the social, economic and political circumstances of the era.

AUSTRALIAN CONTEXT

Wiltshire (1992:487) argues that the partial independence of the police commissioner in Australia has not, in general, seriously reduced the accountability to government and parliament. The only serious gap in the framework of accountability is the fact that, "while reports on specific actions can usually be obtained from the Commissioner, policy issues are sometimes defined out of existence, so that decisions are tacit rather than explicit and are in any case not publicly justified". The result is often a conflict between the police minister and commissioner in defining the parameters of accountability and their roles.

Often this partnership and the practices could, if sufficiently refined, reconcile policy objectives so that they are manifestly impartial and completely accountable. Some of the problems that remain are the result of the failure to define the limits of government intervention and of the inherent difficulty of distinguishing in practice between close consultation and instruction. Wiltshire (1992:487) maintains that parliamentary practice is structured around the confrontation between government and opposition. The framework does not readily accommodate the examination of "policies for which governments do not accept responsibility and has produced some uncertainty as to the conventions to be observed in discussing the actions of the Commissioner of Police" (Plehwe 1973:285). The balance between accountability and control, can only be attained according to some, through the closest and tightest supervision of police forces. Others have argued that true accountability is achieved only by setting a police force free so that it can be held to truly account for its actions. The problem according to Wiltshire (1992:487) relates to a concern about how:

To balance the advantages to efficiency of the centralization of command and the threat which this is seen to pose to civil liberties. This in turn translates downward in organizational terms to a balance between hierarchy and discretion within the divisional pyramidal structure and also as it relates to head office/region relations. In more recent times the overwhelming tension requiring a supreme balancing act has been between the mandate of the police and the resources given them to carry it out.
Since the resources are never equal to the formal mandate a juggling act of monumental dimension is required. The difficulty is further accentuated by the constant addition of roles for police well beyond their traditional law enforcement responsibilities.

Based on Wiltshire's (1992:486) argument there is a perceived requirement for "clarity and simplicity of political responsibility" within the conventions and practices of policing governance. The response by one Australian author is to have an inquiry into this unique relationship to define their role and functions.

Michael Bersten, a lawyer with the Commonwealth Attorney-General's Department (1990:303-316) recommended an inquiry at a federal level in Australia to develop a model code of police legislation, ancillary administrative and legislative reforms, a system to evaluate the effectiveness of the police and reforms. He argued that under the normal separation of powers theory there are problems applying the doctrine of independence to the police. The current practice is that it is unclear who is responsible for what in police matters. The chain of responsibility through the police hierarchy to the commissioner, to the minister responsible for the police, to the parliament is often broken. Once broken, democracy and accountability of the police including the police commissioner to the parliament may be lost in a particular case. Such ambiguity leads to the practical problem of a vacuum in accountability. It is nobody's responsibility and hence nobody can be accountable.

Particular problems were identified by Bersten (1990:304-305) about the present position between police commissioners and ministers and these were:

1. The difficulty in establishing in particular cases when the police as a force is subject to external direction.

2. The difficulty in establishing in particular cases when the police minister is responsible for the actions of the police and when the police are accountable to the minister; and

3. The lack of cogency in the continued adherence by the courts to the common law principle that a police officer is an officer and not a servant of the crown in the light of Australian police legislation which appears to establish the contrary.

In summary, Bersten argues that the key points for codifying the positions of police ministers and commissioners relate to the police roles and conventions which should not be left to the common law or political conventions and practices. Next, the powers of direction to which the commissioner of police is often not subject should be clearly
defined. The trend is for greater definition of the power of direction of the minister over the police commissioner.

Bersten (1990) argues that the rules, directions and guidelines issued by the minister responsible for the police and the commissioner of police must, as is generally the case already, be published in parliament. Police accountability to the executive and parliament should be codified. A recent trend has been towards developing structures mediating between the police and the parliament at the expense of the influence of the minister responsible for police and the independence of the commissioner of police, eg. boards, police ministries and anti-corruption agencies - Criminal Justice Commission or Independent Commission Against Corruption.

The minister responsible for the police should have the power to demand ad hoc reports from the commissioner for police. The police should be under statutory obligation to provide an annual report to parliament, addressing at least matters required by statute. Certainly the circumstances for the removal from office of the commissioner of police should be codified. Additionally, the common law doctrine of the constable as an officer of the crown with an independent discretion in certain matters should be abolished (Bersten 1990). However Bertsen does not address the issue about the constitutional power of the Commonwealth Government to review this complex relationship with its associated role and functions at a state level.

This legal codification notion is not new and was espoused by Roy Hattersley (1982), the English Shadow Home Secretary, in an address to the South Gloucestershire Constituency Labour Party. On the subject of the accountability of the police, he said of chief constables:

Men who enjoy the power and authority of controlling police forces ought to have their rights and responsibilities clearly set out in statute. At the moment they are, as far as most decisions are concerned, answerable to nobody (Oliver 1987:87).

Hattersley fails to acknowledge that chief constables are still accountable to the law for their decisions.

The approach often adopted in Australia to reduce political interference and support for the role of the police commissioner relates to the method of dismissal of the police commissioner. Police commissioners in Queensland and New South Wales have in the
past had legal safeguards introduced by non-Labor governments to protect the commissioner against improper pressures. Plehwe (1979:78) claims that a Labor spokesman believed that "the motive was to enable unsympathetic police commissioners to resist the legitimate authority of future Labor governments". However, the resignation of Commissioner Whitrod in Queensland (1976) does not totally reflect this approach by a conservative government (Wettenhall 1977). These views would have to be balanced against the intent of the legislation already in existence. Often the use of legal reasoning to dismiss a police commissioner is vague and based on the premise that the commissioner was in conflict with the will of the executive (Royal Commissions, South Australia 1971 & 1978).

In many cases, the Commissioner does not know what the will of the government is. The Queensland Police Commissioner had tenure under the 1937-70 Police Act based on 'good behaviour' which meant that the Commissioner's removal was only for misconduct in office or misconduct that in some way makes the commissioner unfit to hold office. The procedure for dismissal rested with the Governor in Council and the appeal mechanism with the Supreme Court but was not clearly defined in the Act (Plehwe 1979:79-80). Changes introduced into the new Queensland Police Service Administration Act 1990 did not make any significant amendments to how a police commissioner can be dismissed except that contract employment now exists and another check and balance has been added. Section 4.5 of the new Police Act 1990 requires advice from the Chair of the Criminal Justice Commission to the Governor in Council on specific issues prior to dismissal. Under the previous New South Wales Government legislation, senior executive police appointments are overviewed by the police board (Plehwe 1993).

Justice Mitchell (1978:44) recommended that a modified version of the Queensland legislation apply in South Australia. It was argued that government was not necessarily the proper tribunal for deciding questions of fact about the dismissal of a police commissioner. However, it would be impossible to "keep in office a commissioner of police whom the Executive does not trust or with whom its relationship is unworkable". However, the Commission reported that it would be desirable to limit by law, the power of dismissal of the government even though it would be "small comfort to a commissioner of police, who was dismissed for inadequate reasons, to know that the government might for that reason be defeated at the next election" (Mitchell 1978:45).

Mr. Don Dunstan, in a South Australian parliamentary debate (1977-78:1364), believed
that although the "commissioner of police has some degree of statutory independence...he was in the same position of responsibility in providing information about the activities of his own section of executive government as was a minister, and he must accept the responsibility which if deliberately misleading would require him to resign or be liable to dismissal." This assertion was sustained by Justice Mitchell (1978:39) who concluded that the government which had been misled would be justified in dismissing a commissioner of police. Such an approach however is not within the concept of mutual accountability in Australia. Virtually, the police commissioner can be dismissed by the police minister.

**CONCLUSION- EXPLANATORY AND CO-OPERATIVE APPROACH**

This concept of mutual accountability for policing issues is not generally known in Australia due to the power of the executive, lack of research on policing policy and constructs contained in Police Acts. However, a modified partnership approach was adopted by the Greiner Government (New South Wales) with an annual review between the premier, minister and commissioner which was designed to transfer ownership of the political agenda, strengthen and define responsibilities and direction, and heighten the degree of accountability (Baxter 1992:8).

Then Chief Inspector John Avery (1981) of the New South Wales Police Service believed that the role and responsibilities of police minister and commissioners should be clearly defined. Much of Avery's administration in the NSW Police Service and his book is devoted to emphasising this need for government, police and community working together to achieve a common purpose. The partnership notion was central to his 'Statement of Values' reported in the New South Wales Department Annual Report in 1986-87. The reverse was the case in the Queensland experience.

In 1992 a row in Queensland raised the fundamental constitutional issue of who was responsible for managing the Police Service in Queensland (Courier Mail 13/3/92). The depth of division between the minister for police and the commissioner of police concerned the reform agenda and the leadership abilities of the Commissioner. The subsequent Chesterman Inquiry (1992) illustrated the lack of clarity about the roles of the commissioner and the minister. However, this was not the perception of the chair of the Criminal Justice Commission.

Sir Max Bingham (1992:522) believed that the new Police Service Administration Act (1990) for Queensland would resolve the difficulties since the Act better defined the
The new legislation in Queensland attempts to solve that area of difficulty by listing things that are clearly within the jurisdiction of the Commissioner, and requiring when a policy direction is given by the Minister, that it be recorded and registered and the register tabled each year in Parliament for the scrutiny of Parliament and therefore the public....But there are special refinements in the relationship between police minister and commissioner because of the need to maintain that political independence....I tend to take the view that no matter what structures you impose, in the end, the efficacy of matters like this comes down to personalities and that may be proved yet again, I suspect, with this experiment (Bingham 1992:522).

Issues relating to this model in the Australian context will need further development and the present state of Australian research on the topic does not address all of the issues discussed in this chapter. The Australian police commissioner/minister relationship needs further examination into how to define the relationship publicly, controlling political interference in policing and achieving a balance in the sharing of power within a Westminster system of government.

Certainly the British literature believes that the solution to the relationship problem is through ‘mutual accountability’ based on the transparency of a decision-making process which is open to public scrutiny. The American literature considers a management approach to the issue by defining the relationship through agreement arrangements. The Australia literature acknowledges some of the issues from the British and American models but often appears to rely on legislative drafting to reduce difficulties in the relationship.

However, the literature on this ‘interdependency’ model has failed to properly consider the nature of policing a modern democratic society. Skolnick and Fyle (1993) have stated that England had a theoretical base for the development of policing in their country but American and other countries like Australia have not considered the historical issues in the development of policing in England. The emphasis outside England, although it appears that the English policing model has been adopted by many common law countries, appears to be more aligned to control by executive government. Furthermore, Skolnick and Fyle claim that countries like America, Canada and Australia have not addressed two critical issues of democratic policing - maintaining the ‘rule of law’ and defining the role and expectations of policing in a contemporary western democratic society which the British system has attempted to do.
SUMMARY OF INTERDEPENDENCY FEATURES:

1. The model requires redefinition of the relationship rules and conventions based on greater personal trust, honesty, commitment and confidence through better defined expectations.
2. Both the police commissioner and minister must rely on the confidence of the public.
3. The government needs to accept the impartiality and neutral role of the policing function.
4. There needs to be a degree of balance between political control and operational and administrative independence.
5. ‘Policing by consent’ or ‘mutual accountability’ needs to be clearly defined by the government with sharing of responsibilities and accountabilities between the commissioner, government and community.
6. There needs to be open and effective challenging of executive decisions and policies.
7. The relationship should be based on moral principles applying the ‘rule of law’ and the ‘explanatory and co-operative approach’ and not relying on administrative accountability.
8. The police commissioner should be free to control organizational management without party political interference.
9. The police commissioner should provide progress reports and have a mutually agreed framework for the conduct of the organization.
10. A deciding criterion should be determined for overriding problems between the minister and the commissioner based on a public written statement of agreements.
CHAPTER 7 - RESEARCH OVERVIEW

There is no way to discover what a current or previous police minister or commissioner thinks is important except to ask them. Scrutinising their applied philosophy is not enough. Nevertheless material, press reports and public inquiries provide insights into their relationship but not necessarily into their personal relationship differences.

Nine police ministers, four private advisers and seven police commissioners were interviewed from Queensland and New South Wales to obtain a broad sample from differing administrative infrastructures. New South Wales and Queensland operate within a traditional Westminster system of responsible government with a minister and police commissioner. New South Wales has an overviewing Police Board and Queensland Police are overviewed by a Criminal Justice Commission. Six ministers (including private advisers) belonged to the conservative parties, and the seven to Labor governments. All police commissioners, ministers and advisers had served during the past twenty-five years (see Appendix C). One police commissioner and minister were serving at the time of interviewing. The remaining police commissioners, ministers and advisers had left office.

Many of the police ministers and commissioners have operated under differing administrative and reform arrangements. Three of the notable reform periods were during the early 1970s, mid 1980s and 1990s: Queensland - Commissioner Whitrod 1970-76 and Newnham 1989-1992; and New South Wales - Commissioner Avery 1984-1992. Certainly, the Royal Commissions of Inquiry which occurred before and during these reform eras had a significant impact on the experiences of both police ministers and commissioners. The introduction of the police board in New South Wales had an effect on how this difficult relationship operated which further contrasts the policy, administration and operational arrangements within the two states being examined.

Discussions with police ministers, advisers and commissioners using a structured interview format provided a comprehensive approach to analyse the topic. The research process of structured interviews was used to obtain information from interviewees which would address the hypothesis question discussed in chapter one of this thesis. The desired outcome of the research from the structured interviews is to increase the body of knowledge on the subject of police commissioner/minister relationships.
Accordingly, there was a need to examine five central themes:

- The role and functions of the minister and commissioners
- Shared vision or differences in policing governance
- Policy, administration and operational independence linkages
- The changing role of a minister/commissioner relationship
- Critical issues for future direction of the relationship

A general schedule of open questions which were used in the structured interviews is presented in Appendix B. Even though the interviews were structured, the results often included a variety of other comments and conclusions. Both ministers and commissioners had their own personal interests and when asked questions, often answered other questions. On some occasions they dwelt at length on some issues but briefly on others. Often their responses may have related to questions that threatened them. Lee and Renzetti (1990:512), for example, state that “experience suggests that there are a number of areas in which research is more likely to be threatening than others”. These areas include questions that intrude into private spheres and personal experiences or impact on the vested interests of the powerful.

As far as possible all questions were asked. The interviews varied in length from one to more than three hours. The interview structure was tested on six external people with backgrounds in politics, policing and academia prior to being utilised. The advice and feedback from these people provided valuable insight into the complexities of interviewing and obtaining the information needed to develop the critique to interpretative proportions.

The general procedure was to tape the discussions and to take notes. Taping of the interview was accepted by all interviewees except one. However, all interviewees were provided with transcripts of the interview which were edited and returned to the interviewee. On several occasions there were concerns about taping confidential issues, material that affected contractual agreements, and personal references. These concerns were discussed with the interviewee before referring to the material. It was understood between the parties that all discussions were attributable. Where sourced quotations appear in the text they have been taken from those transcripts. These interviews were,
of course, not the only source used. Over the past few years information on police ministers and commissioners such as media and public reports, and general information from experiences and insights gained from other people who worked with police commissioners and ministers have been included. Where available secondary sources, of which only a limited number are is useful, have been used.

Analysis of interview data has had its problems. Often ministers and commissioners do not make a distinction between their various functions and roles that they play and often just do their job as they see it should be done. Interviewees tend to overstate their influence, or to emphasise their priority. They may suffer from selective recall. There is of course, no single minister or commissioner's role; each personality will differ. Nor is there any ideal minister or commissioner, for the needs of a police organization will always vary, not only among themselves but also over time. Thus patterns of influence and behaviour, not ideals, are the best that can be presented. The method of using open questions as a research tool is presented and in literature later in this chapter.

Further, it is difficult to reduce ministerial/commissioner behaviour into statistical trends. If the comments in the thesis are often generalized that is because there is no other way to present them. Neat tables might appear to be exact, but often they are so only at the expense of the evidence. This thesis has therefore not attempted to provide tables except where they are obviously and easily applicable. The intention is to analyse patterns of behaviour that can be readily understood.

The aim of the structured interview was to provide an appreciation of the views of the minister/commissioner. To achieve this, ministers/commissioners expressed their views as fully as possible in their own words, although I did use follow up questions to elicit more details. The consequence was a large volume of qualitative data. Laborious analysis of the transcribed interviews provided categories of topics which supported the framework for the other chapters in this thesis. My major concern was to create a picture of the minister/commissioner perspectives in their words within the context of the models. These images are used in subsequent chapters to give a feeling of their world as they saw it.
METHODS OF RESEARCH

Interviewing processes are clearly a form of social interaction and not an invariate, neutral measuring instrument (Reiner 1991:45-46). To assess the validity of the pictures I was given, it was necessary to consider how I was perceived by the ministers and commissioners. Their replies will clearly be filtered through their perception of what I knew and expected and how far I could be trusted.

Up to now the most influential attempts to provide a basis for improving structured interview or question-answer methods have been based on a large number of diverse and varied research findings (Sudman & Bradburn 1974; Vander DerZouwen & Dykstra 1982). Efforts to provide a more sophisticated basis for the formulation of question wording have been hampered by the lack of an encompassing theoretical framework, although a number of methods have been tried made suggesting possible directions that might be taken. Phillips (1971), for instance, has stressed the social interactional nature of question-answer situations. Cicourel (1982) has stressed the relevance of cognitive and linguistic processes and the idea that question-answer behaviour should be treated as a form of communication. And Douglas (1985) & Briggs (1986) have stressed the impact of contextual variables on the way respondents interpret questions.

The use of structured interviews has been made a keystone of contemporary social science and there is no sign of this situation changing. There is much evidence nevertheless, to support the conclusion that "the verbal data we collect are very often of dubious validity and reliability" (Foddy 1994:11). It is also clear that there is a lack of a proper understanding of the causes for these shortcomings. This is not to say that other kinds of methods used in the social sciences suffer from less severe validity and reliability problems.

A necessary precursor to a successful question - answer method is that both researcher and interviewee have a shared understanding of the topic under investigation. Since all topics are multi-dimensional, interviewees can orient to a topic in either a broad or a more narrowly defined approach. If different interviewees define an issue in different ways and the researcher is not aware of this fact, the answers will neither be properly interpreted nor meaningfully comparable.
The researcher can take one of two tracks to meet this problem of different interviewees giving different kinds of answers. The researcher can try to identify the dimension(s) each interviewee has taken. Alternatively, the researcher can specify the dimension(s) upon which all interviewees should focus. The first of these solutions runs into a number of difficulties. These include the fact that interviewees may not be aware of the dimensions influencing the answers when they define the issue for themselves and the fact that their definitions of an issue are likely to vary over time. While the second solution runs into other problems, such as the dangers of imposing inappropriate response categories upon the interviewees, it does ensure both that the issue is clearly defined for each interviewee and that each answer will be relevant to it (Foddy 1994:37). To address this problem of different kinds of answers, the researcher in this thesis will use other sources to validate statements made by interviewees.

A compromise position suggests a judicious mix of open and closed questions is best (eg. Kahn & Connell 1957 : 158; Gallup, 1947). It has been widely taken for granted that qualitative, in-depth interviews should precede the formulation of fixed-choice questions so that response categories will reflect the respondents' world rather than the researchers' (eg. Cicourel 1982; Converse, 1984; Converse & Presser 1986). One might almost say that since the publication of Lazarsfeld's paper in 1944 every survey researcher has accepted the idea that open questions can play a useful part in interpreting responses to closed questions.

But the issues are not so easily settled. The observation that the distribution of answers to open questions often differs markedly from the distribution of answers to corresponding closed versions of the same questions is often taken as evidence that the response options for the closed questions must be inappropriate. However, such an outcome can just as easily be the result of interviewees having to guess what kinds of answers the researcher wants in response to open questions. The central issue is not which format produces the most valid responses but whether or not interviewees know what kinds of answers they should give. This is an issue that applies equally to both open and closed questions (Campbell 1945; Schuman & Presser 1979). In the case of open questions, interviewers need to have a good idea as to why a question is being asked so that they can both recognize inadequate or irrelevant answers and be able to
‘probe’ to correct any deficiencies or to check using other sources of data (Foddy 1994:152).

The heart of the matter is acceptance that interviewers impose either their own view of reality, or their assumptions about the interviewees' view of reality upon their interviewees' answers, whether it is admitted or not. The issue is how conscious is the interviewer of him/herself and the prevailing situation. Some might happily impose their own response options upon their interviewees and force their interviewees to answer their questions in terms of these response options regardless of whether or not their interviewees feel comfortable with them. Others might choose to act as if they are discovering (in an absolute way) the truth from their interviewees.

The research in this thesis has taken a middle course. The approach that this researcher has taken and that will be employed is to encourage interviewees to indicate when they think that the kind of questions they have been asked are inappropriate to their situations (Foddy 1994:192). The approach taken in this thesis in ascertaining primary data was through a structured interview using open questions which allowed the interviewee a degree of freedom and flexibility in framing their picture of reality.

**CONCLUSION**

It would be difficult to interpret and analyse history and the answers to structured interview questions based on facts and information provided in chapter two alone. However, the issues raised in the history of the New South Wales and Queensland policing (Chapter 2) and government activity over the past twenty-five years does provide several useful indicators that could be examined in the context of the interviewees' responses.

Most notable are the constant similarities in difficulties experienced between police commissioners and ministers in different states, having regard to the variations in the Westminster system of government. Responses by police commissioners and ministers to structured interview questions may reflect views about their experiences within the Westminster system of government. There appears on the surface a nexus between government approaches to the policing dilemma and the partisan political attempts to
control the police administrator. The need for ministerial and government control suggests that differing political persuasions have little impact on the relationship difficulties between commissioners and ministers.

The conventions, regulations and practices associated with the ministerial role even with differing structural requirements, for example, the police board, does not appear to have had any significant impact on why tensions continue to exist between the parties. The mandate of the NSW Police Board was designed to be a ‘buffer’ between the commissioner and minister. A similar structure was introduced into Queensland, through overviewing by the Criminal Justice Commission. It appears from historical data that these structures have not resolved the relationship difficulties other than to increase administrative and political complexities and create confusion in roles and functions between the parties.

History and responses to structured interview questions refer to commissioners perceiving the right of operational independence - a legal convention which is often used to counter political interference. This is a vexed issue which cannot necessarily be determined from historical facts and may rely on answers provided by police commissioners and ministers. The amount of interference in policing issues and to what extent they are to be free of political and ministerial control on operational issues, will need to be examined further from the respondents' answers. The issue of operational independence of a police commissioner will be further highlighted by the case studies and the literature review chapters.

Results from structured interview questions and other historical factors will support findings on how this difficult relationship operates and may show a need for substantial reform. The police commissioner and minister relationship is affected by the influence of internal and external bodies. Roles and functions of police unions have also had a major impact on the responses from the interviewees and may show difficulties experienced by police commissioners and ministers. Although police unions are referred to in the structured interview answers, this thesis does not essentially examine in depth their relationship with ministers and commissioners. Additionally, the role and functions of policing and government policies also constantly raise paramount factors in the performance of their relationship. How these roles and functions are managed
relates to a constant changing in the power of balance in the relationship. The complexity of institutions, structures, role and functions of the modern policing paradox in our western democratic societies can only be understood in the context of history and the understanding of the experiences of the interviewees.

However, it is not possible to provide an inexhaustible source of historical and personal data from questionnaire results to disclose all relationship issues in the case study chapters to follow. A variety of issues affected the interview process specifically in response to this thesis which was beyond the control of the interviewer. These included:

- The researcher is a current serving police commissioned officer and had to consider ethical and legal implications of the research eg., Under Section 7.2 of the Police Service Administration Act 1990, a police officer is required to report official misconduct.
- A civil writ had been issued by a police commissioner which restrained a police minister and an adviser from making comments on specific issues.
- Another police commissioner was restricted by a previous government employment contract which influenced responses on government policy and actions.
- Several police ministers and commissioners were involved in giving evidence before a Royal Commission which meant that any responses had to be considered in the context of material before that Royal Commission.
- One police commissioner had been incarcerated and presented responses that would not impede any future judicial proceedings.
- Several police ministers did not desire to be interviewed because of issues before a review tribunal. However, their personal advisers did respond to questions provided.
- Six police ministers and five police commissioners were either in office or had left office in the past five years. Some were affected by employment contracts and a few had personal views about how they left office.

The intent of the writer was to provide an insight into some of the critical issues both publicly and internally in the organization and the government which impact on this relationship. Case study chapters within this undertaking refer to formal and informal
interactions from history and personal experiences which will improve our understanding of the police minister/commissioner relationship complexities.

The following chapters will consider each player individually and identify and examine various perceptions they have of their roles and expectations and how they expect to achieve them. These roles are often determined by legislation, for example, the New South Wales Police Board Act 1983, New South Wales Police Service Act 1990, New South Wales Police Regulation Act 1899-1985, Police Service Administration Act 1990 (Queensland) and Police Act 1937-1989 (Queensland). These various Acts of Parliaments provide scope for police ministers and commissioners to define policy, administration and operation levels without significant parliamentary legislation or convention limitations which enables their actions to be analysed within the three models discussed in the preceding chapters. The concluding chapters will draw from the practitioners' experiences and insights and the literature on how police ministers and commissioners in Australia can achieve a better working relationship that will improve the management of this difficult political portfolio called policing.
CHAPTER 8 - THE SYNERGY OF POLITICS AND POLICING

This case study concerning a police minister/commissioner which relationship operated during the 1970s in Queensland during a stable period of conservative rule. The Police Minister held a number of senior positions in the cabinet when the police portfolio was allocated to him. This occurred after a discussion with the Premier who had responsibility for police. It was argued by the Minister that if the Premier wanted to remain in power for a lengthy period then somebody else should overview the policing portfolio. This view was then accepted and supported for seven years (Bolen 1993:4). Minister Hodges believed there was a need for change:

When I took over the job, I could see what was required. What was required could not be achieved with the present administration from the Commissioner down (Hodges Interview 12/4/95:1).

Information gleaned from interview data, media reports and other material show that the relationship between Police Commissioner Whitrod and Minister Hodges can be defined by the following matrix:

<table>
<thead>
<tr>
<th>NAME</th>
<th>POLICY</th>
<th>ADMINISTRATION</th>
<th>OPERATIONS</th>
<th>PERSONAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>HODGES</td>
<td>DEPENDENCY</td>
<td>INDEPENDENCY/DEPENDENCY</td>
<td>INDEPENDENCY/DEPENDENCY</td>
<td>INTERDEPENDENCY</td>
</tr>
<tr>
<td>WHITROD</td>
<td>DEPENDENCY</td>
<td>INDEPENDENCY</td>
<td>INDEPENDENCY/DEPENDENCY</td>
<td>INTERDEPENDENCY</td>
</tr>
</tbody>
</table>

(1) Dependency - Police Minister controls Department (2) Independency - Police Commissioner is operationally independent (3) Interdependency - Police Minister and Commissioner work co-operatively to achieve a common purpose.

Based on the field research interviews, Minister Hodges operated publicly within the ‘dependency’ model and Commissioner Whitrod in the ‘independency’ model, although both parties’ private working relationship appeared to have substantial elements of the ‘interdependency’ model. This relationship operated from 1970 to 1976.

Minister Hodges needed to reform the Queensland Police Department by controlling the government policy, determining a direction through an organizational audit and appointing a suitable Police Commissioner who would implement the government’s policy. The research will show that the police minister relied on the ‘dependency’
approach and the need to control the department. As a result, significant structural and administrative reforms were to occur in the Police Force through ‘modernization’ (Hodges Interview 12/4/95:2). Many of the organizational changes recommended were presented to the May 1970 Triennial Conference of the Queensland Police Union of Employees in Brisbane by the new Police Minister and Commissioner. The response by the Union was to recognize the position and roles of the Minister and the Commissioner, particularly in improving the rights and benefits of police officers generally (Queensland Police Journal Nos. 5 & 6 June-July 1970). The research illustrates that the Minister believed that a policy direction was needed with the Police Commissioner being responsible for the implementation of that policy.

However this need to change the policing policy would be seen by other ministers as "usurping authority and wanting to have control" over a policy which had been the collective responsibility of the cabinet, which view impeded the Minister's vision to modernize policing in Queensland (Hodges Interview 12/4/95:4). Often he believed he was dealing with "16 police ministers around the cabinet table" who wanted to dictate specific policy on the administration and operations of the Queensland Police Department (Bollen 1993:22 & 26). However the Minister was keen to make Queensland Police accountable and professional. The reform policy process would put him at odds with his ministerial colleagues and eventually the premier. The crystallisation of his policy was however to be supported publicly, according to the research data, by Police Commissioner Whitrod in the administrative reform process.

To achieve his policy change, the Minister obtained government approval to bring in a special adviser to conduct an independent review of training and administration of the Police Force (Fitzgerald 1989:35). The adviser also recommended a person for the position of police commissioner. The executive government's representative advised the Government that a specialist was needed. Accordingly, advice was sought from the best "top line police force in Australia" to identify a Commissioner who would be accountable to the Minister in achieving the government’s policy (Hodges Interview 12/4/95:1). The appointment of a commissioner external to Queensland was to cause mixed feelings with serving police officers; and the cabinet at the time wanted the future commissioner to appear before them. His Ministerial colleagues wanted their own appointment but the Minister "stuck to his guns". The adviser's report was the source and format of recommendations for change (Bollen 1993:6,45 & 47; Sunday Mail 21/9/69; Sunday Truth 14/6/70; Sunday Mail 16/8/70).
Police Commissioner Whitrod was appointed by the Government because of the person's 'administrative' and 'academic' ability. He had the competency to bring about the Minister's change and administrative reform (Hodges Interview 12/4/95:1; Fitzgerald 1989:35). Most importantly, the Commissioner had the support of the Police Minister from the beginning and whilst the Minister stayed, the reform agenda enjoyed ministerial support:

(When I read his resume and saw what he had done...he was the man I wanted. He's the man who believed in better training. He was a man who had 100% integrity and honesty, and (agreed) with the direction as far as I was concerned...the type of fellow I was looking for (Bollen 1993:6 & 46).

Both the Police Minister and Commissioner had a mutual agreement about the public role, direction and changes needed in Queensland for good policing.

The emphasis for both Police Minister and Police Commissioner was to improve police education, better resources and promote professionalization of policing, particularly in the 'office of constable' (Whitrod Interview 17/6/95:2). Commissioner Whitrod held strong private views about the nexus between the office of constable, the government, the public and the organization:

The police act as a buffer between the executive and judiciary. My annual reports reversed the diagram of the police organization by pulling up the broad base of Constable and then working down to the Commissioner who occupied a much lower status. It seemed to me that the effect on the public of a police force is channelled through prompt interfacing when it meets the public (Whitrod Interview 17/6/95:2).

Police Commissioner Whitrod argued strongly for the 'theory of operational independence' of a police commissioner throughout the interview process, based on traditional British policing philosophy and the doctrine of the Blackburn case (1963). He believed that the office of the commissioner required "that law enforcement should be carried out in a manifestly impartial manner and should be shielded from even the appearance of politically motivated interference" (Whitrod 1974:3). However, he did believe that he should accept "grand policy" advice from the government, but on the actual administration of the police force, his belief was that it should be independent of political influence (Bollen 1993:9).

The confidence which the Minister had in the Commissioner's ability and aptitude to
provide advice to the Government on policing and maintain balance in the separation of powers, was demonstrated as:

(I)f a different approach was required he backed me all the way. I left the Police administration entirely in (Commissioner Whitrod's) hands. I kept away as far as possible because I still believe in the three tiers of responsible Government and police as an area of the executive. I wasn't going to get my fingers burnt in that area. I kept away from the police department and only on rare occasions did I visit headquarters to discuss anything. Commissioner Whitrod would come down to me or we would do it over the phone (Hodges Interview 12/4/95:4).

Certainly Minister Hodges' views on the theory of 'police operational independence' free from executive control was important and he believed the problem of improper interference rested with government and politicians:

Politicians won't allow it. They can't keep their sticky fingers out of it. They just can't help themselves....you can't interfere in the day to day...policing. There's been that division of powers for centuries and you can't interfere with it (Bollen 1993:39).

Minister Hodges was often seen as a ‘democratic politician’ because of how he understood the separation of the political role from the commissioner's role on policing issues (Wells 1979:15). A Commission of Inquiry endorsed the approach taken by the Minister and Commissioner and stated that "they apparently respected each other and worked together effectively. Minister Hodges did not seek to intrude beyond administrative policy into operational control (Fitzgerald 1989:35). Much of their private relationship based on an analysis of the interview questions appeared to exhibit elements of the 'interdependency' model.

The same vision was held by Commissioner Whitrod. However the understanding of a shared responsibility was coloured by the operational setting of policing relating to the 'independence' of the office of constable:

In my view that was a crunch point in the significance of the police and the police minister's roles is that very independence..... I think law enforcing needs that softening effect of each application by a person who make judgements on his/her own behalf (Whitrod Interview 17/6/95:3).

Certainly the operating relationship had a significant bearing on the final determination of changes made by the Premier after seven years. The Minister had
persuaded Commissioner Whitrod to be part of the change process in Queensland. Commissioner Whitrod indicated that his resignation from the Police Force "was very much influenced by the fact that he (Minister Hodges) had departed and I was not to establish the same rapport with the new minister. So much of the reform highlights in Queensland were brought about by the actions of the police minister" and his policies (Whitrod Interview 17/6/95:1). The public relationship between the Commissioner and Minister was always strong with the Commissioner advocating that the Police Commissioner was answerable to the ‘rule of law’ and not to the executive government of the day on operational issues (Whitrod 1975).

The initial evidence analysed from the research data suggests that the public relationship between Minister Hodges and Commissioner Whitrod tended to rely on features of the ‘dependency’ and ‘independency’ models. However, there were differences in their private views about roles and responsibilities.

**ROLE AND RESPONSIBILITIES - BOTH PARTIES' APPROACH**

Role differential was a marked feature of this operating relationship. Certainly there was a definite impression from the research material that the role and functions of these positions were distinct and separately based on their defined understanding and not on a legislative base. However, further analysis of the distinctions between policy, administration and operational roles often demonstrated a blurring of the individual's position between the three model types - Dependency, Independency and Interdependency.

Certainly in the minds of both Police Minister Hodges and Commissioner Whitrod the separation was clear cut. The main role for the Minister based on the ‘dependency’ approach was "to see that the division....between Government and police authority cannot be interfered with in any shape" (Hodges Interview 12/4/95:4). There was a mandate for the Police Minister and the Department to "carry out the Government’s orders, maintain the statutes and....to have the equipment to do the job" (Hodges Interview 12/4/95:4 & 5).
Commissioner Whitrod's perception of the Commissioner's role was based on his notion of 'operational independence' and this notion was to act as a "buffer between the Government in a sense in the enforcement of the laws in the community" (Whitrod Interview 17/6/95:8). This view was understood by the Police Minister who stated the government's position on the 'operational independence' of the Police Force to include overviewing administrative matters:

(T)he government has a policy and that policy must be pursued. The administration of the police force is in the direct control of the commissioner appointed by the government and complete administration of the force will be left in his hands. But I will be taking a very active interest in all aspects of his work and the work of the police throughout the State (The Australian 5/6/69).

This concept advocated by Minister Hodges was that government was responsible for policy and defining the role of policing which was primarily "to maintain law and order, control and acknowledge the statutes of the state which are laid down by Parliament" (Hodges Interview 12/4/95:9). The successful role relationship rested on the premise of co-operation and clear role separation which included the 'independency' approach:

(B)ut as for the administration of the force I kept well out of it. I didn't interfere at all. I let him have complete run in administration and I think that was one of the best things to keep politics out of it. I kept (Commissioner Whitrod) shielded from politics as much as I could (Hodges Interview 12/4/95:10).

This 'independent' approach was supported by Commissioner Whitrod who suggested that an astute police commissioner discusses all his management plans with his minister and if there is some disagreement about management policy, the police minister has the overriding power" (Hodges Interview 17/6/95:3). The Commissioner believed that this was consistent with the principles of 'responsible government': "the Minister is politically responsible for us" (Sunday Mail 14/3/71). That was the formal, public perception of the relationship. Conversely, reality provides a different face.

Commissioner Whitrod did take umbrage to his being appointed as the Departmental Head of the newly formed State Emergency Services with the administrative difficulties associated with that joint role (Whitrod Interview 17/6/95:12). Further role blurring was depicted in the Minister's interest in staffing levels at the Gold Coast and requiring
personnel rosters from the Commissioner (Hodges Interview 12/4/95:12). Other issues of concern included detectives drinking at hotels, field information report cards and the wearing of uniforms by senior police officers, police manpower numbers, public order squad and the performance of the criminal investigation branch personnel (Hodges Interview 12/4/95:13; Commissioner's Newsletters No. 203 24/10/75 & 205 7/11/75). An analysis of the interview material certainly demonstrated that the role distinction in this relationship had a public and private face. The relationship has the occasional intrusions into the operational and administration roles through the informal process. Informally the Police Minister used principles of the ‘dependency’ model to control the police department.

However, the responsibilities of Commissioner Whitrod were seen much more broadly in the context of supporting "the public, his employees and his minister" through operational independence (Whitrod Interview 17/6/95:3). The Premier of the state strongly argued in a parliamentary debate that the Commissioner was ‘dependent’ on the Minister of the day for direction (Queensland Parliamentary Debates 30/11/76:1927). The Commissioner accepted policy direction of the minister and the government by stating:

I am a policeman, and I accept directions from above. I expect loyalty from members serving under my direction. Therefore, I must practise what I preach, and loyally accept the decisions of those in authority over me (Telegraph 28/1/76).

However in an interview with Jill Bollen, a research student, Commissioner Whitrod did argue that he "believed in political decisions for grand policy but running the force was the Commissioner's role" (Bollen 1993:47). Although Bollen (1993:93-94) argues that the Minister may not have fully understood the nature of policing, the same was said of future ministers.

However, Police Commissioner Whitrod asserted a different view early in his career concerning the principle of administrative ‘independence’ of the police commissioner. Good government was based on the premise that "the police minister being charged with the administration of the police force and the commissioner was under his direction". In newsletters to the police organization, the Commissioner reasserted the ‘dependency’ view that the commissioner was accountable to the Minister; and he often highlighted the chain of command with the Minister at the head (Commissioner's
Newsletters No. 5, 12/3/71 & No. 20, 16/9/71). However, based on statements made during interviews, newspaper reports, newsletters and parliamentary speeches, both parties believed that they had a good working relationship, with a shared commitment and vision to implement change and reform in the policing organization. This good working relationship may have stemmed from their private mutual agreement about the need for balance between policy, administration, and operational requirements.

The ultimate breakdown in the relationship occurred when the internal working of the government machinery changed the balance of power. After his period in office, Commissioner Whitrod spoke publicly about the crucial issue of government and commissioner relationships, supporting the ‘operational independence’ approach:

The Government’s view seems to be that the police are just another public service department, accountable to the Premier and cabinet through the police minister, and therefore rightly subject to directions, not only on matters of general policy, but also in specific cases. This is an interpretation which could have a deal of political appeal, but it is one quite contrary to my own belief. With Lord Denning, one of our great legal authorities, I believe as a Police Commissioner I am answerable, not to a person, not to the executive council, but to the law. All police officers, and that includes me, must swear to enforce the law and to maintain the Queen's peace.

I quote Lord Denning when giving judgement in Blackburn's case: I have no hesitation in holding that like every constable in the land, He (the Commissioner) should be and is independent of the Executive...He is answerable to the Law. Certainly that is an English case, but in Queensland the decision in the matter of Wilson v Brisbane City Council and Hoare in 1964 was based on judicial acceptance of the doctrine that there is not a master and servant relationship between a police officer and the government.

Yet I am not claiming that there ought to be complete independence of action for the commissioner. All I assert is that there ought to be a minimum of interference by the political authority. This is essential if members of the community are to believe that the enforcement of the law is being carried out in a manifestly impartial manner. It needs therefore to be shielded from even the appearance of politically motivated interference.

In conclusion let me restate: The Commissioner of Police cannot be just another public servant adviser to a cabinet minister. He is the head of a large body of police officers, each one under oath to
personally enforce the law. The people of Queensland have a right to expect each officer faithfully to enforce the law. If the Premier or the government don't want certain laws enforced generally, they should seek to persuade parliament to amend them. If the Premier wishes to change the authority and responsibility of the Commissioner of Police, he should seek to amend the Police Act (Wettenhall 1977:20-21).

However, shortly after Commissioner Whitrod's resignation, a new conservative Police Minister argued in a parliamentary debate that the view taken by the commissioner was not in accordance with the doctrine of responsible government (Queensland Parliamentary Debates 30/11/76:1922). Another author argues that the dilemma resulted from a Premier interfering in an operational inquiry and the Commissioner's 'independence': "matters which were not only the subject of a portfolio which he did not administer but which concerned operational decisions rather than administrative policy and this had produced an almost intolerable situation for Commissioner Whitrod" (Fitzgerald 1989:44). An analysis of the research material suggests that the police minister and commissioner operated publicly within the 'dependency' and 'independency' models. However, specific administrative and operational matters affected their private working relationship.

**POLICY, ADMINISTRATION AND OPERATIONS - MINISTER'S VIEW**

The separation of policy, administration and operations is often seen as crucial to how the relationship operates. However, in reality the distinction between the conventions and priorities were not clearly defined and are often ambiguous. Minister Hodges asserted that administration and operational directives were generally not given to the Police Commissioner. The Police Commissioner was to be independent on these matters. There were only a few instances where directions were given to Police Commissioner Whitrod. Perhaps the poignant examples related to the colour and ensigns on police vehicles and wearing of police uniforms by Senior Officers (Hodges Interview 12/4/95:5,13).

However, Minister Hodges believed that the 'administration of government' rested with
the Minister "who should make sure that the commissioner is fully aware of ...Government policy and make sure it was carried out" (Hodges Interview 12/4/95:8). Government policy was difficult to define and to identify its origins. The Minister pointed out that he "never got one instruction from the Government in seven years and that everything was initiated by him" (Hodges Interview 12/4/95:5). This did not mean that the machinery processes of government did not scrutinize the police budgeting allocation and criminal offences bills which went through cabinet into the parliamentary system. That process of ministerial accountability was certainly seen as one of the major roles of the Minister (Hodges Interview 12/4/95:6). Although the Minister acknowledged the need to pursue government policy he further argued that he would make his "presence felt with those associated with the administration of the force but would not interfere with their duties" (The Australian 5/6/69).

The approach by the Minister was based on a clear belief that administration and operational matters were under the control of the Police Commissioner. But he was of the view that:

(I) could make suggestions about what I would like done and what I would like to see done in certain areas. If they were acceptable to the commissioner and they could be worked in, then we would say 'yes'. If he couldn't, then he would give me reasons why they couldn't or should not be done (Hodges Interview 12/4/95:5).

This process allowed the Commissioner to identify what were political policy issues and to decide he would have nothing to do with them. "My administration" would respond accordingly (Hodges Interview 12/4/95:8). This approach however did not exclude the Commissioner from political and policy processes and persuasion. Minister Hodges explained that the amalgamation of the Emergency Services funding and command responsibilities (Civil Defence) into the Police Force was an issue which brought the Police Commissioner into the direct administrative control and direction of the Minister (Hodges Interview 12/4/95:12).

But the overriding consideration was to make sure the Police Commissioner was administratively and operationally independent. This was supported by the Minister's personal loyalty to the police and was demonstrated by a public reduction in the interference with policing administration. The concept was further supported by the Minister being responsible for promoting the non-interference in mainstream police
administration. He believed that:

There are not too many Ministers who would want to carry out that. They would want to have their say, but wouldn't want to be a part of everything that goes wrong. They have to have somebody to blame or have a 'whipping boy' somewhere (Hodges Interview 12/4/95:9).

Both the Minister and the Commissioner believed in accountability, responsibility and loyalty as the premise for their unique relationship. The bifurcated approach on government policy and operational independence rested on the notion of the Police Minister being able to influence the decision-making process of the Police Commissioner developing operational strategies. This "influencing" approach by the Police Minister was observed in the wearing of uniform, visibility of police and policing at weekends, watchhouse procedures, detectives in public bars and rural policing (Hodges Interview 12/4/95:13). Many of these issues are referred to in parliamentary debates and police union journals of the time. Those debates may have influenced the Minister to act on them (Queensland Police Journal VI 13 No 5 May 1971). This ‘influencing’ approach reflected the informal reliance by the Police Minister on the 'dependency' model.

Critical to all this was the reform agenda and policy implementation. As Minister Hodges pointed out, "change was the biggest bone of contention. They (the police) didn't want to be interfered with" (Hodges Interview 12/4/95:14). In this area of policy, administration and operations, agreement had been achieved through preliminary discussions prior to the Police Commissioner's appointment - an essential element of the 'interdependency' approach to management of the relationship. These discussions also included the reform agenda for education and promotion by merit and the modernization of policing. The implementation of these policies was generally left to the Police Commissioner. A letter from the Commissioner to the Minister demonstrated the role the Commissioner took in implementing change to police education which was not fully endorsed by the police union (Commissioner's Newsletter No.112 17 January 1974; Queensland Police Journal VI 15 No 4 April 1973). Reassuring the policy change agenda was the requirement of the Minister that he left "the Police administration ... entirely in Commissioner Whitrod's hands" (Hodges Interview 12/4/95:4).
COMMISSIONER'S VIEW - OPERATIONAL INDEPENDENCE

The impression presented by Commissioner Whitrod was that Government operational policy should be confined to the conventional "independence" of the office of constable. The belief stems from the:

Blackburn principle in its application to Australia and particularly in regards to Queensland where there was that clause on the common law powers of a constable. Except for those powers and the application, I think in every other respect the Police Commissioner is under the direction of his Minister (Whitrod Interview 17/6/95:4).

Commissioner Whitrod had a clear understanding and referred to the Blackburn judgement:

(H)e should be and is independent of the executive, I hold it to be the duty of the Commissioner as it is of every Chief Constable, to enforce the law of the land. He must take steps to post his men (so) that crimes may be detected and that honest citizens may go about their affairs in peace....No Minister of the Crown can tell him what to do. He must or must not keep observation of this place or that; he must or must not prosecute this man or that; nor can any police authority tell him so. The responsibility is on him. He is answerable to the law and the law alone (cited in Whitrod 1975:13-14).

The Commissioner had been educated in Australia and England and believed that "as for Australian policemen themselves, the wise and encouraging voices of Patrick Devlin and Alfred Denning, from the English Courts of Appeal, are distant and faint. There appears to be a dearth of followers of that school in this country" (Whitrod 1975:36). Several newsletters published during his administration emphasised this principle of 'policing independence' to the serving police officers (Commissioner's Newsletter No 136 4/7/74; No 141 8/8/74).

As far as Commissioner Whitrod was concerned, policy control and the independence of the Commissioner were clear. To the Commissioner the office of constable had the unique role to enforce the law and use force to sustain compliance (Whitrod 1975:10). However, he claimed that "ministerial responsibility [had] served more to act as a target for censure and blame than as a channel to supply objective data on departmental performance" (Whitrod 1975:5). It was further argued that the Commissioner under the authority of the Police Act 1937 had the primary responsibility
for preserving and keeping the peace, preventing offences and discharging other duties as required by law. These responsibilities were supported by an oath of office for all police appointed by the Commissioner and the government of the day (Bollen 1993:18; Commissioner's Newsletter No. 206 13/11/75). The government of the day attempted to apply the 'dependency' principle of accountability and control over the Commissioner's operational 'independence' by arguing that the doctrine of responsible government should apply (Queensland Parliamentary Debates 30/11/76:1922).

Commissioner Whitrod reinforced Minister Hodges' version that no detailed policy initiatives came from the Government. Yet, the Commissioner argued that operational policy initiatives came from the police. However, influence was often brought to bear on operational initiatives which had a significant bearing on the private sector, the community and the party political arena. Commissioner Whitrod referred to an initiative to reduce traffic accidents in an inner city suburb by targeting drink drivers at major liquor venues. This tactic (which was quite successful) was not supported by the Premier and a key political figure in whose electorate it was operating (Whitrod Interview 17/6/95:4).

Commissioner Whitrod acknowledged the substantial difficulty the Minister had in getting cabinet to agree to significant reform policies. They would include education and promotion changes. These policies were often not supported by the local Police Union of Employees (Queensland Police Journal VI 15 No.7 July 1973; VI 18 No 2 February 1976). A Commission of Inquiry referred to the continuing dilemma faced by both Minister Hodges and Commissioner because of the interference of the Police Union and the Union's direct association with the Premier at the time (Fitzgerald 1989:36,42-43). However, major public issues on law and order required the full support of cabinet, particularly on proposals regarding the "Springbok Visit" in 1971 (Whitrod Interview 17/6/95:5).

Bollen (1993:24) argues in her thesis that the Springbok tour was an illustration of the Premier and the Police Union interfering in the planning process which was being finalized by the Minister and Commissioner at the time (Queensland Police Journal VI 13 No 8 August 1971). This relationship between the Police Union and the Premier on policy directions was later to determine the future appointments of senior officers and to bring about the resignation of the Commissioner (Fitzgerald 189:43). This
Commissioner was to say later that there was a "power play by the Premier and the Police Union against the Minister and me, so we were greatly out-gunned" (Whitrod 1987:7). The Premier, it appears believed that the Police Commissioner should be totally ‘dependent’ on the government for directions on policy, administration and operations.

Commissioner Whitrod believed it is a hard distinction to separate policy from administration and operations within policing. His understanding is summarized in a view about the government being clear on its direction and aligning this direction in a similar way to a military operation:

Government policy can be in such general issues as the introduction of enforcement of traffic laws...the positioning of police strengths in a general statement...OPERATIONS - I think apart from the principle of operations (Blackburn), the details should be left to the Police Commissioner in the same sense that a battle field commander has got operational control of the day to day operations of his resources...No Government can give you $4 million on a blanket instructions to deal with the drug trade. That is an infertile instruction in my book...the Government must have some concept about how it is going to be spent; otherwise you can spend it ineffectively...The operational aspect is the final stage of a continuing process. It cannot operate in isolation, it is the end product of the system. The system is that the Government adopts a policy for reasons which are acceptable to the Government ....and then asks the police what resources they want to carry them out (Whitrod Interview 17/6/95:6).

Such a view by Commissioner Whitrod clearly saw the Government defining policy and a dual responsibility between the Police Commissioner and Minister on administration. But the operational "outcome and the consequence of the operations can often reflect on the Government"; thus creating the need for the government "to modify or control" the operations. This approach was reflected in a major drug operation which had a serious consequence on the Government and in which the Premier intervened to control its outcome (Whitrod Interview 17/6/95:7). Furthermore, in Commissioner Whitrod’s view the approach of a Commissioner on government policy should be politically neutral and at the same time represent a role of public leadership and public confidence in operational situations such as natural disasters. The Police Commissioner has to be "carefully neutral and must support the Government of the day...or publicly oppose them. If he does the latter then he has only one recourse...he must resign if he can not
honestly comply with Government policy" (Whitrod Interview 17/6/95:6).

Although Commissioner Whitrod's response appears clear, there are occasions when a police commissioner has to demonstrate public confidence in operational situations without gaining any political mileage and yet appearing to remain politically neutral regarding future plans and leadership directions. But where a police commissioner "in the final outcome...attempts to modify government policy and fails, then he must resign" (Whitrod Interview 17/6/95:6). Commissioner Whitrod's resignation was eventually over government policy which affected the Commissioner's ability to fulfil his mandate. His resignation according to Bolen (1993:10) was over the "ambiguity which arose because of the Commissioner's accountability to the Government for policing in the State; it appears that the Government's perspective was that the notion of accountability was essential at times and was a smokescreen on other occasions".

Based on the variety of views from the research data on this partnership between the Minister, the Commissioner and the Government, it was important when making decisions on policing governance that the Government have a clear and distinct policy direction. The Police Commissioner ought to manage the administration and operations of the organization in public view. Any personal dissensions which were to occur informally were resolved through private negotiations and where possible through informed advice and mutual agreements during their weekly meetings. The major difficulty appears to be external. Political interest in policing outcomes often affected policing operations.

Although the research material suggests the Police Minister and Commissioner operated within the 'dependency' and 'independency' paradigms, the government wanted a total 'dependency' model to apply to the Police Commissioner. Perhaps critical to this relationship and the ability to combat the total 'dependency' approach was the acceptance and ability of each to adequately provide transparent operational, administrative and political advice (Fitzgerald 1989:35). Information applicable to these relevant fields, similar character ethics and an ability to find common ground where possible in conflicting issues that might arise, were critical to their private 'interdependent' relationship success. Their private working relationship, according to the interview data was essential to handling possible differences within the public arena.
RELATIONSHIP MANAGEMENT- MINISTER'S APPROACH

Generally speaking, both parties believed that there were only ever minor issues that caused relationship difficulties. Nevertheless, there were some personal idiosyncrasies of the Commissioner which annoyed Minister Hodges. One obvious administrative issue which did affect the Minister regularly was the insubordination of numerous police officers and the operation of the disciplinary process which always seemed left to the Commissioner of Police to deal with (Hodges Interview 12/4/95). However, the Minister pointed out that this was only a personal opinion. In one of his newsletters, Commissioner Whitrod outlines six general principles for the investigation of police misconduct to be considered by the Police Minister (Commissioner's Newsletter, No. 191 1/8/75).

This view of no major difficulties was reinforced by Commissioner Whitrod who believed that there were very few basic differences between them. He could remember only three incidents which related to administrative issues over a seven year working relationship which were eventually resolved privately (Whitrod Interview 17/6/95:5). Although official corruption issues were extremely poignant matters of regular discussion, the more active discussions took place at cabinet level and were often based on personality rather than the wider view of policing needs. The final outcome of these discussions in cabinet saw the political appointment of a senior officer against the Minister's and Commissioner's wishes (Hodges Interview 12/4/95:7; Fitzgerald 1989:42-46). An analysis of the documented data indicates that on administrative issues and the operating models the Police Minister and Commissioner relied upon their ‘interdependent’ values and communication skills to resolve differences of views. There was a reliance on an explanatory and co-operative approach to differences - the ‘interdependency’ model in operation.

Minister Hodges believed that very serious grounds would have to exist for a commissioner or minister to be dismissed for incompetence or for political reasons. According to Minister Hodges, the government generally should not interfere in administrative or operational problems within the police portfolio. Where administration or operational problems occurred, it maybe more appropriate to have the
person "reprimanded". Nevertheless, there is a need for greater accountability by a minister for what occurs in policing without designating a political scapegoat or avoiding political responsibility. Minister Hodges believed that if there was a major problem, the minister, if had "any 'guts', he should delve into it and find out what the trouble was so he could report the matter to cabinet for government discussion and decision" (Hodges Interview 12/4/95:6).

COMMISSIONER’S APPROACH - SIMILAR VIEWS

Commissioner Whitrod had similar views to the Minister and parallel notions of responsibility and accountability which were an extension of their roles and functions. Following several incidents which occurred in the operational context of policing, the Commissioner called for inquiries and a series of investigations. Due to political interference, the inquiries were not held and the internal investigations proved fruitless. Again these issues led to the resignation of the Commissioner on the grounds of political interference (Bollen 1993:75). This evidence of the need for government control and the requirement for total 'dependency' caused problems in the management of the relationship.

Dismissal of a minister according to Commissioner Whitrod should relate to ineffectual performance to implement government policy or direction:

If the Minister has endorsed the management policies directly or has endorsed their enforcement and the Commissioner of Police has carried them out, then obviously the Minister is the person who must carry the responsibility. But if they have not had the endorsement of Minister then clearly the Commissioner is at fault (Whitrod Interview 17/6/95:5).

Minister Hodges understood that there were three critical and essential issues to having an effective relationship.

First, the appointment of a Commissioner of Police should not be based or determined by personality or political patronage. The Commissioner should be "competent and well conversant with all aspects of modern policing aspects and highly qualified to carry out the job" (Hodges Interview 12/4/95:8).

Second, government policy on policing should be as clear as possible, the Minister
should provide the policy direction and be totally accountable for the administrative outcomes for those policies to the Government, the parliament and the community (Hodges Interview 12/4/95:9).

Third, the Minister and the Government should not "interfere in the administration of his force". This means that administratively, the Commissioner of Police should not have to do anything of "a political nature or form. He is to be independent and...receives 100% support". This support or loyalty is a two way process particularly on administrative issues because difficulty often occurs when "interfering in the Commissioner's administration. Once you start interfering in the Commissioner's administration you can't be the Commissioner of Police and Minister too" (Hodges Interview 12/4/95:9).

Commissioner Whitrod endorsed this ‘interdependent’ operational approach to policing management by reinforcing the need to give "significant recognition to that section (Referring to the Queensland Police Act 1937-1983) on the common law powers of a police commissioner" (Whitrod Interview 17/6/95:7). Policing activity can impact significantly on the community. Therefore, according to the experience of Commissioner Whitrod "ethical behaviour on the part of its members, effectiveness and efficiency in the use of resources, and ultimate accountability to the people through parliament are cornerstones of good and appropriate policing practice" (Bollen 1993:12). Our relationship was based on the concept of "accountability by mutual discussion....and there was to be some limit on cabinet intervention " (Whitrod Interview 17/6/95:7). Private differences between the Police Minister and Commissioner, based on the documented data appear to have been resolved through good communication skills.

The field research data suggests that the principles referred to in the ‘interdependency’ model operated within their private relationship. Their public working relationship showed a delineation between the ‘dependency’ model on policy issues and ‘independency’ on administrative and operational matters. However, government intervention interfered with the mutual arrangements operating within the relationship.
CONCLUSION - MUTUAL UNDERSTANDING

Although the empirical evidence in this case study did not always neatly fit into one single model developed in the literature review or into a specific category, there is significant evidence recognized by the participants that the public approach taken favours the ‘dependency’ and ‘independency’ models. Nonetheless, the informal difficulties experienced demonstrate clearly the problems associated with the working conventions and practices of the two models. Formal structures and regulations were not the only influences affecting the relationship, according to the research material.

Informal power and influence were exerted by cabinet, the Police Union and the Premier which had an impact on the decision-making process within the relationship. In addition to formal processes of accountability between a commissioner and minister, informal mechanisms operated. For example, there were the personal views of the parties and the ideological approach on policing independence and transparent exchanges of information. However, it is acknowledged that key elements of the two models - ‘dependency’ and ‘independency’ were operating. Essentially the private relationship which supported a mutual agreement approach operated on the ‘interdependency’ model.

Critical to their mutual understanding was an acceptance that the Minister was responsible for the direction of policing and related policies and of the need for the government to be clear in that approach. This included a reduction in interference by cabinet members in the functioning of the policing organization generally, but did not limit the cabinet’s involvement in expressing concerns from time to time. On the other hand, the Police Commissioner accepted that there will be a political and policy element to be managed which would affect how an organization is managed. In his understanding, there was also a requirement for the Commissioner to answer for operational problems to the government and the community.

Bollen (1993:25) argues that the political arena needs to have a better understanding of police administration; and conversely, the police commissioner needed to understand the political requirements of government. Minister Hodges later argued that "if the (Premier) would have left us alone we would have had the finest police force in
Australia - if only he had left me alone. We were within 18 months or 2 years of getting it" (Bollen 1993:103; Commissioner's Newsletter 249 16/9/76).

To achieve this balance of power there was an agreement over the division of responsibilities which allowed control by the Minister for government policy and to a degree administration issues, and on the Commissioner of Police having the right to a measure of operational independence. The role of the minister was seen as that of the ‘political head’ of the organization who had the responsibility to ensure that government policy was implemented. Avery (1989:98) argued that the minister's role is to secure a:

directive link by tabling reports from the Commissioner (in Parliament) and expressing the notional will of the Parliament in the form of policies and directives. This notional will of parliament relates to the general, rather than the particular. The particular issues are dealt with through interaction between government, minister and Commissioner, and are made manifest in legislation and instructions or other directives.

This balance did not, however, limit the Minister from influencing the decision-making process on operational and administrative decisions which the Commissioner of Police chose to take. This view was certainly promoted by the Lusher Report (1981) and a police practitioner who asserted that:

cooperation and understanding between Minister and Commissioner, coupled with some degree of convention and informal communication on sensitive issues which were sufficient to govern the relationship between politicians and the Force (Knight 1982:81).

On the other hand, there was often an obligation or a requirement on the Commissioner's part that open advice and the possible implication of certain government policy needed to be explained and then implemented by the Commissioner of Police if required. Thus the relationship approach rested on the premise that both parties agreed to provide open communication on a range of policy and government issues.

The evidence suggests that in this case study the private management and accountability style appeared to be achieved through an ‘interdependency’ approach which had several ingredients, namely; compatible personalities, political and policing
ideologies, understanding of ethics and principle centred leadership. Such features as competency of leadership and knowledge of field, and in particular, the role of policing in society, appeared central to the relationship. Often when change needed to occur there were stresses in the relationship. External influences appear to be best managed by a degree of loyalty, not just by one person to another, but to the concepts or principles upon which the policing changes were to occur. The relationship results demonstrate the immediate benefits to the government, the police and the community.

To manage specific relationship difficulties should rest on the premise of mutual accountability for the roles and functions each partner had in the relationship. This approach presented policing by consent between the people's representative and the police administrator, the Commissioner of Police. The core values of the relationship needed to realize that shared responsibilities required a moral accountability dimension with definite outcomes and actions by the policy maker and the operational implementor. Without such an approach, 'scapegoating' often results and the partners abuse the balance of public trust placed in them.

The crowning achievement to a successful relationship presented in this research material does not necessarily stem from structures or rules and regulations, but from compatibility of purpose between the people's representative and the office of constable which is held by the Commissioner. Shared responsibility and acknowledgement of policy, administrative and operational concerns certainly demonstrated a flexibility in managing formal and informal communication and processes within the structured and political requirements of the Westminster system.
CHAPTER 9 - POLITICS AND POLICING AT FLASHPOINT

This case study reflects an era in Queensland politics and policing during the late 1980s and early 1990s. The era was marked by a major police and public corruption inquiry. The result was a need for major societal and policing reforms. The reform process was to have a major effect on policing and politics (Queensland Police Union Journal May/June 1990:18-19). Although Police Commissioner Newnham had four (4) police ministers during the period of reform only two Labor Police Ministers (Mackenroth/Warburton) will be referred to. The Commissioner was appointed during the closing days of conservative rule.

The two Labor Police Ministers in this case study declined to be interviewed for a variety of personal and political reasons. Information collected was based on interviews with their two personal advisers who were asked to provide perceptions about how their Police Minister would have viewed a range of policing and political issues. Realizing that the personal advisers' views will be based on their own personal interpretation of events and their understanding of this difficult relationship, it is necessary to appreciate that a differing perspective would have been obtained if the respective police ministers had been interviewed. However, the information supplied by the political operatives provides a useful insight and perspective about the operations and conventions of the relationship.

It must also be understood that the incoming Labor Government had been in opposition for over 30 years and was commencing an era of learning to govern within the Westminster system. Significant institutional changes in government processes and structures were needed to demonstrate to the community, the government's potential to reform as part of a re-election strategy for the future (Courier Mail 18/11/89:6).

An analysis of the interview material, media reports and other data shows how the relationships operated between Ministers Mackenroth, Warburton and Commissioner Newnham and they can be defined by the following matrix:

<table>
<thead>
<tr>
<th>NAME</th>
<th>POLICY</th>
<th>ADMINISTRATION</th>
<th>OPERATIONS</th>
<th>PERSONAL</th>
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<tbody>
<tr>
<td>MACKENROTH</td>
<td>DEPENDENCY</td>
<td>DEPENDENCY</td>
<td>INDEPENDENCY/DEPENDENCY</td>
<td>DEPENDENCY</td>
</tr>
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The information from the field research interviews suggests that Ministers Mackenroth and Warburton operated publicly on the ‘dependency’ model and Commissioner Newnham on the ‘independency’ model. However, Minister Warburton was more flexible in the relationship with Newnham, due to external factors and adopted an ‘interdependency’ approach on administrative matters. These relationships covered a period from 1989 to 1992.

Much of the research material presented in this chapter refers to policy control. Often policy reform directly impacted on administrative and operational matters through procedures, rules and audit processes. Many of the difficulties experienced in the working relationship between the police ministers and commissioner related to the interrelationship between policy, administration and operations.

The government's determination for change and reform was on the agenda for Police Minister Mackenroth (Queensland Police Union Journal April 1991:29-33). Personal adviser Hannigan believed it was critical for Mackenroth to publicly control the policy, to get the funding, and to have the police accountable to the Government, to devolve authority within the policing organization, and to have the structure, the personnel and the technology right for the organization. Minister Mackenroth was "able to get for the Police Service record budgets....obviously basing the foundations on the premise to....improve the organization" (Hannigan Interview 25/8/95:1; Queensland Police Union July/August 1989:35-37). Minister Mackenroth needed the support and the ‘dependency’ of the Commissioner, based on the research data, for the funding initiatives and this was "one area where there was general sort of satisfaction" (Hannigan Interview 25/8/95:1).

Critical to Minister Mackenroth's public policy agenda were sweeping reforms in the policing organization. The difficulty was whether the organization and the police
executives had the ability to achieve the reforms (The Australian 13/10/89:13). The central administrative policies rested on a new educational system for police, new technology, making police more accountable and responsible for their role, and stopping police corruption totally. This would then "make it an organisation that was effective and...actually lay the groundwork to develop a fairly efficient organization" (Hannigan Interview 25/8/95:2). However, Personal Adviser Hannigan's view was that the organization had an opportunity to "pick up the baton and run with it...I don't think they've been able to identify the baton, let alone pick it up" (Hannigan Interview 25/8/95:2).

However, there were considerable differences based on an analysis of the interview questions between Minister Mackenroth and Commissioner Newnham about the delineation of roles and functions, and particularly to what extent each should take part in the operational 'independence' and reform of the organization. Minister Mackenroth believed that the Police Commissioner should be totally 'dependent' on the Minister for directions. This dispute on roles ultimately resulted in a public confrontation which caused much political and organizational tension (Chesterman 1992; Queensland CJC Report March 1992). Some of the critical issues surrounding these tensions will be discussed further on in this chapter.

The second Labor Police Minister was appointed in 1991 to smooth over the troubled waters and to create a public image of political and policing stability for the forthcoming election (Gladstone Observer 17/12/91:6). Minister Warburton, according to Personal Adviser Moroney was appointed because "of his seniority in the cabinet and he was seen as the type of 'steady as you go' person, relatively unflappable. We're going to be coming up into an election the next year, we want quiet" (Moroney Interview 29/5/95:1). Minister Warburton had some experience as a shadow Police Minister and had "something to do with policing for the election in eighty-nine". Accordingly, he did not have to rely totally on his predecessor's advice (Moroney Interview 29/5/95:1).

Because of Minister Mackenroth's high status in the political machinery of government and because the Premier wanted to maintain that image, statements about the Labor Government's achievements prior to the upcoming election reflected a view that "the majority of these things (policing initiatives) were done during the reign of Police Minister Mackenroth. There was never ever any mention of Police Minister Warburton's contribution" (Moroney Interview 29/5/95:2). Minister Warburton had to
deal with problems from a public inquiry into the previous relationship with an "atmosphere of suspicion and possibly even hatred between the minister and the minister's office with the Commissioner" (Moroney Interview 29/5/95:1). The political brief for the new Police Minister Warburton was essentially "to settle the whole thing down" (Moroney Interview 29/5/95:2; Gold Coast Bulletin Qld 17/12/91:7). However, according to the collected data, the new Minister Warburton was quick to observe a need for change in the previous 'dependency type' relationship to achieve the required political objective:

(F)rom the outset looking at the previous type of relationship, he couldn't function like that. Obviously there was a job to be done and he had to do it. He had to speak to the Commissioner and be able to relate to him with regard to policing and administration (Moroney Interview 29/5/95:2).

Police Commissioner Newnham served at the direction of four (4) Police Ministers in three years. They did not provide a great deal of consistency for political direction, for policy reform and for initiatives to be undertaken. Commissioner Newnham acknowledged administrative support from one particular Minister for major changes in the "education and training area" (Newnham Interview 27/9/95:2). Commissioner Newnham had a particular reform task to change the role of policing and this was not well understood by the political sector (Vedette No. 137 April 1990:4). The appropriate policing role the Commissioner wanted to demonstrate to the public and the Government, was a balanced law enforcement approach, operational independence, community support and a "change in attitude that...is absolutely elementary to policing" (Newnham Interview 27/9/95:1; Vedette April 1990:4). Fundamental to this community support was a change in policing styles which Commissioner Newnham wanted to adopt:

The single reason why Community Policing has been rejuvenated and reactivated in the last few years in this country is because policing is expensive and the reactive mode of policing has priced itself beyond the means of governments to pay....People do want to help the police and there are groups and individuals who want to get involved. Instead of shutting them out we're opening the doors and seeking to work with them (Vedette October 1989:1).

This community policing approach required structural reforms and the Commissioner also believed it required a different sort of political mentality (Newnham Interview 27/9/95:1). This evolution of organizational and cultural change was supported by a
view that there was a distinct division of responsibilities between the Commissioner and Minister which was not fully understood by police ministers, who were in a learning curve on understanding policing policy, administration and operations (Vedette December 1991:16-19). The Police Commissioner was applying ‘operational independence’, based on an analysis of the interview questions to managing the new community policing ideal. At the same time, police ministers wanted to present a public image of controlled management, reform and policy direction, which would be sustained into future electioneering campaigns. This need to ‘control’ management included the police commissioner and ultimately led to a relationship breakdown.

**ROLE AND RESPONSIBILITIES - MINISTERS’ ACCOUNT**

Problems of cross-vision in purpose and direction, particularly in the allocation of resources, became critical in a relationship breakdown which was to occur between Commissioner Newnham and Minister Mackenroth. Even legislative changes, which included a new Police Service Administration Act 1990, did nothing to clarify the roles of each party. This cross-vision ultimately caused conflict and affected both Government policy outcomes and Commissioner Newnham's desire to create a revitalized policing ethos and community identification.

Minister Mackenroth, in the view of personal adviser Hannigan, saw himself in the traditional Westminster role as being accountable to the public and parliament for Government policy and administration of the police organization. The operational or day to day running of the organization was left to the Commissioner of Police. However, significant resource allocations were often challenged since Government policy limited the delegation of expenditure to the Commissioner of Police to $150,000 (Hannigan Interview 25/8/95:3). The Police Minister was responsible for policy and the Commissioner was to implement the policy and was to be ‘dependent’ on directions from the Minister.

In Minister Mackenroth's eyes, the Commissioner of Police was regularly expected to explain and justify the expenditure or allocation of resources. This was to be done on any occasion the Minister required. The Police Commissioner was to be accountable to the Minister for administrative matters. A major example was the tendering process for a new police computer system which became a major problem (Sunday Mail 28/6/90; 22/3/92). It was perceived by Commissioner Newnham as the Minister interfering in
policing affairs and the Commissioner's responsibilities:

He never ever once told him (the Commissioner of Police) not to buy Apple computers, or buy IBM, but what he did say to him was - Can you justify choosing Apple as opposed to IBM or as opposed to NEC...What process did you go through to get there...What did you do? And he would, once it was explained to him, write in a document or whatever it maybe. He would then go through it with him and satisfy himself that he thought the process that had been followed was adequate, particularly when it involved large amounts of money. Commissioner Newnham never liked that: he saw that as interfering with his ultimate role as Commissioner of Police (Hannigan Interview 25/8/95:3; Sun Herald 9/5/93:16).

On particular administrative matters affecting operational policing, according to Personal Adviser Hannigan, Minister Mackenroth wanted briefings on the allocation of resources and the appointments of key personnel in the organization. A few matters particularly referred to by Personal Adviser Hannigan included the appointment of Assistant Commissioners, senior corporate services staff, regionalisation and civilianisation of the organization (The Sun 21/5/90:14-15; Courier Mail 25/4/90). Minister Mackenroth argued, according to Personal Adviser Hannigan, that this ‘transparent’ request for information from the Commissioner was seen as ‘interference’ in operational policing and not as a process of responsible and accountable government to the community and the Parliament (Chesterman 1992; Queensland CJC Report March 1992):

(A)ll those questions, he saw as intrusion, saw them as the Government actually trying to control him, which in my view is simply the Minister having ultimate accountability for final expenditure and the decisions taken by an organization. The Minister ultimately had to stand up in Parliament and justify and defend the organization (Hannigan Interview 25/8/95:2).

However, Minister Mackenroth saw this ‘informing process’ as requiring accountability of the Commissioner to the community's elected representative. This requirement for transparent accountability, presented in the interview material, to the one who was responsible for ‘administrative functions’ was critical to the nature of roles between Commissioner of Police and Minister. This notion of accountability under the Westminster system of government was referred to in Minister Mackenroth's speech on the new Police Administration Bill (1990):
It is mischievous to suggest that the Commissioner has unfettered powers. This legislation will provide the necessary authority, balanced with proper accountability, for the Commissioner to manage the organization in the same manner as for every other chief executive of a department in Queensland (Queensland Parliamentary Debates 20/3/90:1-11; Courier Mail 31/3/90; Sun 30/3/90).

Personal Adviser Hannigan's belief was that the Commissioner saw the Government's role via the Minister as singular in nature and a medium to provide sufficient funding for policing:

Commissioner of Police Newnham clearly saw that the Government had one role and the Minister had one role, and that was to provide him (the Commissioner of Police) with sufficient funds to run the organization. Once that was provided then that was all he thought he had to deal with, or do with the Minister (Hannigan Interview 25/8/95:3).

Adviser Hannigan went further suggesting that this approach by the Minister, granting only of limited responsibility to the Commissioner, meant that Commissioner Newnham had a limited role and accountability to the Government for the administration and operations of the organization:

He (Commissioner of Police) didn't see himself to be accountable to the Minister. He didn't see himself to be accountable on operations or administration (Hannigan Interview 25/8/95:1).

Minister Mackenroth saw a distinct need for a measure of accountability on operational issues, particularly to Parliament. However, operational 'independence' he saw as solely resting with the Commissioner of Police. Minister Mackenroth saw this operational paradigm clearly:

(T)he Minister never gave the (Commissioner of Police) a direction for operations, never discussed operational issues and did not want to be briefed on operations issues....but required answers for him to address parliament (Hannigan Interview 25/8/95:1).

This however, did not mean that private explanations were not sought. Minister Mackenroth understood that the primary role of policing, according to the research material, was law enforcement and understood the role "public perception and public support" played in policing a complex community (Vedette April 1991:2). Minister
Mackenroth's perception was that in Queensland, which had a high level of crime, "the police service had to be seen to be on top of the crime level" (Hannigan Interview 25/8/95:19; Bundaberg News Mail 23/2/91:4; Gold Coast Bulletin 27/12/90; Courier Mail 8/10/90). The Minister acknowledged that the policy reform process was "concentrating on putting into effect organizational and administrative changes" which was affecting the operational performance of the organization. "He knew the need to refocus...to look at the crime problems" (Vedette No. 146 October 1991:4). Media articles often portrayed this concern and ultimately questions were asked in Parliament inspired by the community and the Police Union to whom Minister Mackenroth had to respond (Queensland Police Union Journal December 1991:43, 61-62). This meant the Police Minister often saw himself accountable for the department's operational performance.

Minister Mackenroth had no difficulty in responding to operational procedural questions in Parliament on issues such as high speed chases. But on major crime problems, the Minister saw a division in roles and responsibilities which required further ministerial overseeing since "accountability to the parliament is where politicians are most sensitive". It is "the Minister, who ultimately is out there defending the organization's performance or lack of performance in crime control" (Hannigan Interview 25/8/95:4). This is often the reason why the Minister took an active interest in operational matters and was "concerned about the strategic direction of the organization...the level of accountability; he as minister is ultimately the person who is accountable" (Hannigan Interview 25/8/95:4). This interest in operational matters by the Ministers often led to the Commissioner believing that operational ‘independence’ had been overridden. However, Minister Warburton, according to the interview material, had alternative views which were not necessarily consistent with those of his colleague.

Minister Warburton was close to political retirement and relied on his staff to provide advice and research to manage the policing portfolio. Due to previous political conflict between the Commissioner of Police and Minister Mackenroth, Minister Warburton had a "certain amount of suspicion" about how the relationship roles and responsibilities should be managed" (Moroney Interview 29/5/95:4; Gold Coast Bulletin 17/12/91:7). This aura of suspicion was also premised on a view that Commissioner Newnham "was appointed by the previous government and supposedly he was a Tory to his back teeth and hated the ALP" (Moroney Interview 29/5/95:4; Daily News Warwick 9/3/92:2). So the decision-making process adopted by the Minister Warburton was based on caution.
An 'interdependency' approach was adopted by Minister Warburton who encouraged the administrative responsibilities of policing to be shared between the government, the police and the community through resolution and negotiation strategies. The illustration provided by Personal Adviser Moroney referred to a consultative approach on administrative issues between the universities, Criminal Justice Commission and Police Service regarding the future role of police education with the universities on police recruit intakes. Police education was one of the many administrative issues Minister Warburton handled with the Commissioner which had been left in abeyance for various reasons by the previous Minister (Moroney Interview 29/5/95:3).

There was a belief by Personal Adviser Moroney that the previous ministerial administration "wanted total control" whereas the new Minister Warburton was "more attuned to allowing the administration to operate as long as it wasn't causing political embarrassment" (Moroney Interview 29/5/95:5). This more open 'interdependent' approach had its advantages, in that it was a way to share responsibility but difficult to determine accountability. As Personal Adviser Moroney points out:

(A) lot of contentious things came across your desk for the Minister...If it was really contentious I'd take it to the Minister and because of the Fitzgerald Inquiry and because of this separation of powers...it was then easy to pass it onto the police administration....we cannot interfere. It's a double edged sword....Minister Warburton would have interfered if he saw that whatever was being proposed....was going to be politically embarrassing. But in the main we would probably agree that the police administration could get on and do the job (Moroney Interview 29/5/95:5).

Minister Warburton observed that this open private communication approach on administrative issues was preferred by the Commissioner and the Chair of the Criminal Justice Commission. On his appointment, Minister Warburton's first meeting with the Commissioner resulted in a discussion about the Fitzgerald Commission of Inquiry document and the Police Service Administration Act (1990) regarding how administrative processes would operate between the Minister and the Commissioner:
And the thing that they put in front of us was the register that had to be collated between the Minister and Commissioner of Police. That was part of the Fitzgerald process and Police Service Administration Act (Moroney Interview 29/5/95:3).

The register became part of the legal requirement associated with the separation of powers concept on administrative and policy matters. In principle, operational requirements were to be left to the ‘independent’ discretion of the Commissioner and his expertise in the field. It is in this context that Commissioner Newnham understood his role and responsibilities. The Commissioner's understanding of policing was that it was more complex and diverse than was accepted by the Police Ministers.

**COMMISSIONER'S ACCOUNT - INDEPENDENCE APPROACH**

Commissioner Newnham believed that his role specifically related to "situational leadership" based on an executive decision-making process which included "policy formulation, operational control and the management of the organization" (Newnham Interview 27/9/95:2). From this position, the Commissioner also stated that there was a requirement to give effect to the "lawful policies of the government" and to provide the Minister with a "realistic assessment of the requirements to meet the aims of the Service and the Government" (Newnham Interview 27/9/95:2). This assessment included budgetary submissions which were done with "prior agreement between the Minister and the Commissioner of Police" (Newnham Interview 27/9/95:2). Nevertheless, there were difficulties experienced with funding levels, including police numbers, and in achieving the fulfilment of the Fitzgerald Inquiry recommendations. According to Commissioner Newnham:

He [the Minister] refuses to give details of the lack of finance and shortages....It's now an issue between me and the government. I didn't want to criticize the government....The Police budget is now under review, so it's a matter of negotiation (Sunday Mail 28/1/90).

The role of the Minister regarding the functions of the Police Service, argued Commissioner Newnham, was to be "a conduit....to Government policies for the service" (Newnham Interview 27/9/95:3). The Commissioner further argued that "the Minister will accept that the Commissioner of Police is the only conduit for the Force's accountability and advice to the Government", although the Commissioner did
It is acknowledged that the Commissioner of Police was accountable for the "efficiency and effectiveness of the employees of Government" (Newnham Interview 27/9/95:3; Vedette April 1991:1). The Minister also had according to Commissioner Newnham a responsibility to "argue" for and "defend" the police service on "its merits". This was to be done through the government budgetary process. More importantly, he is to present the "public face" for the service within the "community at large" (Newnham Interview 27/9/95:3; Vedette October 1991:22).

The golden thread for the tying of responsibilities and roles together between the Commissioner and the Police Minister rested on "openness and honesty in regular meetings" (Newnham Interview 27/9/95:3; Vedette December 1991:16). Commissioner Newnham also saw that the Minister's role was to determine "high level policies", to "communicate and clarify and prioritize Government policy", and to defend the department from "unwarranted criticism" and "conflicts between different public policy". Interestingly, Commissioner Newnham believed that the Minister had a "clear role to hold the Service to account for the use of its authority and its resources" (Newnham Interview 27/9/95:4). Most importantly, the Minister is to "represent the service honestly and fairly but vigorously and carry his or her share of responsibilities and accountability where necessary" (Newnham Interview 27/9/95:4). However, the commissioner and minister were legally and administratively accountable to other agencies which affected their working relationship.

Other legitimate policy formulation agencies which the Commissioner had to respond to on policing policy and operational issues often affected the relationship with the Minister, eg. the Criminal Justice Commission, Public Sector Management Commission, Office of Cabinet, Administrative Review Commissions and Parliamentary committees (Newnham Interview 27/9/95:8-9). These external influences had to be also balanced within an organization and ministerial relationship undergoing policy and administrative reform (Newnham Interview 27/9/95:4).

Certainly, Commissioner Newnham assumed for his part, a role for the ‘independent’ management of the organization and the policing of the community in general (Sunday Mail 15/3/92:6). This role and model of policing, according to the research material, was not fully understood by police ministers and the government of the day (Vedette No 147.
December 1991:16-19). Commissioner Newnham also asserted he had a major leadership role during the reform period of the organization and this was to "set the ethics and values of the organisation" by being a role model, communicator and a visionary (Newnham Interview 27/9/95:3; Courier Mail 2/11/89). Commissioner Newnham believed that the oath of office which promoted ‘operational independence’ and public affirmation of personal values would help meet the demands of public office and that he would never go far wrong if he stuck to those broad values of the oath and ethics of his office (Vedette October 1989:1; Vedette December 1991:16-19).

Certainly, the two Police Ministers and Commissioner Newnham had differing expectations and views on the public and private roles and functions of their positions. This often created differences in vision, purpose, accountability and personal core values between the parties - the Police Ministers, according to the research interviews, relying on the ‘dependency’ model and the Commissioner on the ‘independency’ model, although Minister Warburton did use principles from the ‘interdependency’ model in the private administrative working relationship with Newnham.

The new Police Service Administration Act 1990 created by Parliament was, in theory, designed to resolve this problem of ‘operational independence’ and ‘ministerial control’ according to the Head of the Criminal Justice Commission (Bingham 1992:521). But the Chair of the Criminal Justice Commission was to say a year later that "police independence was a myth and that the police were part of the executive arm of government and like any other public servants they were subject to political pressure" (Weekend Australian 3/7/93:10). However, based on the research material and the reality of these relationships, further difficulties were experienced in managing government policy and organizational operations and administration.

POLICY/ADMINISTRATION/OPERATIONS- MINISTERS’ VIEWS

Under Minister Mackenroth's administration, according to his Personal Adviser Hannigan, much of the upper level policy advice and source of information came from the Commissioner of Police. The usual practice was for the policy to be written by the Commissioner of Police, scrutinized by the Minister and then a decision made. Often however, referring to Treasury issues, the advice for government policy affecting the
police was "inadequate" and there was a need for a "separate sort of level of advice from a well resourced unit, a ministry, something like that" (Hannigan Interview 25/8/95:5). The Police Commissioner regularly offered policy advice, according to the research interviews, but had to wait on ministerial approval prior to implementation of the policy.

This ‘independency’ approach to policy making was readily accepted by the police commissioner. The reactive nature of policy determination was based upon what the Police Commissioner and organization saw as the major issues and resourcing needs for the government (Courier Mail 19/4/90):

> It really comes down to the police organization seeing what they think is a need out there...and politicians actually accepting that it is a legitimate concern and then addressing it (Hannigan Interview 25/8/95:7).

However, the Police Commissioner did not always receive a positive response to involvement in government policy on major issues and requests for policing resources. Often the government provided the public direction for policing concerns:

> A case in point may be nude beaches. Maybe policing this is a major concern for police organizations, but to the politicians it was probably not seen to be an area where a lot of resources should become an issue” (Hannigan Interview 25/8/95:7).

Even though Police Minister Mackenroth saw government policy as primarily a function of his ministerial office, the linkages to police administration and operations, although appearing segregated, often were not as easily defined or separated in reality. Minister Mackenroth had a standing arrangement of 'non-interference' in giving a "direction on operations" to the Commissioner of Police. However, on administration issues the Minister believed that he "should be able to give direction to the Commissioner...as to how the organization should function" (Hannigan Interview 25/8/95:5). An example provided by the Personal Adviser Hannigan related to the Labor Party 1989 election promise on anti-drug issues. The Police Commissioner was asked to address the policy and provide advice on what resources were needed:

> First of all there's the organization itself saying they need more staff to address the drug scourge. Second thing is that the politicians are able to read that there is a perception out there in
the community...then they (the Government) would ask the organization to look at what do you think you need...the police organization said what sort of numbers [were required]...to actually address the problem...and then the Government would have then responded to what it thought it could meet within its...financial constraints (Hannigan Interview 25/8/95:6).

On the relationship between policy, administration and operation, Minister Mackenroth had a basic understanding that each function impacted upon the other and that the Police Commissioner had ‘dependency’ on him - "that ultimately policy would have trickled down and impacted upon the operations" (Hannigan Interview 25/8/95:14).

Although the government of the day set the "general strategic direction of the organization" Minister Mackenroth's policy direction relied heavily on the resourcing needs advice from the Police Commissioner to achieve the government's strategic direction. The administrative process which often came into scrutiny related to the budgetary proposals. The extensive need for resources, their allocation and effective use were critical in how Minister Mackenroth saw the performance of the police commissioner (Queensland Police Union Journal April 1991;29-33). Personal Adviser Hannigan believed that this administrative function and its control led to the ultimate breakdown in the ‘dependent’ relationship between Minister Mackenroth and Commissioner Newnham (Queensland Police Union Journal September 1990:15; Chesterman 1992):

Really at the end of the day the relationship between Commissioner of Police (Newnham) and Minister (Mackenroth) ultimately broke down I think if there was one word, you could probably put it into that, was: accountability” (Hannigan Interview 25/8/95:14).

This rift of ministerial direction and administrative accountability between the Police Minister and Commissioner could have been averted by cabinet and during parliamentary committee investigations. The cabinet should have a major part "in the overall direction of the police organization". If the Minister or the Police Commissioner "was getting it wrong" then cabinet should provide suitable advice (Hannigan Interview 25/8/95:9). In reality there was no safety mechanism built into the machinery of government for that check and balance:

No Cabinet Minister would, at a cabinet meeting, ever criticize another Cabinet Minister, or ever criticize another Minister's
handling of his/her department. There maybe some off the cuff sort of comment that a Department....made a mistake in a particular area, but there's no mechanism or built in structure to allow cabinet ministers to speak on other departments (Hannigan Interview 25/8/95:9).

The due process of policy and administrative accountability also included parliamentary committee reviews which needed to be seen as "pieces of information to be assessed and weighed up as to their value by the Minister" (Hannigan Interview 25/8/95:10). Their role should not be to have "power to actually give directions for police organizations because they ultimately are not accountable for the end result". Besides, with directions coming from a police minister and a Parliamentary committee it would make the commissioner's position untenable and unworkable (Hannigan Interview 25/8/95:10).

Although Minister Mackenroth sought a more responsive public approach on policy and administrative issues, a more cautious approach was taken on "operational matters and in terms of the judiciary and in terms of investigations". On those matters, the Minister had an agreement and he "never gave (the commissioner) a direction in relation to operations" (Hannigan Interview 25/8/95:5,10). However, this did not mean 100 percent 'operational independence'.

Personal Adviser Hannigan's view was that the Commissioner of Police resented this imposition of ministerial accountability and had difficulty coming to grips with the fact that "police....was just one of eighteen departments where overall Government policy didn't start from the Police Service and work out" (Hannigan Interview 25/8/95:16). The Government of the day worked on a "holistic approach" and the Commissioner failed to understand the Government's policy "matrix", as he hailed 'operational independence' as crucial. This approach of 'operational independence' distanced the Commissioner of Police from the Government and exacerbated 'dependency' relationship difficulties. The Commissioner "isolated" himself and eventually the "organization" from the Government (Hannigan Interview 25/8/95:17).

Minister Warburton had a more private consultative 'interdependency' approach on administrative policy, regularly seeking community, expert and Police Service advice on a variety of issues. Of particular concern was the development of service policy on operational issues which were being overviewed by the Criminal Justice Commission.
Personal Adviser Moroney made reference to the ‘prostitution report’ prepared by the Criminal Justice Commission and the Parliamentary Criminal Justice Committee which impacted on an operational proposal developed by the Police Task Force.

Another similar incident occurred as a result of investigatory reforms to come out of the Criminal Justice Commission and Parliamentary Criminal Justice Committee's report into the Trident Affair (a police covert operation on stolen motor vehicles). Often critical questions were asked by the Premier in cabinet meetings concerning departmental proposals. The Minister's approach was one of caution (Moroney Interview 29/5/95:6,10,13). A decision to introduce a politically sensitive policy, significantly impacting on police operations - eg. clustering of police stations in the metropolitan area, it needed caution. So the policy was put "on a trial basis" (Moroney Interview 29/5/95:8). But on operational issues it was always left to the police and in "most cases he would see the operational side to be run by police in general" (Moroney Interview 29/5/95:13). However, Personal Adviser Moroney believed that Minister Warburton had differing perspectives on administration and government policy conventions which came from experiences at another government department.

The solution to managing the relationship between policy, administration and operations being suggested by Minister Warburton was to align the different functions to different people.

To overcome that problem (advice from one person) with regard to the political process, policy and administration was to have the Commissioner of Police and an administrator: a type of Director-General to handle administration, so that the Police Commissioner was totally responsible for just the policing aspect of things (Moroney Interview 29/5/95:7).

The logic behind this approach was to allow a "certain independence of the administration" and control over a public servant rather than a police commissioner. This consequently, would allow the Minister to obtain a "quick response" from the Commissioner of Police on reactive operational problems, which was a regular feature of policing a changing democratic society (Moroney Interview 29/5/95:7). The reality in the organization however was that the functions were not separated and a senior police officer (Deputy Commissioner), and later a civilian overviewed the administration
function under the direction of the Police Commissioner.

**COMMISSIONER'S APPROACH - OPERATIONAL INDEPENDENCE**

Commissioner Newnham saw a need for a clear understanding on how government policy should and ought to be "forthright and open and honest", operating within "the law and, accordingly he did not interfere in any operational sense at all, except to have the service account for the way operational activities are discharged" (Newnham Interview 27/9/95:5). The Commissioner also believed that policing policy should not be developed or expressed by other departments.

Commissioner Newnham did acknowledge that Ministers influence operational and administrative affairs and that the dividing line is often unclear between government policy, administration and operations:

> In administrative matters, Government and Ministers traditionally can go further but the dividing line between operational and administrative matters is fluid, vague, unclear and it is seldom appreciated just what an impact administrative affairs...can actually have on operational policing both at high and low levels (Newnham Interview 27/9/95:5).

To address this problem, Commissioner Newnham believed that there was a requirement under the Police Service Administration Act (1990) to have government policy and ministerial directives placed into a register (Queensland Parliamentary Debates 20/3/90:4; Fitzgerald 1989:283). This regularly did not occur and "did not carry into effect the Fitzgerald recommendations" (Newnham Interview 27/9/95:6). Commissioner Newnham took the view that "any policy directive I got in writing would go into a register, even though according to legislation that may not have been strictly required. Until "we could sort out the legal ramifications, the Criminal Justice Commission had a role in it" (Hannigan Interview 27/9/95:6).

The difficulty experienced by Commissioner Newnham basically came down to what "the Minister really needed to define what was government policy and to stipulate it as such. Then he could indicate that the others were not policies but were basic directions from his office to the Police Commissioner's office" (Newnham Interview 27/9/95:7). A public inquiry in 1992 referred to an incident regarding an "informal direction" from the
Police Minister to the Commissioner regarding the transportation of senior officers' wives on the police aircraft which was to later cause an administrative and communication difficulty. Commissioner Newnham argued that if Minister Mackenroth had been adamant about the issue "he (the minister) would have addressed them in his memorandum" (Chesterman 1992:11-12, 23).

Commissioner Newnham understood that this problem concerning the distinction between government policy, administration and operations essentially came from how the separation of powers is determined in a political sense, particularly on operational policy and legal issues (Courier Mail 2/11/89).

The line is unclear ... because there was a convention that the elected or political arm of Government will not intrude into operational aspects of policing, unlike it may do in other Departments. The expectation of the police even more than other departments is they will be apolitical. But the facts are that they are constantly involved in the political process. Because originally the doctrine was premised on the notion that the elected arm would define policy and the executive head would merely put that policy into effect. That is no longer feasible. Every department now defines policy and assists in the formulation of policy, at least some government policy. The public sector, including the police, is steadily being politicised and more now by Governments" (Newnham Interview 27/9/95:15).

The lines between policy, administration and operations, based on the research material, are not clear cut. Certainly the Commissioner of Police is given the opportunity to advise the government on policy and does in effect define operational policy. However, ultimately the government has the final say and the Police Commissioner would be ‘dependent’ on the government’s direction. If the Commissioner disagrees with the government policy "he can resign". The Commissioner would not be "obliged to obey unlawful directions". The convention of ‘operational independence’ which the Police Ministers generally adhere to is to not get involved in the "operational aspects of policing" (Newnham Interview 27/9/95:17). The theory of how this convention works is quite different from how it operates in practice.

Commissioner Newnham suggested that the general definition for ‘operations’ referred to the "day to day routine police work from prevention and patrols to traffic law
enforcement or the response function". Government policy, argues Commissioner Newnham, is really "whatever Government says it is. There are no limits" (Newnham Interview 27/9/95:17). Conventions are often ignored and the interrelationship between administration and operations is not well understood politically or administratively.

Administration is essentially any activity of policing...all police personnel are carrying out administrative functions...that's the distinction between operations and administration and...what the Government policing policy may be (Newnham Interview 27/9/95:17).

Thus, Commissioner Newnham understood that there was no clear distinction between government, administration and operational policing policies. He argued that the Government had no clear policy on policing other than operational initiatives, eg., increasing the drug squad (Courier Mail 6/10/89). The Government relies heavily on the Police Department to provide them with policy advice which, according to the research data, was orientated towards operational objectives. Moreover, the advice from the police agency may be so focused on operational objectives that achievement of a broad government policy may be difficult to define. The outcome was a breakdown in the relationship between Police Minister Mackenroth and Commissioner Newnham over 'operational independence' and 'ministerial control'.

RELATIONSHIP MANAGEMENT AND CHANGES - MINISTERS' VIEWS

A 'dependency' relationship style was how Minister Mackenroth saw Commissioner Newnham's performance in the office of commissioner (Queensland Parliamentary Debates 28/3/90:855). The "dependency style" and in particular the lack of transparent information from Commissioner Newnham, "caused a lot of tension". According to Personal Adviser Hannigan, "his failure to tell the Minister anything at all about what was going on" caused complications in the relationship (Hannigan Interview 25/8/95:7; Sunday Mail 15/3/92:6). However Personal Adviser Hannigan does suggest that this problem stemmed from Commissioner Newnham's lack of understanding on the "historical context or the background to a particular issue" and the Commissioner's desire for operational 'independence' (Hannigan Interview 25/8/95:9).
Minister Mackenroth had a definite view that the public service should support and be ‘dependent’ on the government of the day, including support for changes which needed to be made. They could remain operationally ‘independent’ but to be "free range" was not acceptable (Hannigan Interview 25/8/95:11). Minister Mackenroth, according to Personal Adviser Hannigan, believed that Commissioner Newnham often commented on government and other departments’ policy "where he had no expertise". This was beyond the scope of his office. It was the role of the elected political official to do this: That’s not his role (referring to the Commissioner). That’s not the role of the public servant. It’s the role of the politician to argue the merits of a particular policy direction as opposed to another...public servants don’t understand that" (Hannigan Interview 25/8/95:11).

Personal Adviser Hannigan further argued that police commissioners, like judges, make political statements, because they are there to "uphold the law and .... should be free from political influence". There is a fine line between "judicial integrity" and the "judicial role" of a judge. This same problem relates to the Police Commissioner's role in law enforcement (Hannigan Interview 25/8/95:12). Moreover, Adviser Hannigan further argued that the Commissioner should confine public comments to major crime problems. It is the Minister's role to speak out on "increasing police numbers, or implementing, counselling or interventions or other programs, helping the poor, or helping with equality" issues (Hannigan Interview 25/8/95:13). When this does not occur there was invariably going to be "conflict between a Commissioner and a Minister" (Hannigan Interview 25/8/95:18).

Minister Warburton also had certain views, according to Personal Adviser Moroney, regarding the previous Police Commissioner and Minister relationship. He believed the Commissioner had escaped "lightly" as a result of the Criminal Justice Commission investigation (Chesterman 1992). The Criminal Justice Commission's influence on the Police Service and support for the Commissioner of Police caused further difficulties for Minister Warburton which exacerbated tensions in the ‘dependency’ relationship. According to Personal Adviser Moroney, the saving factors in reducing relationship difficulties were based on ‘tolerance’ and a ‘sense of humour’, even though the Minister particularly disliked the way the Commissioner "orchestrated" people to increase his profile and how the police media and loyal staff were used to achieve this objective (Moroney Interview 29/5/95:11,12).
The solution to the relationship problem based on Police Minister Warburton’s views was for the "commissioner" to be responsible for policing only and an "administrator" to be in charge of the administration (Moroney Interview 29/5/95:13). Essential to delivering a policing service, was the need for a private harmonious ‘interdependent’ relationship between the Commissioner of Police and Minister. The "structural" design is less important (Moroney Interview 29/5/95:14).

**COMMISSIONER’S RESPONSE - OPERATIONAL INDEPENDENCE**

Commissioner Newnham certainly understood well the need for the due processes of government. However, the need for ‘operational independence’ would require the Government to provide the Police Commissioner with wide discretion. Accordingly, there would need to be a:

(H)ands off approach, operational independence, which the Commissioner is expected to have. That's why it's probably important the Commissioner has some protection against arbitrary dismissal. You see the Commissioner is placed in a position of conflict; on one hand, he is expected to be independent and yet on the other he is expected to be dependent (Newnham Interview 27/9/95:12).

To a degree this ‘operational independence’ is supported through acceptance of the principle but ultimately as Commissioner Newnham suggested:

At the end of it all it doesn't matter what you set up. If people don't have the capacity and the integrity to make it work, then it won't (Newnham Interview 27/9/95:19).

It was also the view of Commissioner Newnham that a commissioner of police or minister could be sacked if they failed to "live up to the obligations or was shown to be dishonest or unethical" (Newnham Interview 27/9/95:11). But due to the political nature of government, the intervening powers of the executive, and the uniqueness of policing as compared to other government departments, Commissioner Newnham was supportive of "Wettenhall's model of a statutory authority" to sustain ‘operational independence’ and to reduce the likelihood of a political sacking (Newnham Interview 27/9/95:13). This was not the view of Minister Mackenroth who particularly referred to the power and the provisions of the New Police Service Administration Bill for a
government to sack a police commissioner (Queensland Parliamentary Debates 28/3/90:855).

The research material has argued that both police ministers publicly supported the ‘dependency’ model. Although privately, Minister Warburton promoted features of the ‘interdependency’ model, the police commissioner promoted the ‘operational independent’ approach to the working relationship.

**CONCLUSION - DIFFERENCES IN EXPECTATIONS**

Critical to this case study were the actual expectations of the Police Ministers and the Commissioner as it affected their roles in policing. It appears that although there were a few private core ‘interdependency’ values which the relationship operated on, the general approach relied heavily upon the ‘dependency’ model for the Ministers and the ‘independent’ model by the Commissioner.

The Ministers' views, presented in the research data, were based on the traditional Westminster model of responsible government and public service control (Queensland Parliamentary Debates 28/3/90:855). Although ‘operational independence’ was acknowledged, the implications for holistic accountability resulted in greater control or influence into the operational setting. Central to the Minister's debate was the need for explanations on the allocation and effective and efficient use of resources which clearly impacted on operational outcomes. The amount of ‘transparent’ information from the organization was paramount to assessing the Commissioner's performance in achieving government policy objectives. However specific government objectives on the role and functions of policing from a holistic nature was not apparent with the two Ministers having diverse views on the subject. Both Ministers sought a ‘dependency’ approach to managing the policing function but the transparency of information was clouded by the notion of ‘operational independence’ and accountability.

Perhaps the threshold issue centred around the concept of "accountability". Indeed it was on this issue that one of the relationships totally broke down:

One wanted accountability and the other one didn't want to be accountable. The minister wanted him to be accountable, to tell him...what he was doing and why he was doing it and where the money was being expended....The Commissioner saw that as interference (Hannigan Interview 25/8/95:14).
The Ministers ultimately saw themselves and the government being responsible for policing the state:

(A)t the end of the day, no matter whether they like it or not, the politicians are responsible and they're the ones that go to the ballot box every three years, not the commissioner (Hannigan Interview 25/8/95:20).

It is also a political reality that the Minister is under constant pressure from the opposition benches in an attempt to bring him to account for the actions of the ministerial organization:

(T)hey are not asking questions to praise the organization. They're asking questions to search, probe, and to highlight its inefficiencies. And I think that's the notion of accountability which you know you can't escape from, which the ministers are fully aware of, and the commissioners don't ever seem to understand or come to terms with it (Hannigan Interview 25/8/95:26).

Commissioner Newnham viewed the need for 'operational independence' based on legal and historical principles of policing. Due to the reform process, a major government inquiry into policing and external agencies especially designed to encourage these principles, the commissioner saw a nexus between administration and operational performance which needed to be considered:

Matters of police administration are the province of police chiefs. On most police matters, the mundane ones, there is no need for political direction. It is very largely because of Australia's political system (and Queensland's in this instance) that the detail of administration so readily becomes a political issue (Courier Mail 13/3/92).

The politicisation of the police through ministerial control was a major issue (Courier Mail 18/3/92:5). Police corruption was causing political problems and the government was being held accountable for these issues. As Commissioner Newnham believed, the politicians should also be held more accountable for the "authority" they use (Newnham Interview 27/9/95:20).

However, the Commissioner saw the role of policing in far broader terms which often impacted on the Minister's domain. This included an "increased accountability to the public". The reasoning why this notion of public accountability was important to
Commissioner Newnham was:

Given the fact that they control the armed coercive force of the state....the public can judge how they discharge that ultimate control. The greater danger is that if they do not speak up....they become the mere form of Government, afraid to speak out and afraid to be seen to be politically impartial (Newnham Interview 27/9/95:16).

Governments are often uncomfortable with this notion but it is the "citizen's right to have the law enforced with a degree of wisdom and humanity as opposed to regular and unthinking attitudes" (Newnham Interview 27/9/95:14).

Based on the interview material, many of the relationship difficulties experienced related to the Police Ministers' and the Commissioner's perceptions and expectations. In contrast to the previous case study, there was not an acceptance or tolerance of the differing roles between the parties in this case study. The core interrelated values identified in the ‘interdependency model’ did not prevail in this case study (Chesterman 1992: Queensland CJC Report March 1992). The traditional models of ‘dependency’ and ‘independency’ promoted obstruction and subservience to the political and policing ideologies of the past.
CHAPTER 10 - CONSOLIDATION AND CONTROL

Significant problems had arisen for the Labor government after a turbulent period of policing, where relationship difficulties developed between a police minister and a police commissioner. A second Labor term of government had been achieved in 1992. The Labor government in Queensland wanted to consolidate and control the policing agenda. New Police Minister Braddy was keen to appoint a senior police officer who could consolidate the Fitzgerald Inquiry reform, strengthen operational policing objectives and restore morale to an ailing police service. Labor wanted to demonstrate that policing policy and administration could be managed effectively with the support of a police commissioner who would implement government policy.

An analysis of the interview material, media reports and other data demonstrates how the relationship between Minister Braddy and Commissioner O’Sullivan operated and can be defined by the following matrix:

<table>
<thead>
<tr>
<th>NAME</th>
<th>POLICY</th>
<th>ADMINISTRATION</th>
<th>OPERATIONS</th>
<th>PERSONAL</th>
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<tbody>
<tr>
<td>BRADDY</td>
<td>DEPENDENCY</td>
<td>DEPENDENCY</td>
<td>INDEPENDENCY</td>
<td>INTERDEPENDENCY</td>
</tr>
<tr>
<td>O’SULLIVAN</td>
<td>DEPENDENCY</td>
<td>DEPENDENCY</td>
<td>INDEPENDENCY</td>
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<td>INTERDEPENDENCY</td>
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(1) Dependency - Police Minister controls Department (2) Independency - Police Commissioner is operationally independent (3) Interdependency - Police Minister and Commissioner work co-operatively to achieve a common purpose.

Based on an analysis of the field research interviews, Minister Braddy operated within the ‘dependency’ model and Commissioner O’Sullivan relied on the ‘independency’ approach for operational issues. Both parties shared common work values within the ‘interdependency’ model. This relationship covered a period from 1992 to 1995.

Although both parties had shared common work values, their own personalities were a major factor in how their relationship operated. Based on the research material, the Police Commissioner had a strong background in operational practices and relied on the Police Minister for support on policy and administrative direction. This approach to how the working relationship operated between the police minister and commissioner was supported by the government of the day.
The previous Police Commissioner's contract came to an end at the commencement of
the second term of the Labor government's appointment. Minister Braddy appointed
Commissioner O'Sullivan in late 1992. Commissioner O'Sullivan had developed a
reputation from the Fitzgerald Inquiry as an anti-corruptionist, strong on integrity and
emphasising the need to focus on 'operational' objectives (Fitzgerald 1989:339; The
Bulletin 15/6/93:7; Gold Coast Bulletin Queensland 16/10/92:3).

Minister Braddy had been a student of law and politics for many years and had taken a
particular interest in police corruption, "I was a young man and a law student when the
National Hotel Inquiry was on and I was aware that it was a complete farce" (Braddy
Interview 14/2/1996:1). Braddy's interest in politics and policing issues stemmed from
his legal career and dealing with police over racism problems and the right-to-
demonstrate provisions of the law enacted by a conservative government in the 1970s
(Queensland Police Union Journal April 1993:19; Courier Mail 22/10/92). In Braddy's
view, the police of the day were seen as the "political arm of government and by
Australian and Western standards - repressive" (Braddy Interview 14/2/96:3).

The major objectives for the new Labor Police Minister, presented in the research
interviews, were to improve the performance of the Queensland Police Service, reduce
police corruption, implement government policy and consolidate the Fitzgerald reform
provisions. Under the leadership of Commissioner O'Sullivan, Braddy believed that the
"Service had turned around the image problems it had from the Fitzgerald era"
(Queensland Police Union Journal November 1993:5). To achieve these objectives the
Minister wanted a police service which was sensitive to the community and a police
commissioner who was honest and prepared to implement the government's objectives.
The Minister wanted a commissioner who was totally accountable to the government
and responsible for the operational activities of the Police Service. Braddy was to be
responsible for the policy and the administrative direction of the department.

Commissioner O'Sullivan, based on an analysis of the research data, was considered by
Braddy to be an honest person. He had been the chief investigator to the Fitzgerald
Inquiry. Although the Commissioner was not well educated, this was compensated by
"common sense, reading and shear native intelligence and application" (Braddy
Interview 14/2/96:5). The Commissioner, according to Braddy, had "no ulterior motives and we both wanted to get the best police service" (Braddy Interview 14/2/96:6). Their working relationship was based on agreed major objectives and they were to achieve an "efficient and honest police service" (Braddy Interview 14/2/96:6). Operational policing was to be given its proper priority. To achieve this ‘mutual understanding’ of operational policing needs, both the Police Minister and Commissioner travelled widely around the State, "speaking openly and directly to police officers" early in their administration (Queensland Police Union Journal, December 1992:5).

The Queensland Police Service was well on the way to finalising the Fitzgerald reform process with constant overviewing by the Criminal Justice Commission when Commissioner O'Sullivan was appointed (Queensland Police Union Journal November 1993:33). Police Commissioner O'Sullivan had been an ‘operational’ police officer all his career. He had been the Deputy Commissioner for Operations and believed strongly in the core business of "operational policing" and 'operational independence’ (Queensland Police Union Journal November 1993:33). To achieve effective administration of 'operational policing independence', the Police Commissioner needed the support of government and was prepared "to ensure that the priorities as determined by the government of the day are met" (O'Sullivan Interview 5/1/96:1). To achieve the government's priorities, a Public Sector Management Commission review was commissioned by the government to streamline many of the corporate services which had grown at the expense of the operational role (Queensland Police Union Journal November 1993:32; April 1993:21; Queensland Police Service Annual Report 1993-94:4). This review was strongly supported by both the Minister and the Commissioner of Police.

Although both parties had a close working relationship substantiated in the research material, there was a reliance and ‘dependency’ by the Police Commissioner on the Minister and the government to achieve "operational objectives". This reliance supported the government's view of consolidating the Fitzgerald Inquiry reforms and focusing the Queensland Police Service on its core business of "operational policing". Although the values of ‘interdependency’ including loyalty, honesty, and commitment existed in their private relationship, the Commissioner sought ‘operational independence’ in enforcing the law and controlling the operational functions of the organization. The Minister appeared to understand the need for 'operational independence’ due to his legal background.
ROLES DEFINED - MINISTER'S PERSPECTIVE

The social background of Minister Braddy had a significant impact on how the new Labor Police Minister handled the role and functions of his portfolio. The Minister had a background in the legal fraternity and politics. His major role, according to the Minister, was to get "a fair amount of the government’s resources of the day allocated to the police...that they spent it sensibly and as efficiently as possible" (Braddy Interview 14/2/96:6; Queensland Police Union Journal June 1995:21).

That means continuing the programme the government started before my time as minister of [not only] employing more police but also the civilianisation programme - i.e. releasing police back for operational duties (Braddy, Cairns Post 22/10/92:3). Administrative allocation of these resources by the Minister and the Commissioner required the Minister to constantly respond to the Police Union concerns about resources (Braddy Interview 14/2/96:7; Queensland Police Union Journal April 1993:21). Emphasising staffing levels was part of the government's platform and was constantly an issue between the Police Minister, the Police Union and the media.

Another important factor was based on the relationship with the community and the overviewing agency - the Criminal Justice Commission. The support of the community for policing initiatives was to be achieved through "community policing in its various forms" (Braddy Interview 14/2/96:9). Minister Braddy had a definite belief that regular communication and consultation with the Police Commissioner, the Police Union and community groups was important as a role of the Police Minister in the implementation of policy and administration (Braddy Interview 14/2/96:12; Queensland Police Union Journal December 1993:7).

Communication is a key aspect of my management style....such a co-operative arrangement and spirit are needed in these changing times as new administrative arrangements are proposed to best utilise the great resources we have in this Service (Queensland Police Union Journal December 1993:5).

Often consultation included negotiations with central and other agencies of the
government which impacted on policing policy. This role of policy and administrative negotiation was important as a ministerial role when the key central policy units of the Office of Cabinet and the Department of Justice and Attorney-General initiated a policing operational policy, namely the property crime squad, which affected operational policing. The Minister saw his role in cabinet, based on the research material, as the person responsible for policy and administration and who "brought documents to cabinet to discuss. There was never any basis of cabinet raising things to surprise me" (Braddy Interview 14/2/96:14).

COMMISSIONER'S PERSPECTIVE - OPERATIONAL INDEPENDENCE

Commissioner O'Sullivan understood his role as being associated with operational functions and independence of the police and supporting the "office of Constable to administer and enforce the law" (O'Sullivan Interview 5/1/96:2). This role would include the "police department of the day administering the law; the government of the day might not necessarily agree with the way the law is administered by the Police Department" (O'Sullivan Interview 5/1/96:9). To achieve ‘operational independence’, the Commissioner depended on policy and administrative directions from the Minister, although policy advice to the Commissioner was provided particularly from central policy agencies like the Office of Cabinet. The critical factor for Commissioner O'Sullivan was the reliance on the personal value of ‘loyalty’, his, the government's and the Minister's. The Commissioner understood that this principle of loyalty as part of his role was: "to remain loyal to the Minister and the government, which is the Department's duty, whoever the government of the day is...if it can not remain loyal to the Minister and the government of the day then the Commissioner has no business being there" (O'Sullivan Interview 5/1/96:8).

The Police Minister and Commissioner, according to the research data, shared similar views about how operational policy should be implemented:

We must work with the community in partnership to achieve those aims...proactive policing is the way to go in the future. Having said that, there is a very grave need to maintain a strong and professional reactive arm of any law enforcement agency. Because the day to day core business of policing demands that we provide a service that is capable of investigating crime and solving
crime” (O’Sullivan Interview 5/1/96:15).

Both the Minister and Commissioner accepted the two functions of policing, but the roles of policy, administration and operations of the two functions were not clearly defined between the two parties.

The initial view, argued in the research interviews, is that this relationship's roles were clearly defined and that the ‘dependency’ model applied. However, role difficulties were experienced with the central policy functions of the government and how they had to be acted upon by the Police Minister and Commissioner. These central policy functions were a constant source of problem in determining who had responsibility and accountability for policy decisions and how they might impact on operational outcomes. Often the central policy agency believed that policies needed to be introduced and this was due partly to the approach taken by the Police Service in developing policy advice to the government.

The Police Commissioner relied heavily on the Minister for policy and administrative directions, based on the interview data, and believed that the Police Commissioner was purely responsible for operational matters. This delineation was acknowledged by the Labor Police Minister. However, in 1997 a new conservative Police Minister saw a greater need for a police commissioner to be competent in policy and administrative issues. This need was to cause ultimate conflict for Commissioner O’Sullivan (Queensland Police Union Journal June 1995:21; Courier Mail 26/10/96:22).

Ideals of policing and the Minister's and Commissioner's private relationship commitment were the binding links in their approach to policing. The Minister's skills in consultation and negotiation supported many of the features of the ‘interdependency’ relationship which appeared to exist between the Police Minister and the Commissioner. However, due to government sector requirements for a ‘whole of government’ policy approach, Commissioner O’Sullivan often believed that government policy interfered in the ‘operational independence’ of the police.

POLICY, ADMINISTRATION, OPERATIONS- COMMISSIONER’S VIEW

Commissioner O’Sullivan's approach to policing under a Labor government was not
dissimilar to how it worked under conservative police ministers. The emphasis was on ‘operational independence’; but the minister was involved and responsible for policy and administration. The commissioner's direction was to have a strong emphasis on the core business of "operational policing" (O'Sullivan Interview 5/2/96:1). Commissioner O'Sullivan further argued that the government and parliament should make the laws and the police should administer them and be accountable to the government for the operations and expenditure of funds.

I believe the government funded us and the money comes from the people so we are accountable to the Minister. He needs to know how we are operating the police service and we are accountable to him (Sunday Mail 24/1/93:61).

The approach pursued by Commissioner O'Sullivan to achieve the government's policy, argued in the research material, was to "ensure effective administration of the Service and to ensure that the priorities of the government of the day were met" (O'Sullivan Interview 5/2/96:1). O'Sullivan's focus was primarily on reactive operational policing and the indicators of crime and arrest rates were to be the standard for the "commitment of the Service's personnel" (Queensland Police Union Journal December 1995:21).

Commissioner O'Sullivan argued that there should be a division between government policy and administration and the Minister's involvement in policing operations.

The Minister is responsible to the government of the day and the government is responsible to the people in a democratic society.....the Minister of the day has an important role in terms of overseeing the administration of the Service and giving policy directions. He should refrain from interfering....in operational aspects. That's a matter for the Office of Constable - to administer and enforce the law (O'Sullivan Interview 5/2/96:2).

This meant that no ministerial directions on operational issues should be given to the Police Commissioner. It was difficult to determine the 'fine line' between the roles of the Minister and Commissioner.

I don't believe that a Minister has any business giving operational directions. The Commissioner ought to be held responsible for the operational requirements of the Service and he ought to be held responsible to ensure the police are performing their duty to a satisfactory level in terms of operational direction. I don't believe that a Minister should, although I guess it does happen from time
to time, give any directions in terms of operational policing. Now there's a fine line to be drawn there, I guess, and determining the fine line is the problem. But under the Act of course, under Section 4.6 of the Act, the Minister has wide power. But it doesn't go as far as to say he can give operational directions" (O'Sullivan Interview 5/2/96:3).

This did not mean that Commissioner O'Sullivan did not provide advice on policy and operational issues to the Minister. The Commissioner referred to a significant policy advice document called "Towards the 21st Century: Resource Priorities for the Queensland Police Service" produced by the Police Service for the Minister to "set the scene for policing...in terms of the future direction of the Police Service" and its operational needs (O'Sullivan Interview 5/1/96:3; Queensland Police Service Annual Report 1994-95:3).

The development of external policing policy by other agencies impacted on 'operational independence' of the Police Service and was having a significant effect on the relationship between the Police Commissioner and Minister. Commissioner O'Sullivan was referring to the Office of Cabinet under a Labor government and the Criminal Justice Commission. External policies affecting the operational performance of police, included, for example, policies on increasing police numbers, major priorities changes and information and communication resources. These policies impacted on the operational performance of the Police Service. However alternative policy advice was given to the Police Minister. This advice had little impact on the final policy decision. In the end the Office of Cabinet had "the final determination as to whether the policies proceeded" (O'Sullivan Interview 5/2/96:4,6).

Commissioner O'Sullivan commented that the policing policy process should be left to the cabinet "with the advice of the Minister" (O'Sullivan Interview 5/2/96:6). Commissioner O'Sullivan believed that the central agency policy making role was having an affect on:

The role of constable as being supreme. There must be no interference with the role of constable, as the police service is applicable to the separation of powers. Whilst the government sets the law it is for the police to administer the law. The office of constable must remain paramount (O'Sullivan Interview 5/2/96:7; Queensland Police Union Journal November 1993:33).
Commissioner O'Sullivan reinforced this argument by referring to the "grandiose schemes from the Office of Cabinet" which were not appropriate, for example, the property crime squad and often asked the Minister to intervene (O'Sullivan Interview 5/1/96:11). According to Commissioner O'Sullivan, the power of the Minister had to be taken into account. On operational issues, the Minister should refer to the experience of the Commissioner (Courier Mail 3/11/93).

Ultimate power - sure the Minister in terms of policy and overall administration of the service - but in terms of operational policing and day to day policing I think it would be improper for a Minister to give any direction to a police person....Minister Braddy has never given me a direction or suggested in any way about anything about operational policing. He is a lawyer and he knows the law (O'Sullivan Interview 5/2/96:10; Courier Mail 2/10/93).

Often the Minister sought advice from the Police Commissioner on how to improve operational efficiencies using the law.

In terms of the policing on prostitution, SP bookmaking and all those sorts of things, we have argued strongly that we need telephone tapping powers if we are to counter particularly SP betting and related serious crime. We have been unable to obtain those powers although by legal obligation we should be administering the law in terms of unlawful bookmaking (O'Sullivan Interview 5/1/96:9; Sunday Mail 24/1/93:61).

These approaches to the ‘operational independence’ of policing initiatives, presented in research interviews, had acceptance with and was generally supported by the Labor government (Queensland Police Union Journal November 1993:32). The Police Commissioner also had an obligation to finalize the implementation of the Fitzgerald Inquiry recommendations into police corruption and illegal work practices. These recommendations impacted on ‘operational independence’ of the Police Commissioner.

**MINISTER’S VIEW - DEPENDENCY APPROACH**

After the Commission of Inquiry into Policing had been finalised in 1989, an election occurred which resulted in a change in government to Labor. With the change of government came a different approach to the commissioner/minister relationship. Government policy at the time emphasised the need to reduce police corruption and to focus on social justice issues. Much of the direction was a legacy of the Commission of
Inquiry. A great majority of Fitzgerald's 127 reform recommendations had been implemented by the time Commissioner O'Sullivan had been appointed. The perception was that the organization had changed. As Commissioner O'Sullivan commented, "this is a different police force from what it [used to be]. There is a greater commitment by our people; a change of attitude; an awareness by the service of the need to keep its house in order" (The Bulletin 1/6/93:36). Minister Braddy formed the view that the government’s anti-corruption policy needed to be based on past experience (Qld Police Union Journal April 1993:19-20), for example:

Corruption of the Queensland Police Force at the level of Commissioner and senior officers around him (Bischof); the failure of the police service to be able to do anything about it; and the failure of the Government of the Day, the National Party/Liberal Government, to do anything about it or even acknowledge it - it turned me towards Labor politics (Braddy Interview 14/2/96:2; Courier Mail 16/12/91:2; Australian 24/1/91).

The Labor government continued to support the Fitzgerald Report recommendations as a key element in the policy implementation for the Police service. Commissioner O'Sullivan had to constantly take these recommendations into consideration while providing an operational service for the community.

Social justice policy of the government was to affect police operations and administrative reform and was the foundation direction for the Police Minister (Qld Police Union Journal April 1993:19):

Queenslanders generally I thought were racist but police were probably slightly more racist because too often they saw Aborigines when they were the villains or the victims. They developed perhaps a wrong view.....That was another evil that had to be addressed in the Police Service and in the justice system (Braddy Interview 14/2/96:2).

This social policy on racism was supported by the Police Commissioner who was directed to introduce Aboriginal support officers into the Police Service (Queensland Police Service Annual Report 1994-95:3; Courier Mail 22/10/92). The difficulty for the Police Commissioner was the integration of social policy into ‘operational independence’. This difficulty was to be overcome by creating a specific operational role for that social policy.

The Police Minister saw the police, as used by the previous government, as the ‘political
arm of government’, particularly when they used coercive force during demonstrations (Braddy Interview 14/2/96:3; Qld Police Union Journal April 1993:19). Generally, this required the removal of senior officers, who were politically used, and not well educated, resourced or trained (Braddy Interview 14/2/96:3). Minister Braddy believed that policy should come from the Minister and that the Police Commissioner should be responsible for the operational aspects of the organization. The Minister appointed Commissioner O’Sullivan, an operational officer with a strong ethical background, to achieve that change in the ‘executive arm of government’ (Braddy Interview 14/2/96:3-4).

Minister Braddy’s major aim for the Police Commissioner and the organization, based on interview questions answered, was to consolidate the reforms from the Fitzgerald Inquiry (1989) and to "entrench in the Service good values and operational work...although many police officers resented bitterly having it thrust in their faces" (Braddy Interview 14/2/96:4; Qld Police Union Journal April 1993:20). Minister Braddy saw a need to cleanse the organization of corruption, brutality and fabrication of the law. Police were seen as "German soldiers in Nazi Germany who refused to face up to the fact they had evil commanders and were given evil orders" (Braddy Interview 14/2/96:5). To achieve the consolidation of the reforms would require the Police Minister to take an active interest in administrative matters.

Minister Braddy saw himself as being involved in major police administrative issues, which included, for example, the allocation of officers throughout the State and using a ‘consultation’ approach without the Police Commissioner’s participation:

Where there was some major problem I would become involved to the extent that I would work with the people without summoning the Commissioner and directing him to do something. We’d talk it over and we’d say; how about we look at it together. In the end, the solutions that were possible or realistic used to emerge from working together (Braddy Interview 14/2/96:8).

Minister Braddy maintained that the Minister was responsible for ensuring that government policy was financed and that the administration of it was properly carried out by the Commissioner. However, Braddy did argue that if a Commissioner thought the policy was wrong “then he'd have an obligation to say so to the Minister, to protest
about it and to try to get that policy changed" (Braddy Interview 14/2/96:16). It was not the Minister's role to be getting into the day to day operational issues; but to have a competent commissioner to carry out the policy implementation (Qld Police Union Journal April 1993:20). The Police Minister believed that the minister had the controlling right on policy and administration, but should not generally become involved in operational issues.

Another important feature which impacted on the commissioner/minister relationship was the establishment of an external agency which had the role of overviewing policing functions (Qld Police Union Journal April 1993:22). The relationship with the Criminal Justice Commission and the Minister was crucial as to how police policy, administration and operational matters were handled. The role of the Criminal Justice Commission, according to Minister Braddy, was often "indicating how policing should be done rather than their major role of to continuing to conduct misconduct processes" (Braddy Interview 14/2/96:9). This overviewing role by the Criminal Justice Commission often affected government policy and required the Minister and the Commissioner to negotiate with the external agency over their responsibilities. Tension over power shifts and accountabilities often resulted.

Controlling the organization was difficult due to the complex systems and the operational approaches which supported criminal justice as a whole (Braddy Interview 14/2/96:9). Minister Braddy believed it was important to have trust in both the Commissioner and the senior civilian of the organization, so that operational responses would be managed properly (Braddy Interview 14/2/96:9; Bulletin 15/6/93:7). The Minister argued in his interview that the Police Commissioner should manage the operations and that the Minister should be briefed "on what was occurring on successes, such as the property crime squad" (Braddy Interview 14/2/96:11). As a government policy decision, the Minister acknowledged the establishment of the property crime squad impacted on operational requirements:

The property crime squad I mentioned - there were clearly things that were in society that....needed fixing and [we] could say to the police, we think you should do this and we will give you the extra money to do it (Braddy Interview 14/2/96:11).

The result, according to the Minister, was that a "commissioner should accept that the government had given some directions....and then get on with spending the
appropriated money - doing a good job and working out the details" (Braddy Interview 14/2/96:11). This meant that Commissioner O'Sullivan was responsible for implementing the instructions of the Police Minister and thus being subordinate and obedient to the Police Minister.

Often the Labor machinery of government policy initiatives came from the Office of Cabinet. This central agency gave directions on operational initiatives like shop fronts and property squads which the Minister was required to implement (Braddy Interview 14/2/96:11). That implementation was contrary to ministerial control and operational independence. Occasionally, due to differences between the Minister and the Commissioner regarding the policing role, there were tensions over cabinet office initiatives (Braddy Interview 14/2/96:12).

Braddy's primary approach was one of consultation on policy initiatives but requiring accountability on administrative and operational outcomes of government policies.

If I thought that the policy the government had laid down and had financed was not being properly carried out I would have asked for a meeting to discuss this. The minister having the responsibility to see that government policy is carried out (Braddy Interview 14/2/96:16).

However, the day to day operations were left to the Commissioner to resolve and the Minister did not necessarily become involved:

A responsible minister has got to make sure that the policy is carried out but he does not do that by getting involved in the day to day nitty gritty. He leaves that to the commissioner and once he is satisfied that policy is properly carried out and if you have a competent commissioner of course it will occur (Braddy Interview 14/2/96:16).

The approach taken by Minister Braddy, according to the research material was to apply the ‘dependency’ model to the relationship, accepting the need for an advisory role from the Police Commissioner. "It would be very rare that the government would make a policy without prior discussion with...the Commissioner....But if the policy is not being carried out after it had been announced the Minister would prevail in that regard" (Braddy Interview 14/2/96:17).

Commissioner O'Sullivan relied on 'operational independence' and the recognition of the
need to constantly provide advice. "There was never a conflict" with the Minister, he said (Braddy Interview 14/2/96:17). The key to the lack of conflict in the relationship rested on the division of responsibilities between the parties and skills of the Minister to communicate and consult on policy, administration and operational matters. The Minister’s communication skills were supported by his personal and professional legal values which operated within the relationship.

**CHANGING THE RELATIONSHIP - MINISTER’S PERSPECTIVE**

Minister Braddy saw, according to the research information, the personal values and the ‘interdependent’ principles within his relationship with the Police Commissioner as being important (Bulletin 15/6/93:7). A similar view was expressed in other case studies. The appointment of a police commissioner because of his personal values of honesty, loyalty and integrity although he had limited education and management experience was important to the minister (Braddy Interview 14/2/96:5; Qld Police Union Journal April 1993:20). Ethical competency was paramount. Management expertise could be provided from support staff. They developed an ‘interdependency’ model of ‘mutual understanding’ by "working together, whereby having agreed on the primary objective, we were always trying to find ways to achieve the main objective of an efficient, honest police service” (Braddy Interview 14/2/96:6).

There is a belief by Police Ministers, argued in this research, that a police commissioner and police minister should be more involved with the community on policing issues by applying a ‘explanatory and co-operative approach’. The minister was critical about how the political sector perceived this type of involvement. Minister Braddy referred to an incident where the police Commissioner attended a meeting on policing issues and was criticised by the opposition leader for supporting a party political agenda (Courier Mail 28/4/95:16). Minister Braddy argued that politicians should be less critical of police executives becoming involved in community affairs (Braddy Interview 14/2/96:13). Commissioner O’Sullivan did observe that it was very difficult to remain ‘apolitical’ because if a Police Commissioner remained loyal to the Minister and the government of the day then, he was often "accused of being party political" (O’Sullivan Interview 5/1/96:8). The Minister believed that police commissioners should be encouraged to discuss policing issues with the media, providing the commissioner acted honestly and
with integrity (O'Sullivan Interview 14/2/96:16). This media role, argued Minister Braddy, supported the government and bureaucracy in being more accountable to the community and balanced the accountability role between the parliament and the community, the core element of a parliamentary democracy (Braddy Interview 14/2/96:16). This co-operative approach however did not apply to all groups, in particular the Police Union.

Minister Braddy was very critical of the power and functions of the police union in politics and how that power impacted on the working relationship between the minister and the commissioner (Qld Police Union Journal April 1993:22). This view was supported by the Police Commissioner who believed that the "union had far too much influence with the Police Department ....The union has a role to look after its members but I think management issues should be left to us" (Queensland Police Union Journal November 1993:34). The General President of the Union was critical of the Minister's inability to deliver enough operational police to the field and his slowness in delivering a wage rise after three years in office.

The Police Union later supported the coalition parties at the Mundingburra by-election in 1996 which saw a change in government. A Criminal Justice Commission Inquiry into the Police Union and their political activities was to follow (Queensland Police Union Journal March 1996:7). Braddy believed that "police officers can join political parties and have their say...as individuals". But police unionism wanted "too much involvement in running a police agency" (Braddy Interview 14/2/96:18). Braddy argued that the Police Union often become 'politicised' and supported internal interest groups; there needed to be a 'separation' between police unionism and politics (Braddy Interview 14/2/96:17). Police unionism is an important issue which has been raised by several police commissioners in this research and needs further examination. However, this thesis has explored it only as an issue which has had an impact, particularly during periods of unrest between the minister and commissioner.

The overall success of a good relationship between the commissioner and minister, in Braddy's view is: an "understanding of the separation of powers, democratic institutions, integrity and respect for other people's rights and roles and the people who are prepared to talk and listen. I think that's part of just living in society. If that's not done no amount of legislation will bring about a good working relationship between a
commissioner and a minister" (Braddy Interview 14/2/96:18). The Minister believed he had an obligation to work together with the Police Commissioner "in the executive area of government". There is "no conflict with the separation of powers between a Minister and Commissioner working together" (Queensland Police Union Journal April 1993:22). It was important to have a good working relationship so that concerns of the Queensland public and the police could be addressed (Queensland Police Union Journal April 1993:22). Ministers should be held more accountable for decisions and policy during question time in parliament:

Whilst the Minister must be broadly responsible for the operation of the police service....the attempt to bring home that every bank robbery and multiple murder somehow implicates the Minister means he has not done his job properly. That is the purpose of a lot of these questions in Parliament. I just think it is to the detriment of Australian [political] institutions that we are still at this level. It is not attempting to evade responsibility. It is just the reality of it. Questions really ought to be about policy and broad levels of administration (Braddy Interview 14/2/96:19).

Minister Braddy believed that good policing policy is "a good balance between community policing and other social community work as well as general duties and reactive policing" (Braddy Interview 14/2/96:20). It is these types of ‘interdependency’ principles according to Minister Braddy which should be reflected in the working relationship between a police minister and commissioner.

**COMMISSIONER’S PERSPECTIVE - SIMILAR VIEWS**

Commissioner O’Sullivan argued that the Commissioner of Police would need to be competent and have an "ability to implement government policy. If the Commissioner as recognized by the parliament does not have the credibility or respect of the government of the day, then the commissioner should be sacked" (O’Sullivan Interview 5/2/96:5; Queensland Police Union Journal November 1993:33). Essential to the performance of a commissioner is the ability to remain impartial and apolitical:

Police Commissioners often speak out publicly and attend public meetings, as in my case. I attended a law and order meeting that was arranged publicly by letter-box drops to every resident in an area. Everyone was invited to come, including all political and religious persuasions in the community, so that they could express
their views about law and order....I was then accused of being at a Labor fund raising function....It is a difficult situation....to remain loyal to the minister and the government....If you can't remain loyal to the minister and the government of the day, then the commissioner has no business being in office. But when you do that, when you remain apolitical you are then accused of being too close (O'Sullivan Interview 5/2/96:8).

The way to improve the relationship, according to Commissioner O'Sullivan's belief, would be to define with greater clarity the responsibilities of both parties -

Presently in the Act, it gives the Minister wide powers. It talks about overall effective administration and direction of the police service and the minister's responsibility. Yet he should not have responsibility in operational policing (O'Sullivan Interview 5/2/96:11).

However, Commissioner O'Sullivan saw no difficulty in the minister addressing Parliamentary questions and responding on behalf of the commissioner for operational issues. That would allow for 'operational independence' to exist (O'Sullivan Interview 5/2/96:13). Minister Braddy believed that it was the Police Minister's responsibility to respond in parliament on policing policy and administration matters (Braddy Interview 14/2/96:19). Thus both parties argued that roles needed to be clearly defined particularly in the parliamentary setting.

The commissioner further argued that police boards, the Criminal Justice Commission and other types of overviewing boards often dictated to the Police Commissioner and had impacted on 'operational independence'. He suggested that the 'relationship between the Commissioner and Minister could be improved in many jurisdictions if that relationship is allowed, left alone, and developed, without the need for overview by police boards or Independent Commission Against Corruption, Criminal Justice Commission or whatever" (O'Sullivan Interview 5/2/96:12). However, this view has not always been held by Police Commissioner O'Sullivan (Queensland Police Union Journal November 1993:32).

Commissioner O'Sullivan argued that he had an 'excellent relationship' with the government and the Minister. This was based on compatible and professional ideals and an understanding of 'operational independence and policing'.

I have a good relationship with Mr. Braddy....For the good of the Service we need to have a proper, professional relationship....Mr.
Braddy has never once interfered in operational policing. He often discusses policing matters with me, suggests matters for policing and government requirements (Queensland Police Union Journal November 1993:34).

There appears to be several core issues emerging from an analysis of the interviews affecting how this relationship functioned. There was a need for the role and function to be clearly defined between policy, administration and operations. This role differentiation, nevertheless, related to the personal abilities of the two parties. Overviewing agencies and the executive arm of government have roles to play in policing a state. Unionism, personalities, mass media involvement, the community's role, party politics, corruption and government conventions have significant effect on performance outcomes between a police minister and a police commissioner.

CONCLUSION - CONTROL AND CONSOLIDATION

The ‘dependency’ approach adopted by Minister Braddy certainly provided greater scope to ensure accountability by the Police Commissioner on government policy, administrative and operational issues. Material in the case study demonstrated that the Commissioner had to rely on the Minister to resolve external policy issues as they arose. Although this ‘dependency’ approach on policy matters, argued in the research material, was promoted by Braddy, the difficulty for the Police Commissioner was to determine when and how to advise the Minister and whether that advice would be heeded by the government.

This ‘controlling’ approach on policy and administrative issues by the Minister also required the Commissioner to be constantly reporting on operational issues. It did not provide extensive scope for the Commissioner to develop policy and administrative initiatives. The other difficulty for the Minister concerning policy development was that there were policy gaps which were picked up by other agencies as community needs. These external agency policy initiatives may have reflected a deficiency in the relationship’s ability to deliver policy outcomes and to encourage the Police Commissioner to promote policy initiatives which reflected community concerns for policing the state.

The Police Minister believed they should have a ‘mutual understanding’ of police work
whereby the police commissioner should be able to carry out the day to day operations of the organization without interference from the minister. This would require the constant need for advice from the Commissioner concerning the operational performance of police in the implementation of government policies. Core values needed to exist between the parties so that the reporting and advisory process could be achieved. Both the Police Commissioner and Minister relied on core principles referred to in the ‘interdependency’ approach incorporating an acceptance of constant communication, consultation and the virtues of honesty, integrity and loyalty to each other.

Commissioner O’Sullivan had a strong view which was presented in the research data about the ‘operational independence’ of the Police Commissioner but had no hesitation in providing the Minister with advice on the activities and performance of the organization. O’Sullivan maintained that there were very few differences of opinion or tensions between them due to the Minister "never interfering in the operational running of the department" (O’Sullivan Interview 5/2/96:4). The reason for the acceptance by the Police Minister of ‘operational independence’ was, according to the Police Commissioner, based on "clear directions at times in respect of policy issues" (O’Sullivan Interview 5/2/96:4). It appears that the relationship managed most issues due to a clear understanding of their roles and the private values as they operated between them. However, it would be difficult to claim that all features of the ‘independency’ model operated between the parties. It appears that the Police Commissioner who had a strong operational understanding of policing relied heavily on the Minister for advice and understanding of political and governmental processes that impacted on policing issues. Perhaps the constant development of policy external to the Police Service also demonstrated an inability by the Police Commissioner to comprehend what the expectations of the community and the Labor government were on ‘operational policing’ matters.

Generally speaking, this minister/commissioner relationship, in the public perception, had few difficulties and appeared to be one based on co-operation, consultation, operational competence and support of government initiatives. This approach was in stark contrast to the Newnham/Mackenroth case study, where a claim to independence by the police commissioner was seen as a reaction to the minister’s need for controlling the Police Service. Supporting government policy, according to the research information
was the key requirement for the appointment of Commissioner O'Sullivan. The government demonstrated the intent to have a ‘dependent’ commissioner who would implement the government's will.
CHAPTER 11 - CHARTING A POLITICAL POLICING POSITION

Anti-corruption and new administrative practices surrounded the analysis of the Avery, Paciullo and Anderson case study. A Royal Commission into the New South Wales Police Force Administration (Lusher Report 1981) had produced its findings which recommended significant changes to the policing organization. The Lusher Report promoted changes to the management, training and fundamental policing principles for governing a democratic society. Change was to be the hallmark of the police ministerial portfolio. The police ministers referred to in this chapter supported a Labor reformist government and were keen to demonstrate a revitalized policing service, the establishment of an independent police board and an alternative policy advisory service to the police minister.

An analysis of the field interview material, media reports and other data shows that the relationship which operated between Ministers Anderson and Paciullo and Commissioner Avery is defined by the following matrix:

<table>
<thead>
<tr>
<th>NAME</th>
<th>POLICY</th>
<th>ADMINISTRATION</th>
<th>OPERATIONS</th>
<th>PERSONAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANDERSON</td>
<td>DEPENDENCY</td>
<td>DEPENDENCY</td>
<td>INDEPENDENCY/DEPENDENCY</td>
<td>DEPENDENCY</td>
</tr>
<tr>
<td>PACIULLO</td>
<td>DEPENDENCY</td>
<td>INDEPENDENCY/DEPENDENCY</td>
<td>INDEPENDENCY</td>
<td>INTERDEPENDENCY</td>
</tr>
<tr>
<td>AVERY</td>
<td>DEPENDENCY</td>
<td>INDEPENDENCY</td>
<td>INDEPENDENCY</td>
<td>INTERDEPENDENCY</td>
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</table>

(1) Dependency - Police Minister controls Department (2) Independency - Police Commissioner is operationally independent (3) Interdependency - Police Minister and Commissioner work co-operatively to achieve a common purpose.

The information obtained from the field research suggests that Ministers Anderson and Paciullo operated on the ‘dependency’ model and Commissioner Avery on the ‘independency’ model. However, Minister Paciullo and Avery regularly used principles from the ‘interdependency’ model in their private working relationship. These relationships covered a period from 1984 to 1988.

Commissioner Avery, according to the research material, needed the help of the police ministers to restructure the police organization. This required Avery to rely on the ‘dependency’ approach by supporting the police ministers. However, Avery also believed that corruption and politics was best dealt with by ensuring a public appearance of ‘operational independence’ of a police commissioner.
In New South Wales, the Labor Government had been in power for two terms of office. The appointment and responsibility of the new Police Minister Anderson in 1982 was to reform an ailing police structure which had allegedly been corrupt for decades (NSW Police News July 1985:14-16). There was also a need to install a police board to stabilize the police minister/commissioner relationship and to promote the ‘independence’ of the police commissioner on operational issues (Queensland Public Sector Commission Report 1993:264-269).

Appointment of the second Police Minister Paciullo in 1985 was designed to rebuild the public confidence in the police organization. The police service was having a morale crisis due to the reform changes. This morale crisis was affecting the law and order agenda of the government. Success in crime clear up rates was essential to the government's performance. The stabilizing of police sentiments was also important for an upcoming election which would subsequently see a change to conservative government. Police Commissioner Avery, newly appointed by the Police Board, was a senior New South Wales Police Officer with extensive administrative experience and operational background, and a sharp intellect with an academic qualification; but he presented a low public image profile (Sydney Morning Herald 26/9/92:39). Thus the mixture seemed suited to an emerging trend to restructure a policing organization to lead it into the 20th century as it related to the New South Wales community.

This Labor Police Minister (Anderson) had seen a need for a policy on the "long overdue reform of the New South Wales Police Force" to be implemented by the Police Commissioner during that government's term of office. The Minister's extensive knowledge of policing, personal views and beliefs caused him to conclude that the people of New South Wales wanted a "revolutionary period rather than an evolutionary one" in policing policy (Anderson Interview 26/9/95:1). Comments made in Parliament at the time by Minister Anderson reflected the Minister's policy view that "changes must be effected to the police force to enable it to cope with changes in society and in the law enforcement role of the State and Commonwealth. That necessitates starting from the top and working down" (New South Wales Police News January 1982:12).
The development of an Office of the Minister of Police and Emergency Services (later known as the Ministry for Police) was paramount in Minister Anderson's view to achieve "independent advice" on policing policy. This 'independent' advice would make the Police Commissioner more 'dependent' on directions from the Minister. The blueprint for reform was embedded in the recommendations of the Lusher Royal Commission (1981) with most of the reforms to be "introduced ....from my end of town and not from Headquarters" (Anderson Interview 26/9/95:1; News South Wales Police News February 1982:4). The Police Commissioner was supportive, based on the research material, of these policy initiatives but resistance was evident from within the organization. The Police Association did not accept the reform process in its entirety and rejected many of the recommendations (NSW Police News February 1982:6). Acceptance of alternative ministerial policy advice by the Commissioner was dependent on an internal policy advisory unit being established in the Commissioner's office to provide further advice on policy direction by the government (Anderson Interview 26/9/95:2).

Although Police Minister Paciullo was only in office for two years, the political attraction in achieving "a general reduction of crime throughout the state" was critical to the policy agenda of the Minister who had ambitions of becoming the future Premier of the state. Every other part of Australia and indeed the world was showing rising crime rates. To achieve this objective of crime reduction required a "good and trusted working relationship" with the Police Commissioner so that the government's agenda of public safety could be achieved" (Paciullo Interview 29/9/95:1).

Moreover, Police Minister Paciullo was keen to address the "political" needs of the police organization through Cabinet. Particularly important to him were issues relating to "suspected corruption", the need for more resources and working as a team (NSW Police News June 1985:19-22). The relationship between the Police Commissioner Avery and Minister Paciullo, presented in the research information, was crucial to the government's role and the police commissioner's requirement to provide protection for the public.

No other government department has a more difficult role. We have a crisis every day, every hour or every minute...There's no other arm of the public service where the potential for loss of life or crisis is there (Paciullo Interview 29/9/95:2).
From the research material, Commissioner Avery understood there was a need for structural reform through regionalization, particularly in the highly specialist groups of the "Traffic Branch" and the "Criminal Investigation Branch", to achieve the public safety policy through community support (Avery Interview 30/9/95:1; Lusher 1981:21-24). The essence or philosophy of policing was to be "Community-Based" (NSW Police News July 1985:20-21). The need to restructure the department to achieve "Community-Based Policing" was essential: "If you don't restructure the Department to comply with the policy then we've got a non-policy" (Avery Interview 30/9/95:1; Lusher 1981:21-24).

During the administration of Commissioner Avery, differing political persuasions and political interests affected law enforcement and community-based policing policies. The Commissioner's direction and ability to implement government policy was limited. The reform process was affected by corrupt personnel in the organization and there was a hidden agenda to "get rid of" the Commissioner (Weekend Australian 29/12/90:5). Police Minister Paciullo, according to Commissioner Avery, was "less political" and was useful from the "the partisan point of view" in carrying the reforms through (Avery Interview 30/9/95:2). Both Labor Police Ministers were strong on ministerial accountability, whereas the Police Commissioner with the assistance of the Police Board wanted a degree of ‘independence’ to achieve organizational reform, reduction in corruption and the introduction of the ‘community based’ policing ideal.

**ROLE & RESPONSIBILITIES - SHARED VISION - MINISTERS’ VIEWS**

Central to the need for reform in the police organization was the concept of public accountability. Minister Anderson believed, according to the research data, that the most important ‘dependent’ role of the relationship was that the organization and the police commissioner were to be "answerable to the public through parliament" (Anderson Interview 26/9/95:2; NSW Police News July 1982:8-9). In a letter to the Police Association on the 26 February 1985, Minister Anderson stated that the role of the Minister and the ‘subordinate’ expectations the government had of the Police Commissioner were:

> I am the head of the administration and responsible for its effectiveness....the NSW Minister for Police has a statutory responsibility for policy matters affecting the police force, while the Police Commissioner has the sole jurisdiction over operational
matters. It is only through the effecting of new management policies that the Minister can achieve any operational changes (NSW Police News April 1985:10-11).

Further, in a statement to senior officers on the 16 February 1985, Minister Anderson stated that "my constitutional responsibility in this regard is quite clear - I answer to the Parliament and the people above all others" (NSW Police News April 1985:12-13). Similar statements were also made in Parliament regarding Minister Anderson's position on police accountability in the Westminster system of government (NSW Parliamentary Hansard 14/10/92:12).

Secondary to parliamentary accountability, was the Minister's policy on the "process of reform" within the police organization which the Police Commissioner was required to implement (NSW Police News July 1982:8-9). Every other police agency in the world was undergoing change and this organization had "to face up to the realities of change within its society" (Anderson Interview 26/9/95:2). These "realities of change" included police discipline to combat corruption, "the establishment of a police board, and a residential world class police academy [for] ...police education" (Anderson Interview 26/9/95:2; NSW Police News July 1982:8-9; March 1985:5).

Minister Anderson was to introduce legislative changes to combat police corruption and poor performance. These changes were part of the accountability measures supported by the government of the day and had a crucial bearing on the relationship with the Department and Police Association (Sun Herald 24/9/95:19). Although police corruption will not be a primary focus of this chapter, there were regular issues affecting the working relationship between both Ministers Anderson and Paciullo and Police Commissioner Avery. Correcting corruption problems within the NSW police agency was understood as the legitimate political role of NSW government and not the responsibility of the Police Commissioner.

Due to a Royal Commission occurring at the time of the interviews, it was not possible to elicit extensive information on how police corruption effected the working relationship. However, a media report at the time suggested the parties concerned believed as a result of the reform introduced that "probably 1 per cent of the police service was now corrupt" (Australian 6/12/92). On the other hand, a belief that the reform process had failed to reduce corruption was evident from the findings of the 1994
The Premier had asked Police Minister Anderson to fix up the "rock of Gibraltar" as it needs to be reformed: "I want you to reform it", he said (Anderson Interview 26/9/95:9). The process for public accountability and answerability required the Police Minister to become personally involved in the organizational administrative changes with the Police Commissioner and in addressing community problems (NSW Police News June 1984:10-12). A ‘dependency’ relationship was initially commenced with Commissioner Avery.

The political vision emphasised the need to reduce the crime rate and address community problems both of which required extensive resources and new governing legislation (NSW Police News June 1984:10-12). Minister Anderson, according to the interview data did not see that a ministerial direction and ‘dependency’ on operational issues was outside his jurisdiction. The allocation of specialist squads to reduce the crime problem was "not an unreasonable proposition under the Westminster system" according to the Minister (Anderson Interview 26/9/95:3). In a speech to the New South Wales Police Association (NSW Police News July 1982:8-9), Minister Anderson referred to specific operational directions of the government within the Police Force including a tactical response group, saturation foot patrols and mobile crime squads. The difficulty according to Minister Anderson was:

There is no doubt under the law that the Minister has power of direction, certainly with regard to policy. The issue becomes blurred on the issue of operations. In principle you say that the Minister is entitled to say the Government is concerned...I want you Commissioner to address it; that’s in theory. In practice I believe its important that a Police Commissioner and a Minister have a relationship...and I want to discuss with you (the commissioner) how you are going to do it so that I can provide you with the legislative support and the resource support (Anderson Interview 26/9/95:3).

The ‘dependency’ approach used by Minister Anderson was based on policy directions to the Police Commissioner and "a practical sense" of what was needed in the police organization (Anderson Interview 26/9/95:3). A successful policy outcome for reform depended upon the individuals in the positions of office and "the relationship they enjoy" (Anderson Interview 26/9/95:3):

I would hate to be in a situation of being a Minister of Police
working with a Police Commissioner where there wasn't respect for each other and each other's position...If you had a reforming Minister and a Commissioner totally resistant to change, it would be chaos (Anderson Interview 26/9/95:3).

The advantage Police Minister Anderson and Commissioner Avery had was a Commission of Inquiry Report (The Lusher Report -1981) which acted as a source for government direction and a catalyst for reform and joint agreement. Minister Anderson's views about change and reform also came from experience in the field and a need to involve the community (NSW Police News July 1982:8-9).

In reality, the traditional policing role was further expanded by Minister Anderson. The Minister's emerging ideals were not dissimilar to those of Police Commissioner Avery with a focus on community involvement in policing and the government's social policy framework (NSW Police News July 1982:8-9). The difficulty seen in this new perspective of community policing was the measuring of success and how the Commissioner and organization were to implement it:

I think we paid lip service to....prevention of crime and detection of offenders...without a great deal of success. But we've got to get involved in crime prevention. If you're going to do that, then you have got to have that relationship with the community (Anderson Interview 26/9/95:20).

Police Minister Anderson, based on the research data, wanted competent and sound administrators to manage the police organization during its period of reform. "If there is evidence of a failure to address problems...then in terms of their respective role they would be in jeopardy" (Anderson Interview 26/9/95:8). This shared vision was perpetuated by new Police Minister Paciullo in the portfolio. The approach taken by Minister Paciullo to the relationship with the Police Commissioner was based on the traditional Westminster system of government with the Commissioner accountable for the administration of the department. Police Minister Paciullo saw his role as the provider and direction-giver to the police organization.

Providing resources and focusing on specific policing issues were seen as critical, according to Minister Paciullo, as was his ensuring "that I gained on their behalf the financial backing of the Government....to give them resources, equipment ...[and] the technology for fighting criminals" (Paciullo Interview 29/9/95:2). The operational policy
emphasis for Minister Paciullo's administration was on road safety and specific criminality issues, for example, property crime (Paciullo Interview 29/9/95:2; NSW Police News June 1985:19-22).

Police administrative reforms were important to Minister Paciullo in determining policing direction with regionalization high on the agenda:-

One of the most important was the division of the State into four regions and breaking down the structure (Paciullo Interview 29/9/95:3).

These reforms, resource determination and administrative issues were part of a policy-making process which was done conjointly with the Police Commissioner (NSW Police News June 1985:19-22):

My job is to direct policy...to respond to any problems there are, in the manner in which I'm able to because I command the resources, the finances. That is where policy direction ought to be...All those decisions are taken with an eye on the advice given to me by the Police Commissioner. The other eye is on the knowledge I have of what the public expects (Paciullo Interview 29/9/95:3).

The reforms, however, were also to provide the public with an improved policing service. Minister Paciullo also believed the challenge for the Minister during the period of reform was to reduce the "administrative roles rather than law enforcement" (Paciullo Interview 29/9/95:21).

However, Minister Paciullo saw a need to "satisfy a public expectation" for a crime reduction and he believed that the most important role of policing was based on prevention:

prevention is always better than having the problem in terms of catching the perpetrators of the act. I think prevention ought to be given the highest priority (Paciullo Interview 29/9/95:21).

This preventative policy approach was supported by Commissioner Avery who "was very tuned to community policing and...had no problems with that at all" (Paciullo Interview 29/9/95:22).

Both Ministers, according to the research information, appeared to have developed a 'dependency' working relationship with the Police Commissioner by requiring the implementation of a crime reduction policy. To achieve this, the Ministers had to
balance political opportunism with the need of a Police Commissioner and a Police Board who understood the concept of ‘operational independence’ and the dimensions of policing a complex community.

**COMMISSIONER’S APPROACH - INTERDEPENDENCE**

Police Commissioner Avery understood that for operational ‘independence’ to exist, the expectations of the police minister/commissioner relationship had to be "apolitical" in nature (Avery Interview 30/9/95:2). To support this operationally ‘independent’ policing role required also a police commissioner to have operational experience, tertiary qualifications and community board advisory support. In this case, it was a Police Board. Perhaps critical to the organizational and political survival of Commissioner Avery was an ability to "communicate policy whether they were developed by the Government or whether you developed them.....and to communicate with the troops" (Avery Interview 30/9/95:2). Certainly in the case of Police Commissioner Avery, a valuable asset was his post graduate tertiary qualification in politics and his general understanding of good policing (Government Officers Magazine of Administration & Purchasing 1985:20; Sydney Morning Herald 26/9/92:39). This knowledge base was important in managing politics, and a policing organization.

Avery's focus on ministerial accountability was understanding who was the ultimate provider of financial means; also who was responsible for the effective use of police resources, and the role the minister and commissioner took in managing the resources (NSW Police News June 1985:23-24). This was an important area for concern because it did affect on occasions the working relationship between Police Commissioner Avery and the Police Ministers (Avery Interview 30/9/95:3). Police Commissioner Avery used the Machiavellian principle of educating the politician on policing ‘operational independence’ to achieve some measure of responsibility for resource management. This same educative approach on ‘operational independence’ was adopted by the Police Board (NSW Police News July 1985:20-21). Often police ministers in parliamentary statements, according to Commissioner Avery, would present concepts about ‘operational independence’ and talk "about the Office of Constable, stating that a commissioner had a role in that area"; but they failed to understand its meaning (Avery Interview 30/9/95:4). The failure to understand the reality of ‘operational independence’
stemmed from the Ministers’ needs to control policy and administration which impacted on the core policing concept of crime reduction and prevention.

The central philosophy or policing ideology which the two Labor Police Ministers appeared to accept, was the concept of "Community-Based Policing" rather than a total focus on law enforcement (NSW Police News July 1985:20-21; June 1985:23-24). This political acceptance of the policing role even if not fully understood, provided a mutually agreeable framework for the relationship to develop further:

(S)erving the community and a part of that is to enforce the law so that the people are safe. Community policing and crime prevention and organizing the community would be more important than a purely law enforcement style...More important than enforcing the law is to provide the community with peace. All the politicians do is to run around in ever diminishing circles and make more laws...That is the way things gets fixed....Politicians tend to make, when they react...really bad laws (Avery Interview 30/9/95:41).

The outcome of the accepted ‘community based policing’ policy between the Police Ministers and the Commissioner appeared to give the government and police a direction (Lusher 1981:21-24). However, the distinction between policy, administration and operations was not as definitive when it came to delivering a statewide policing service. Often differences of opinions and roles distorted where individual responsibilities of each rested.

POLICE, ADMINISTRATION AND OPERATIONS - MINISTERS’ VIEWS

Government policy for organizational change and activity for Police Minister Anderson was the recommendations of a Commission of Inquiry (Lusher Report 1981). These recommendations acted as a "catalyst" for policy negotiation between the Police Commissioner, the police organization and the New South Wales Police Association (Anderson Interview 26/9/95:4: NSW Police News February 1982:4). Often the proposed changes met "enormous resistance....formally and informally within the Police Force" which the government and the Police Commissioner had to deal with (Anderson Interview 26/9/95:4). Issues relating to operational ‘independence’ by a Police Commissioner were well understood by Minister Anderson (NSW Police News July 1982:8-9).
However, what Minister Anderson did recognize was that a "Minister cannot direct a Commissioner to neglect his or her duty or to exercise independent powers of arrest" (Anderson Interview 26/9/95:4; NSW Joint Select Committee Upon Police Administration 31/3/93:325). That principle was substantiated by a Parliamentary Inquiry into the relationship between a Police Commissioner and a Minister in 1993. The inquiry resulted from an Ombudsman's Report (1993) into the Angus Rigg death and the failure of the NSW Police Department to implement the recommendations of the Report. Although the Minister generally adhered to the expectations relating to the common law powers of a constable and the 'independence' of a police commissioner, he believed that a Minister was entitled to know what was being done about organized and selected crime problems:

I think a Minister is entitled to say to a Commissioner: How about so and so; who's a Mr Big; how come he never gets locked up and how come nothing ever happens to him. That's a different thing. You're not saying go out and arrest him. You're saying how come every man and his dog knows he's running so and so (Anderson Interview 26/9/95:4).

By adopting this approach, Minister Anderson sought a transparent 'dependent' response to crime problems (NSW Police News June 1984:10-12). This did not necessarily mean that the Minister was:

(G)oing to sit there and do the rosters for the Liverpool anti-theft squad. But by the same token he is entitled to say there's some problem of theft in Liverpool. I want you take some action. Here are resources and I want you to let me know what's happening and to get results (Anderson Interview 26/9/95:5).

Minister Anderson believed that there was a perception by police generally, including the Police Commissioner, that "the government can't tell them what to do...and that they shouldn't become the political arm" of the government (Anderson Interview 26/9/95:5). The solution to the problem, according to the police, was vested in the 'independent' processes of the Police Board and the Annual Report, which were designed to "protect the community" from political interference (Anderson Interview 26/9/95:4). Minister Anderson did want transparent information on major operational issues affecting the public. The illustration of the newly formed anti-theft squad was politically important to Minister Anderson in terms of government policy and the allocation of policing resources (NSW Police News July 1985:14-16):
If the Government says we are going to concentrate on theft and rail safety and the Commissioner says: No we are not, we're going to concentrate on something else. That is not just operations, it's policy (Anderson Interview 26/9/95:15).

The Government had to be sensitive to the ‘operational independence’ of the Police Commissioner, as Minister Anderson acknowledged, otherwise it may be "in contravention of the Commissioner’s oath of office...or something where he is negligent in his duties" (Anderson Interview 26/9/95:10). However, the prevailing view of the government was that the public expected and were entitled "to have the law implemented" (Anderson Interview 26/9/95:10; NSW Police News June 1983:10-12). The Minister's view of policing operations on the other hand required a hands-on approach, rather than a distant association by the government:

It would be wonderful to have a situation with the Police Force or Service so effective, so free of problems that the Minister responsible for that body might sit back and perform some other portfolio with the police as an adjunct. I haven't seen it happen anywhere (Anderson Interview 26/9/95:10-11).

Clearly, the dilemma for Minister Anderson, argued in the research data, was the need to separate the "public concern and interest...from the policy of the government of the day" and the ‘operational independence’ of a police commissioner (Anderson Interview 26/9/95:5). The advice from the Parliamentary Select Committee (1993) recommended that legislation based on a bipartisan agreement determine what the "law in this state meant in terms of power of direction" from a police minister to a police commissioner (Anderson Interview 26/9/95:5; NSW Joint Select Committee upon Police Administration 31/3/93:325). To achieve this objective bipartisan support was a critical issue, since the current police legislation had the ‘power of direction’ resting with the Police Board and the Minister. The ultimate result was not a bipartisan agreement on the ‘power of direction’ but rather a Royal Commission into police corruption (NSW Parliamentary Debates 11/5/94:2286-2290).

This dichotomy between the use of ministerial powers and the common law powers of a police commissioner as a constable was claimed to be well understood by Minister Anderson. Minister Anderson had travelled extensively to study the powers of government in policing a complex society (Anderson Interview 26/9/95:6). As for the separation of powers in the policing context, Minister Anderson defined this concept by
arguing that structures were put into place by the government of the day such as establishing a police board to prevent interference in policing operational ‘independence’. The argument was not sustainable:

The separation argument is as valid or as important as it once was. Provided those safeguards are in place (referring to the establishment of a Police Board), then I think it is reasonable. What you do need to have is a situation where neither a Minister nor a Commissioner is a law unto himself (Anderson Interview 26/9/95:11).

An important issue Police Minister Anderson had to deal with was the ‘independent’ structure of the Police Board and the public perception of a non-interfering policy with the Police Commissioner. This was resolved by the appointment of board members who had politically neutral backgrounds (Government Officers Magazine July 1985:10-12). The board had wide powers relating to the appointment of senior police officers which seriously affected morale and the performance of the Police Service (NSW Police News December 1983:3; January 1984:3). This morale problem created a flashpoint in the organizational values for managing the senior personnel by the Police Commissioner and the Minister (Anderson Interview 26/9/95:7-8).

Minister Anderson believed that when the government defined a new policy and provided the resources, it was then up to the Police Commissioner to determine the "administrative and operational impact" (Anderson Interview 26/9/95:14; NSW Police News June 1983:10-12). All of these aspects then had to be considered as "part of the original decision because of the working relationship between the Commissioner and the Minister" (Anderson Interview 26/9/95:14). The budgeting requirements were a complicated process. It was not easy to determine by a process of re-prioritization and the government did not want an "ever expanding policing bill unless it could see the public getting value for money" (NSW Police News April 1985:12):

Policing has an impact in this area, that's not shown. What if you have got some police who are ninety-five percent of the time allocated to traffic, but five percent of that number are caught up because they have been doing moving patrol work....Instead of defining what the priorities are and appropriately resourcing them...everyone is caught up with cost-counting and mission
statements and all that sort of business (Anderson Interview 26/9/95:14).

The problem of resourcing police during a period of reform was an issue regularly debated with the NSW Police Association by Minister Anderson and Commissioner Avery (NSW Police News June 1983:10-12).

Minister Paciullo however adopted a more flexible ‘dependency’ approach to policy determination by relying on advice from the Police Commissioner, his "own political experience" and the independent source of the Office of the Minister for Police and Emergency Services (NSW Police News June 1985:19-22). His "political experience" included outcomes from media reports and listening to people's views (Paciullo Interview 29/9/95:4). The adoption of government policy by the Police Commissioner, according to Minister Paciullo, was by a communicative technique which included consultation with the public, the Office of the Minister for Police Emergency Services (a specialist policy unit), and Treasury officials, where resources were required, and the Police Commissioner (Paciullo Interview 29/9/95:4; NSW Police News June 1985:19-22).

The ‘dependency’ strategy applied by Minister Paciullo, based on the research information, was that government policy always prevailed because the "government was elected to govern" (Paciullo Interview 29/9/95:4). Nevertheless, the issue of policy implementation was not quite as "black and white" as that. Often problems with the delivery of service or complaints from the public about police behaviour were concerns discussed with the Commissioner, needing also a public response (Paciullo Interview 29/9/95:4). As for operational issues, they were left to the Police Commissioner. Nonetheless, consultation was often encouraged on specific operational problems, government policy and allocation of resources:

Of course the Minister would want to know because it reflects on the administration and subsequently the government of the day. He would want to know what steps had been taken to correct any decision in management...Those battles are dealt with more on the basis of problems handled by the Police Commissioner rather than the minister, as he has a day to day role in police management and operations. If he wasn't getting the money to address policing needs, of course he'd raise it with me, despite the fact that he knew I have the ...total right to make those decisions...They're the kinds of issues you discuss and if the relationship is right you will fix them up (Paciullo Interview 29/9/95:5).
In addition to advice from the Commissioner, other government portfolios, for example the Justice Department, also had input into policing policies, for example, prosecution practices which had to be managed within the relationship context (Paciullo Interview 29/9/95:5).

Public sector and community experience helped Minister Paciullo understand operational issues and influenced his decisions on police patrolling strategies to the effect that "police were losing their association with the public". Accordingly, there was a need to get the police back on the beat with the "police being seen as very important in terms of public and criminal perception of how well secured a place is" (Paciullo Interview 29/9/95:6; NSW Police News June 1985:19-22). This strategy for policing governance was supported by the Police Commissioner's operational style and was not seen as political interference, rather as part of community-based policing (NSW Police News June 1985:19-22 & 23-24). Minister Paciullo was able to develop the public role of operational policing 'independence' by working with the Commissioner "down to grass roots....by knowing what was going on, by having information and closer views on what was happening in the field. The better his knowledge as to what was going on, the greater the chance of the right results, and therefore public security achievement" (Paciullo Interview 29/9/95:20). Both parties had balanced policy and operational 'independence' by applying the 'explanatory and co-operative' principle to policing issues.

This policing concept of highly visible public presence was a critical platform to Minister Paciullo's government policy initiatives, particularly in applying the operational argument of the deterrent factor or "fear of being caught" (Paciullo Interview 29/9/95:7). However, Minister Paciullo acknowledged the need for operational 'independence' and control by the Police Commissioner on specific issues, such as car theft, road safety and illegal casinos. The issue of closing illegal casinos was supported by the government and the Premier of the day:

I had a problem about illegal casinos because I took the view that there will always be cynicism as to what was going on behind the scenes, that they were being assisted in some way or other...They were there and people would go (Paciullo Interview 29/9/95:8).

This influencing of operational decisions was legitimized when it was seen as a government policy. There was an approach of legal accountability by the Commissioner for specific illegal activities such as casinos which had not been addressed by the police.

**COMMISSIONER'S VIEWS - OPERATIONAL INDEPENDENCE**
Police Commissioner Avery recognized that under the New South Wales Police legislation the Police Minister had the power to direct but the Minister could not tell "police what to do operationally". This view was supported by the Police Board which regularly stated that there was "ministerial interference" occurring. Often Commissioner Avery would discuss issues with the Police Board. In fact the "first Board report that we wrote after twelve months of operations", he said "we were critical of the government" for applying ministerial controls over operational ‘independence’ (Avery Interview 30/9/95:13; NSW Police Board Report 1984-85).

Commissioner Avery commented in an address in 1985 that the appointment of a Police Board did not necessarily abrogate the Police Commissioner's powers. In practice, the Board members did "not interfere with the operational directions of the force". The Board, nevertheless, provided a "welcome extension of the management capacity of this vast and complex organization" (NSW Police News July 1985:20-21). Minister Anderson at the time "offered to assist us and sorted out the difficulties between the Police Board and the government before the next report was due" (Avery Interview 30/9/95:13). Much of the criticism by the Police Board, according to Commissioner Avery, related to detailed government policy initiatives which "tended to come from the Minister and staff" and often impacted on police operational functions (Avery Interview 30/9/95:12).

On this aspect presented in the research material, Commissioner Avery referred to incidents about the placement of detectives at a particular centre and a senior officer at a district office which the Police Minister questioned at length, particularly the rationale for the decision, even when budgeting and crime trends were supplied to justify the action taken (Avery Interview 30/9/95:10). The reality regarding political interference in the decision-making process did occur on operational issues and from both political ideologies. As indicated by Commissioner Avery:

The conservatives were more yielding. You could get involved but the Labor people tended more to say that we don't interfere with operational matters. And neither of them, while they held to those sorts of tendencies, lived by them (Avery Interview 30/9/95:11).
Operational interference was not limited to the Police Minister. Often the Police Commissioner was contacted by the Premier's office to deal with specific operational issues affecting the political image of the government in power (Avery Interview 30/9/95:13). This political interference was exacerbated by political branch meetings which on one occasion suggested that the local police were corrupt because there were "young prostitutes out there working the road and cops weren't doing anything about it. They were obviously all corrupt" (Avery Interview 30/9/95:22). Further problems ensued involving Commissioner Avery and Police Ministers regarding police corruption which was to later explode in the 1994 New South Wales Royal Commission into Police Corruption (NSW Police News July 1985:14-16 & 20-21; Weekend Australia 29/12/90:5; Sun Herald 4/7/93).

The administrative issue of program budgeting had an effect on the operational effectiveness and policy advice between the Police Commissioner and Minister. But it was a requirement of Treasury which could not be ignored:

[Avery] said [to the Treasurer] you mean to say that you are going to take manpower as a cost, so that we actually sit down and work out whether or not an operation that we undertook was cost effective. Well we want to know what each program costs and they could work out what traffic blokes cost and what the detectives cost. When it comes to the coppers, they're doing a bit of traffic, they're doing a bit of investigation and they get bogged down; they just couldn't apply it (Avery Interview 30/9/95:26).

Even the purchasing of significant resources affected operational performance. This was illustrated by Commissioner Avery by the supply of helicopters to the Police Service and the differences over which types would be most appropriate. In the end a political decision was needed (Avery Interview 30/9/95:28; NSW Joint Select Committee upon Police Administration 31/3/93:193).

Commissioner Avery believed that the most difficult problem was explaining to the government the implementations of law and order policies of the government and their impact on the wider community and criminal justice system. Commissioner Avery believed that although the criminal justice system has an important part to play in society, the system had become ineffective due to the nature of society and the corruption within the system (Government Officers Magazine July 1985:20). In
particular, on the issues relating to ‘juvenile justice’ and ‘gun laws’, the difference between a "rehabilitation program" and a "get tough on juveniles approach" caused difficulties in the role and functions of policing a state. Commissioner Avery was able to highlight the cautioning scheme and its effectiveness to Labor Minister Paciullo. He accepted the approach but this was not the case of the newly appointed conservative minister in 1987 (Avery Interview 30/9/95:34). A similar situation occurred with the Labor Party wanting to institute gun laws. The political impact on policing and government resulted in one of the causes why the Labor government lost power (Avery Interview 30/9/95:35).

Certainly Commissioner Avery argued that the government was responsible for implementing government policy but the police should be responsible for "pure operations". On administrative policies it should be shared between the minister and the commissioner depending on the nature and level of the issue. This was summarized by Commissioner Avery in a view that:

If it's right or wrong as far as government's policy is concerned, you can't blame the Commissioner for government policy. If it's right or wrong with operations they like to sneak a bit of the credit if they can (Avery Interview 30/9/95:37).

Although the Police Ministers believed in operational ‘independence’, the research evidence from the Commissioner's interview supports the notion that political involvement in operational issues was always present. The Ministers argued that there was a need for ministerial accountability under the Westminster system of government. The problem in relationship between the parties often stemmed from where the most appropriate level for policy formulation should occur and who should be involved in the decision-making process. Often political or government policy reflected significant operational ‘dependency’ concerns. The conciliatory factor in the ‘dependency’ relationship with the Police Commissioner was the ability of the Ministers and Commissioner to communicate and accept general principles of community based policing and law enforcement ideals.

RELATIONSHIP, MANAGEMENT AND CHANGES - MINISTERS’ VIEWS

Public perception of the ‘dependency’ working relationship between the police minister and the commissioner was critically important to Minister Anderson. This view of his
often supported the relationship's performance:

As a general rule, providing the Minister is acting properly, I don't believe a Commissioner ought to prevail over the Minister. It is unfortunate that the perception in the media of (a Commissioner's) situation arising from the select committee doesn't fully explain the evidence (Anderson Interview 26/9/95:9).

Minister Anderson further explained that a commissioner should not become embroiled in any political or party debates and argued strongly that "it is important for the commissioner of police to have a reasonable public profile. If they are to be responsible in the main for operational decisions, why should the minister be defending something over which he allegedly has no control" (Anderson Interview 26/9/95:12). This does not mean that a commissioner should be excluded from the public discussion of issues:

If it's good enough for the Chief Judge in the Family Law Court, or the Chief Justice of New South Wales, or the Director-General of Education to participate in public debate on issues within the province of that particular portfolio, why not the Commissioner of Police? The only reason Governments are concerned about it, is the Commissioner might say something they don't agree with or may cost the Government money (Anderson Interview 26/9/95:12).

Minister Anderson suggested that a commissioner should express views and have a similar standing as "person on the Council of Civil Liberties" (Anderson Interview 26/9/95:13).

A police commissioner has to accept that public criticism would occur and that the government would be concerned for the direction and performance of policing, argued Minister Anderson:

They (Police) are empowered by the community. They get their resources; they get their powers; they get everything else from the community and they are accountable to the community. I know that accountability is not in a lot of police dictionaries (Anderson Interview 26/9/95:13).

Minister Anderson argued further that police are the creation of society and "they survive only so long as society lets them ...If politics is about policing, it's about people...and guaranteeing people the right of freedom...in public streets" (Anderson Interview 26/9/95:15). This community relationship and ministerial accountability between the police minister and commissioner should go further, according to Minister
Anderson’s response to the interview questions, and include accountability measures causing local patrol commanders "to move amongst the community" (Anderson Interview 26/9/95:16; NSW Police News July 1982:8-9). This would divert the nature of accountability to the community and the police at "the grassroots" (NSW Police News June 1984:10-12; April 1985:12-14). How this mutual community accountability at the grassroots interfaced with a Westminster system of government was not fully explained. Nevertheless, the notion of a police board is believed by the Police Minister to be the symbol of mutual community and operational accountability.

A vital factor in the New South Wales police minister/commissioner relationship is the role and structure of the police board. The New South Wales Police Board is often seen as a mediator to reduce public brawls between the two parties. Minister Anderson believed that legislative changes to the Police Board could be incorporated to have the Board become involved in policing and government issues by reducing operational ‘independence’ of the Police Commissioner. Then, if the "problem is still not resolved...The Board then has the opportunity in its annual report or special report to Parliament to raise the issue. One would assume in practice that the Chairman of the Board would also raise it beforehand, if it wasn't resolved" (Anderson Interview 26/9/95:17). The ultimate outcome using the Police Board to resolve conflict was summarised as follows:

> Because if you don't, the political wing, the government is going to swing generally behind its Minister. The Police Service is going to swing behind its Commissioner...That's where the Board can play a role probably not previously foreseen. It really does come down to the two individuals at any point and their ability to work together....One would like to believe that if there was fault on the part of a Minister that at some point the Head of Government, he, the Premier of the day, would be sufficiently informed to be aware of it so that we could take some appropriate action. And of course it's a question of the competence or otherwise of the Commissioner of the day. The Board has within its role to deal with that anyway (Anderson Interview 26/9/95:18).

The alternative view of Minister Paciullo was to emphasize the importance of a balanced approach between a 'dependent' and 'independent' relationship with the Police Commissioner (Paciullo Interview 29/9/95:7). Any significant problems in the relationship, argued the Police Minister Paciullo, should be referred to the Premier. Of paramount importance were personal traits of each commissioner, otherwise it would be
difficult to operate successfully within the relationship. Alleged "incompetence or illegal or improper activity" by a police commissioner would cause working impracticalities. This would cause major problems for the government and particularly for a minister who was not corrupt (Paciullo Interview 29/9/95:8-9).

Minister Paciullo was supportive of the ‘dependency’ notion of a police minister expressing views on government policy and the police commissioner confining his comments to operational and public concerns (NSW Police News June 1985:19-22). This approach should be managed through daily communication and "that communication was largely based on trust" (Paciullo Interview 29/9/95:13). This trust ethic was the basis as to how the personal ‘interdependent’ relationship should operate in Minister Paciullo's opinion. For that purpose, both Police Commissioner Avery and the Minister Paciullo were experienced in their respective roles and developed a personal relationship, according to the research material, based on trust and open communication (NSW Police News June 1986:19-22).

The Police Minister was an ex-public servant and espoused core ‘interdependent’ values that should exist in the public sector, including the views that "there has to be trust; there had to be communication; there had to be integrity of purpose; and there had to be understanding of each other's respective roles" (Paciullo Interview 29/9/95:18). A new public servant and minister relationship was in operation in that Minister Paciullo treated Police Commissioner Avery as the "general manager" responsible for staffing issues and direct organizational responsibilities (Paciullo Interview 29/9/95:18). However, Minister Paciullo wanted a transparent approach to how advice and information was to be conveyed. Any public concerns had to be properly addressed (Paciullo Interview 29/9/95:23). Often the practice between transparent advice and the reality of operational issues had developed from a "culture" which was based on developed relationship conventions between "the police and the government and the public" (Paciullo Interview 29/9/95:23).

**COMMISSIONER'S STANCE - INTERDEPENDENCY APPROACH**

Commissioner Avery argued in the research data that Police Ministers Anderson and Paciullo did not generally create difficulties or major tensions in the administration of
policing "except for maybe when allocating police to various areas. They were pretty smart too. They'd say well most crime happens in Labor electorates. One cannot argue with that" (Avery Interview 30/9/95:12). However, Commissioner Avery believed the Premier and Ministers showed support for the general management of the organization by the Police Commissioner. When interference did occur or when the Police Board believed that there was too much political interference as was observed in 1984, then difficulties in the relationship were publicly expressed (Avery Interview 30/9/95:13). To achieve any success in a police minister/commissioner relationship, there was a need for a "sense of collaboration. The more you try to legalize it; the more they’d be watching one another like lawyers; but the more collaboration you get, the more you get done....A lot goes with informality and trust" (Avery Interview 30/9/95:39).

Throughout the policy implementation process there often appears to be a difficulty in the police minister/commissioner relationship, according to the research data, when the notion of operational ‘independence’ is required on the part of the police commissioner. Here, the emphasis appears to be on a greater need for attention to the development of government policy and how it impacts on operational requirements. Secondly, the other core issue deals with the role and functions of the police commissioner and minister as they give effect to political accountability and responsibilities. Open communication, defined policing objectives and gaining public confidence were key ‘interdependency’ values which existed within the private relationship between Commissioner Avery and two Police Ministers. However, the changing nature of policing and politics saw regular paradigm shifts within the relationship among the three models.

**CONCLUSION- MUTUAL UNDERSTANDING**

Key aspects of Minister Anderson's approach to achieving a better policing role and relationship between the Minister and Commissioner, revolved around research and development of policing policy generally and of "exposure to a wider range of considerations", which would make the Police Commissioner more ‘dependent’ on the Minister (Anderson Interview 26/9/95:19). Another issue related to the Police Board being seen as an impediment to the performance of the relationship and operational issues. That impediment permeated down into the structure, particularly when the Board took sides on an operationally ‘independent’ matter. Minister Anderson
suggested that the "Board ought to identify and try to help", particularly on police education, training development and management issues (Avery Interview 26/9/95:19).

Minister Paciullo believed that the development of the relationship was the role and functions of the minister. The minister should be kept "abreast of crime trends especially as technology improves" and an increase in "administrative roles rather than enforcement I think should be looked at", he said (Paciullo Interview 29/9/95: 21). However, the prominent issue related to public safety:

The simple fact of life is that we never seem to have enough human resources to protect the public to their expectations; that is their security (Paciullo Interview 29/9/95:21).

Associated with public security is the notion of how politics interact and the right of government to determine the public interest. This was summarized by Minister Paciullo as follows:

I mean politics is the art of government; government is for the people. You cannot ignore the perceptions and the fears, or the lack of confidence...otherwise everything falls down. In the end the public's interests have got to reign supreme and that means government has to deliver. But having said all that, it then becomes an issue as to how effective the police minister is in communicating. What I'm saying is that you can't just blot out political reality. Because all of us, whether we like it or not, have a need to understand that the public interest, be it real or perceived, has to be given prime consideration (Paciullo Interview 29/9/95:16).

Unfortunately, the reality is that ‘operational independence’ does not occur because policing is about politics. As Commissioner Avery points out clearly that the Minister constantly influenced operational policy and "(the police) can't understand how anybody ....can 'love' a police organization where there is so much political interference" (Avery Interview 30/9/95:17).

The threshold issue relating to the management of the commissioner/minister relationship rests in the doctrine of ‘independency’ of the office of commissioner, according to common law. Much of the separation - of - powers model is losing its meaning with the "reworking of the constitution" by governments (Avery Interview 30/9/95:29). The discretionary power of the commissioner is being eroded and caught up in parliamentary legislation and government executive processes. Consequently, the ‘independence’ of the commissioner is being realigned "with the balance of power"
resting with the government control (Avery Interview 30/9/95:29). Commissioner Avery referred to the Dunstan and McKinnon Inquiry suggesting that governments often make operational decisions which are political in nature and affect the performance of the police commissioner's ‘independent’ position at common law. The relationship can not be managed by more laws but to get the right people who Commissioner Avery referred to in a biblical sense: "You can't create people even if you could design regulations, if you like, - down off Mount Sinai unless you have got the right people" (Avery Interview 30/9/95:38-39).

However, the difficulties and tensions between the parties often related to the notions of political ‘dependency’ and operational ‘independency’. This specific issue was reflected in the previous case studies. The Ministers who acknowledged operational ‘independence’ believed they had a responsibility to ‘interfere’ or ‘influence’ the outcomes of operational policing for the purpose of achieving government policy and political accountability. Thus the Police Minister operates on the premise of political accountability, including ministerial conventions, acceptance of the power of parliament and the emerging concept of local mutual community accountability. The Commissioner on the other hand, although accepting the need for political accountability, had frustrations in accepting operational inefficiencies and ineffectiveness of poorly defined government policies which were not capable of being implemented. Further, government policy often impacted on the powers and obligations of the Commissioner’s performance. The threshold issue stemmed around the roles and functions of the minister and the commissioner generally.

However, in this case study, which was similar to the Whitrod/Hodges and O’Sullivan/Braddy case studies, both Ministers and the Commissioner accepted the need for personal values within an ‘interdependent’ relationship such as trust, defined roles and the need for regular and effective communication. Much of the success in the private relationship between Commissioner Avery and the Police Ministers appeared to be centred on core values developed by an astute and educated Police Commissioner. The values came from a policing ideology that social control could not necessarily be imposed on the community by legislation. The emphasis was on providing a service to the community as well as endeavouring to protect the public from harm. The problematic issue for the Commissioner and Ministers was how to find the balance
between the requirements for ‘dependency’ and ‘independency’ with its legal implications and linking them to core relationship values identified in the ‘interdependency’ model.
CHAPTER 12 - THE EXTREMES IN POLICING AND POLITICS

During the 1990s the New South Wales Police Service experienced major difficulties which resulted in a Royal Commission into police corruption (New South Wales Parliamentary Debates 11/5/94:2296). The relationship between police ministers and the newly appointed police commissioner was to cause a fracture within politics and a parliamentary inquiry ensued before the Royal Commission. The ministers referred to in this case study are from a conservative political background. Instability within the organization and between the police and the government escalated further with the police being criticised for mismanaging several major operational investigations. Further accountability mechanisms were put into place by the government including anti-corruption agencies, overviewing of administrative agencies and an internal inspectorate function (NSW POLICE BOARD ANNUAL REPORT 1990-91).

It must be stated that the details in the interviews obtained from the two conservative ministers and personal adviser were limited because of the Royal Commission investigating police administration at the time (Royal Commission into NSW Police Service February 1996/May 1997). Moreover, a writ for defamation had been taken out by one of the parties being interviewed which involved other parties to be interviewed. This process was also to affect the responses to the structured interview.

An analysis of the field research material, media reports and other data shows how the relationship between Ministers Pickering and Griffiths and Commissioner Lauer operated and can be defined by the following matrix:

<table>
<thead>
<tr>
<th>NAME</th>
<th>POLICY</th>
<th>ADMINISTRATION</th>
<th>OPERATIONS</th>
<th>PERSONAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>PICKERING</td>
<td>DEPENDENCY</td>
<td>DEPENDENCY</td>
<td>DEPENDENCY</td>
<td>DEPENDENCY</td>
</tr>
<tr>
<td>GRIFFITHS</td>
<td>DEPENDENCY</td>
<td>INDEPENDENCY/ DEPENDENCY</td>
<td>INDEPENDENCY</td>
<td>DEPENDENCY/ INTERDEPENDENCY</td>
</tr>
<tr>
<td>LAUER</td>
<td>INDEPENDENCY</td>
<td>INDEPENDENCY</td>
<td>INDEPENDENCY</td>
<td>INDEPENDENCY</td>
</tr>
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</table>

(1) Dependency - Police Minister controls Department (2) Indepency - Police Commissioner is operationally independent (3) Interdependency - Police Minister and Commissioner work co-operatively to achieve a common purpose.

Based on the field research interviews, Ministers Pickering and Griffiths
operated primarily within the ‘dependency’ model and Commissioner Lauer within the ‘independency’ model. But Minister Griffiths did operate on occasions within the ‘independency’ and ‘interdependency’ models. These relationships covered the time period from 1991 to 1996.

Commissioner Lauer was an operational police officer who argued strongly for ‘operational’ independence. The research material substantiated Lauer's operational independent view. However, the Police Ministers wanted the government policy implemented and required the Police Commissioner to support the Minister and the ‘dependency’ approach to the relationship. This ‘dependency’ approach was to cause major difficulties for Commissioner Lauer.

Minister Pickering was actively interested in promoting policies of police education and tackling organized crime, appropriate police powers and increased resources (Pickering Interview 25/6/97:1-3; NSW Police News July 1985:18). Minister Pickering had worked with two police commissioners and was somewhat compatible with one of the commissioners due to similar religious and social values (Pickering Interview 25/6/97:3-6; Directions in Government March 1991:28). The appointment of a new police commissioner, Commissioner Lauer by the Police Board during Minister Pickering’s time was to begin a period of mutual contention between the two (NSW Parliamentary Inquiry 1993). The NSW Police Service Act 1990 provides that the Commissioner is responsible for the management and control of the Service; and, like the Police Board, is subject to the direction of the Minister, and he/she must also implement decisions of the Board. Broadly speaking, the Minister and the Board are responsible for policy, and the Commissioner for operations (NSW Police Board Annual Report 1990-91). Police Commissioner Lauer had a strong affiliation with the NSW Police Association and had specific views about how to police the state and about the role of government in operational ‘independent’ issues, which were different to those held by Police Minister Pickering.

Essentially, the personalities of the two parties were to have a significant impact on the relationship and politics in the state generally. Public views and statements on government policy relating to firearms control by Commissioner Lauer were perhaps the commencement of the personal difficulties and ultimately the total deterioration of the relationship.
The government had a policy... We clearly won the 1988 election on gun laws and I had been the shadow minister responsible... Lauer to my amazement decided he wanted to introduce a whole range of measures... I just said to him that the government will not accept those policies (Pickering Interview 25/6/97:14).

The fact was compounded by Minister Pickering experiencing problems with a range of operational activities and corruption which embarrassed the government and Minister (NSW Royal Commission 1997; NSW Police Service Weekly 24/2/92:14). These problems exacerbated the relationship differences.

The core 'dependency' issue between the two parties related to the Minister's view that he needed to be a "hands-on Minister". The Commissioner resented "his continual interference in the management of the Police Force and to some extent that was a criticism with some validity" (Yeomans Interview, Principal Policy Officer-Pickering 10/4/96:3; NSW Parliamentary Inquiry Attachment 1993:102; The Bulletin 10/7/90:38).

In a letter to the Chair of the Police Board (1993:211), Minister Pickering argued that Commissioner Lauer was always too busy for liaison and it was impossible to initiate "any meaningful verbal communication with my office, even following quite significant operational problems" (NSW Parliamentary Inquiry Annexure 1993:14; NSW Parliamentary Inquiry 1993:211).

Commissioner Lauer's response was that Minister Pickering should only be contacted on 'exceptional issues' (NSW Parliamentary Inquiry 1993:219). The NSW Parliamentary Inquiry (1993:325) had indicated that Commissioner Lauer had "committed several serious transgressions in terms of the proper minister/commissioner relationship", which the commissioner accepted as causing much damage to many people. The Parliamentary Committee investigating was "not impressed with the speed and efficiency of police administration" (NSW Parliamentary Inquiry 1993:87; The Bulletin 18/4/93:19). Minister Pickering believed, as did another independent politician, that the problem could be resolved by dismissing the Commissioner (NSW Parliamentary Inquiry 1993:213). However, the legislation at the time required Parliament to dismiss a Police Commissioner. To resolve this legislative impasse the Minister's office recommended changes to the Act of Parliament regarding the powers of dismissal of a Police Commissioner. This proposal was known by the Commissioner and this caused further problems in the relationship (Yeomans Interview 10/4/96:3).
Ultimately Minister Pickering was moved to another portfolio. A new Police Minister was appointed (NSW Police News October 1992:18). The challenge for Minister Griffiths was to "increase morale" which had been dropping due to the difficulties in the prior relationship (Sydney Morning Herald 23/9/92:5; NSW Police News October 1993:27). A 'co-operative' approach was adopted by Minister Griffiths, which was to work with the Police Commissioner as a team (NSW Police News October 1993:27):

Well, I've always said right from the start that no individual whether they be Minister, Premier or Prime Minister can achieve anything on their own. You are only as effective as your team allows you to be. There needed to be a close personal and professional relationship between the commissioner and the minister. Unless you have a personal understanding of each other, and a professional respect for each other, you cannot operate satisfactorily at that level" (Griffiths Interview 25/9/95).

The Police Minister was also attempting to stabilize the government's policy on law and order, to improve management style and introduce better systems in the Police Service prior to an upcoming election. Minister Griffiths was only to remain in office for a short period due to internal conflicts within his ministerial office and the parliamentary organization involving allegations of Police Service corruption (NSW Royal Commission 1997; NSW Police News October 1993:27).

Organizational communication and 'independent' leadership were the hallmarks of Commissioner Lauer's administration during an era of major criticism of the police and political unrest because of the police. Commissioner Lauer who had been a Police Association President during the early reform period argued strongly with the Police Board for the Commissioner to focus on "communication....throughout the Police Service and between the Commissioner and the constable" (Lauer Interview 12/4/96:1; Sydney Morning Herald 26/3/94:6A; The Bulletin 9/11/93:18; NSW Police News April 1991:4). The major reason for the Commissioner's interest in improving communication and 'independent' leadership related to experiences which occurred during visits to the New York Police Department in the late 1970s and early 1980s after the Knapp Commission of Inquiry into police corruption there (NSW Police News August 1991:4). The Commissioner needed to appear to be in control. Minister Pickering however stamped his 'controlling' influence on the newly appointed Police Commissioner's power by moving him out of the Commissioner's office and installing himself in it (Lauer Interview 12/4/96:2). It was seen as a symbol of Minister Pickering overstepping the
mark of ‘operational independence’ (NSW Parliamentary Inquiry Attachment 1993:102), although Commissioner Lauer believed the move was to improve "face to face communication" (NSW Parliamentary Inquiry 1993:207).

During Commissioner Lauer’s administration, four ministers were to overview the police portfolio promoting the ‘dependency’ approach. There was extensive criticism of management styles, management and organizational systems, corruption allegations and the Commissioner’s performance, were the typical responses by ministers to managing the police portfolio. However, Commissioner Lauer did not see a need for the ministers "to play any role in" the operations and leadership of his administration (Lauer Interview 12/4/96:2). Several reviews of the organization and the working relationship between the police minister and commissioner resulted.


**ROLES - EXTREMES IN VISION - MINISTERS’ VIEWS**

Indeed, there was a substantial management problem: the largest police agency in Australia existed in New South Wales, administrative accountability imposed on police was complex, and joint enforcement agencies shared the law enforcement role. This is a difficult responsibility for any Police Minister. Government policy for policing is the responsibility of the Police Minister. Minister Pickering had studied policing policy internationally and wanted a police service that was "honest and efficient" in implementing government policy (In the Job, June 1988:25; Pickering Interview 25/6/97:6). The implementation of a government policy, according to the research material, became the issue for Minister Pickering. He had to determine the "fine line as
to where the Minister's power to direct the Commissioner should cease". This determination was important to the Minister's ability to achieve the government's direction (Yeomans Interview 10/4/96:3; Pickering Interview 25/6/97:17). The core role of the Minister was described by Minister Pickering in an address to Senior Officers in 1992 and at a Parliamentary Inquiry in 1993:

Now over the years there has been much learned debate on the interpretation of the minister's power of direction. My extensive reading of that historical debate leads me to the conclusion that the minister is empowered by law to issue any direction to the board/commissioner he sees fit, provided it is a lawful instruction. I would add however, as a rider, that the direction must also not subvert a police officer's statutory duty or common law right of discretion of the office of constable.....Now in actual practice sensible police ministers have left the operational side of policing to the commissioner. Now having said that, I am sure that ministers and commissioners have always and will always enjoy spirited discussion as to the definition of the word 'operational'. Early in my ministerial career I asked the Crown Solicitor to furnish me with his interpretation of my powers under the law. He advised me that it would be improper for me, as Minister, to attempt to interfere with the Commissioner or any other member of the Police Service who has a statutory duty to perform, or where such member of the police service is required by common law to enforce the law. Likewise, the Crown Solicitor advised me that the minister should not interfere where the commissioner is exercising a personal discretionary power rather than a mere discretion. ...Clearly it would be intolerable for a minister to attempt to actually direct the day to day management of any police investigation. However, historically, parliament has certainly expected ministers to be completely briefed on such details in special circumstances. That is a requirement which senior police must understand and uphold to ensure a proper flow of information. Just how often a minister gets involved in briefings of this nature must be a matter of real judgement for the minister and the commissioner. Obviously these briefings can be subject of serious complications for the police minister (NSW Police Service Weekly 24/2/92:16; NSW Parliamentary Inquiry 1993:277).

Minister Pickering understood the nature of 'operational independence' and in that regard he could not direct the Commissioner or any police on operational matters. In an address to the NSW Police Association, Minister Pickering stated he would "strenuously defend the right and responsibilities of the commissioner of the day to lead the Police
Service on a day to day operational basis, free from political interference" (NSW Police News July 1985:17). An example used by Police Minister Pickering to illustrate this ‘fine line’ related to the random breath testing (RBT) laws at any location and the targeting of the death toll on New South Wales roads. Often the government's direction was not implemented and Minister Pickering assumed that elements of the Police Service were not in favour of the RBT program, because it was seen "as dull and a terrible program". Even the politicians were not "keen to have the RBT" because of its massive impact on the voting community (Pickering Interview 25/6/97:2; NSW Police News July 1985:19). Minister Pickering believed ministerial 'power of direction' should be used for this type of problem. This would cause the Minister to become "more interventionist" and to accept the notion that he had "strong powers of direction over the Police Commissioner and over the ‘operational independence’ of police" (Yeomans Interview 10/4/96:4).

Minister Pickering also believed and argued in the research interviews that there should be ‘ministerial power’ to act where a commissioner fails to follow directions. A police minister should have the power to remove the commissioner "where the minister loses the confidence in the capacity of a commissioner to carry out his job effectively" (Pickering Interview 25/6/97:14; NSW Parliamentary Inquiry 1993:3). Minister Pickering had recommended a "no confidence" vote be presented in parliament to have the Commissioner removed (Australian 27/10/93:5; 1/11/93:3). At the time the NSW Police Association rejected the motion and fully supported the Police Commissioner, arguing that the Commissioner's removal "would lead to more political interference in the Force" (Sydney Morning Herald 22/10/93:7; Sun Herald 7/2/93:2; NSW Police News October 1992:17; The Bulletin 10/7/90:38). This power of dismissal by a police minister did not exist in New South Wales at the time. The law required both Houses of Parliament to remove a police commissioner. However, due to proposed changes by Minister Pickering the law in New South Wales was changed to allow the government, with the agreement of the Police Board, to dismiss a police commissioner who was not accountable to the Police Minister. Further changes to the dismissal powers were recommended by the Final Report of the Royal Commission into the New South Wales Police Service (Parliamentary Inquiry 1993:192; Royal Commission into the NSW Police Service 1997:342).
Minister Pickering’s strong ‘dependency’ view about ministerial responsibilities and ‘control’ was founded on the premise that he was "the public spokesman for the department in Parliament and often the defender of the department in Parliament...to ensure that the department is being properly managed" (Pickering Interview 25/6/97:7; Direction in Government October 1992:3; NSW Police Service Weekly 24/2/92:15). The Minister believed that if he had a competent and well managed department he would have remained at "arm’s length to some extent. But ultimately he was accountable to the Parliament and to the people. Ultimately he is responsible to ensure that the agency was well managed and [operated] within the budget the Parliament provides" (Yeomans Interview 10/4/96:5). So Minister Pickering believed it was his responsibility to ‘closely overview’ the day to day management of the police agency to ensure that the Police Commissioner managed the organization efficiently and competently (NSW Police Service Bill 1990, 2/5/90:5).

In addition to being responsible for the efficient management of the organization, Minister Pickering believed, as can be seen from the research data, that he had a responsibility to address major crime problems like "motor vehicle theft, robberies and drug problems and for that, the police should be given the appropriate resources to tackle these problems" (NSW Police News June 1990:27). The resource approach which was taken on drug enforcement established "a Drug Enforcement Agency working in conjunction with the State Crime Authority" supported by the police to improve the arrest and seizure rates for drug related offences (Pickering Interview 25/6/97:2). In addition to resources, the Minister argued for major changes to legislation on assets control of organized criminals. This was part of his fundamental responsibility in delivering the "kind of law enforcement that basically the community wanted" (Yeomans Interview 10/4/96). Minister Pickering was clear about the overviewing ‘dependency’ role of a police minister. However, Minister Griffiths had alternative views. Minister Griffiths certainly emphasised the need for ministerial involvement but saw his role as sharing responsibility between the organization and government.

The primary ‘dependency’ approach of the ministerial function, according to Minister Griffiths’ interview material, was related to team performance and having a clear understanding of the chain of command and the responsibilities of the organization (Canberra Times 7/4/93:2; NSW Police News October 1992:4). Minister Griffiths argued
that it was the minister's responsibility to implement government policy and to get the police commissioner to accept the policy even though the policy direction was "different from his own personal or professional views" (Griffiths Interview 25/9/95:2). To achieve success with policy outcomes required the commissioner to be given "clear directions" and have only "one boss" (Griffiths Interview 25/9/95:2; Sydney Morning Herald 21/1/93:1).

Minister Griffiths understood that there was a clear division of responsibilities between policy given by a minister and the operational mandate of a police commissioner (Canberra Times 7/4/93:2). The objectives were to ensure the integrity of the police and to ensure the proper levels of accountability were achieved (Directions in Government October 1992:3; NSW Police News October 1992:17; The Bulletin 9/11/93). Much of the thinking came from the Minister's previous experience in the military.

I believe that the Commissioner is the operational commander and should be able to command his own troops unfettered by the Minister....[H]owever he needs direction from the Minister on policy....[T]he government may want to achieve an objective in policing. They have the right legally and morally to tell the commissioner through the Minister what they want to achieve. But I do not believe that the government or the Minister have the right to tell the commissioner how to achieve his objective. For example, if teenage drinking or teenage drug-taking was prevalent in New South Wales...the government and the minister has every right to direct the commissioner to deal effectively with teenage drinking or teenage drug trafficking. But I do not believe it should go as far as saying how that will be achieved. If the Commissioner fails to achieve the objective, then the Minister can be more precise or replace the Commissioner, but you have to separate policy from operations (Griffiths Interview 25/9/95:2).

The role espoused by Minister Griffiths was one of non-interference in policing operations. This was to be achieved through features of the 'interdependency' model: teamwork, personal trust, commitment and clear instructions to the police commissioner. However, the critical issue not addressed was if the policy was not implementable, then what responsibility does the minister take as part of the team management approach?

The separation of policy from operations however was difficult to implement. The
problem was the dual roles the Minister held as the Chair of the Management Committee for the Crime Commission and as government policy provider to the Police Service. Minister Griffiths was responsible for the administration of the New South Wales Crime Commission Act and was the chair of the Commission's management committee from 1993-1994. The Management committee was responsible for the Commission's resources, investigations and co-ordination with other agencies (NSW Crime Commission Annual Report 1992-93:2-3). This role involved the Minister "in the day to day operations of policing, thus creating an anomaly in that regard" (Griffiths Interview 25/9/95:2; NSW Police News October 1993:32). Minister Griffiths argued that this role in the Crime Commission should be given to another accountable law enforcement executive (Griffiths Interview 25/9/95:3).

COMMISSIONER'S VIEW - OPERATIONAL INDEPENDENCE

In relation to the role differentiation between the Police Commissioner and Minister in New South Wales, Commissioner Lauer believed, according to the research information, that it was easy to define in principle:

A policing system which is independent of politics would be a policing system which, in every sense of the word, lacked accountability....Policing from its inception was created and structured to be independent from direct political interference. The uniqueness of the office of constable and the exercise of discretion are examples....Policing and politics are inescapably intertwined - this is especially so in a democracy. Another way of putting this is that you and I have to earn the confidence of our appointed minister and of the elected government....In democratic societies major public policies and directions are decided by elected representatives, usually under advice from their senior public service officers...The authoritative will of the people is expressed through parliament. The ultimate agency and arm of the people is the government and ultimate accountability rests with the minister, cabinet and the parliament, not public servants...Let me be clear about this: there is no acceptable way that policing can be left wholly to direction by police officers. We need ministers, boards, cabinets, parliament, courts and ombudsmen, general elections and voters. The Service needs executives who understand the reality of political life and the way it impinges upon policing. The minister will only be able to make the right choices - the right 'hard' choices - if he can act with confidence upon the advice which you and I and the Police Board
Generally, Commissioner Lauer argued that the role of the Minister "is to proclaim government policy and to ensure that the public service administers that policy. The Commissioner's role is to put that policy into the operational area" (Lauer Interview 12/4/96:3; Directions in Government March 1991:28). The reality of that proposition is that they have become "blurred to such an extent today it is very difficult to make a distinction between the two" (Lauer Interview 12/4/96:3; NSW Office of Ombudsman Report 1993).

So what is government policy and what is police administration? To understand the roles of the Minister and the Commissioner, Commissioner Lauer maintained that an understanding of government policy and police administration was required. On this, he referred to an illustration about government firearms policy presented to a parliamentary committee (NSW Parliamentary Inquiry 1993:232-236):

I prepared a paper which went to the Minister. As a public servant I could not give any evidence before the Parliamentary inquiry which touched on government policy unless the Minister approved... We went through every detail of that paper and the Minister would proclaim, that is a matter of policy. You are not at liberty to say that. We would then argue whether it was policy or not... It didn't seem that justice was really being given to the Parliamentary Inquiry when restrictions were as much as that (Lauer Interview 12/4/96:3; NSW Parliamentary Inquiry 1993:232-235).

The hearing into the firearms policy ultimately caused difficulty for the Commissioner who responded to questions which the Minister claimed were government policy and outside the Commissioner's responsibility (NSW Parliamentary Inquiry 1993:232-235). In response, the Commissioner maintained that he had an obligation to explain why government policy did not "enhance the effective management of the public service" (Lauer Interview 12/4/96:4; NSW Parliamentary Inquiry 1993:229). Police Commissioner Lauer at the time controlled the issuing of licences and put a freeze on the issuing of gun licenses after a shooting massacre (Sun Herald 29/3/92:31; Sydney Morning Herald 26/9/92:39; NSW Parliamentary Inquiry 1993:230).

However, Commissioner Lauer did acknowledge that he was bound to accept directions from the Police Minister and provide "honest advice" on "operational matters" (Lauer

I give an example of the Vietnam War when the Australians were engaged in a rather fierce battle which was resulting in a very high casualty rate. The then Minister of Defence directed the cessation of that particular operation on the grounds that Australians were indeed not prepared to accept that casualty rate. I believe they complied. On that basis there must always be a role for the Minister to direct...But what needs to be done...is that once the direction is given, my view is that the responsibility for the outcome shifts from the commissioner or the general in the field, to the person giving the direction and the power to give it (Lauer Interview 12/4/96:5).

This power of direction to a police commissioner on operational matters should also be made a functional process of political and parliamentary accountability. Commissioner Lauer supported the notion that it is the responsibility of parliament and the community to know what the directions are so that any "politicisation of the Police Service and its operations" would be made known (Lauer Interview 12/4/96:5; NSW Parliamentary Inquiry attachment 1993:102). These directions to a police commissioner should be written and tabled in parliament to protect the role of the police commissioner.

The Police Board also had a range of responsibilities which impacted on the Commissioner's and Minister's role and on functions in policing New South Wales (NSW Police Service Bill 1990, 2/5/90). As pointed out by Commissioner Lauer, the Police Board's role was to ensure "the integrity of the Police Service" which, to Commissioner Lauer, meant maintaining a degree of 'operational independence' (Lauer Interview 12/4/96:5; Direction in Government March 1991:28). This role of ensuring 'operational integrity' became important on ministerial issues relating to directions by the minister regarding the allocation of police resources. If a minister wanted "to honour all sorts of promises to the electorate either as part of their manifesto...or to see resources in particular areas" as it would impact on the "proper management in the Service", then the Commissioner should have the "operational independence to determine the outcome" and to be supported by the Police Board (Lauer Interview 12/4/96:6; Direction in Government March 1991:28; NSW Police Service Weekly 24/2/92:16).

The State Ombudsman stated at the NSW Parliamentary Committee (1993) that the
Police Board was "an extension of the Police Commissioner's Office" (Sydney Morning Herald 13/5/93:3). This basic notion of 'operational independence' by the Commissioner and the Police Board from "undue political" direction was not fully supported by Minister Pickering on resource allocations (Police Service Bill 1990, 2/5/90:5). However, the reality was that 'operational independence' was "not the case" and often the direction on the use of resources by the Minister was "unclear" (Lauer Interview 12/4/96:1). The method of 'ministerial accountability', argued Commissioner Lauer, should be one of advising the community and parliament about how police resources were allocated and ought to be used (Lauer Interview 12/4/96:6; NSW Police Service Weekly 7/6/93:5-10).

Essentially, Commissioner Lauer understood that the Commissioner was administratively accountable to the Minister, to the Parliament and to the people of the State. This was not to be confused with 'operational independence' of police. The commissioner had to be free from political or executive direction. The issue is:

(W)hether a police officer can be DIRECTED by the Minister and/or the Commissioner of Police to act or not to act; to arrest or not to arrest; to prosecute or not to prosecute. The relationship of the police officer has never been that of master and servant...he/she must answer to the law PERSONALLY for the exercise of his/her powers...Police independence, together with a vested discretion, and with the clear authority of the law. Should it become otherwise the police force would become the political tool of the government of the day whatever its political complexion (NSW Police News April 1982:2).

The nature of the role construction identified in this case study and based on the research evidence demonstrates the expectation of difficulties experienced between the Police Ministers and Commissioner. The Minister's, the Police Board's and Commissioner's relationships were premised on the extremes of the ‘dependency’ and ‘independency’ models. To achieve a suitable outcome in policing a complex state, the notions of ‘operational independence’ and the need for ‘government control’ caused difficulties. The Police Board did not appear to have the ability or mandate to resolve the role conflict between the ‘dependency’ and ‘independency’ models within the police commissioner/minister relationship. These extremes in the application of the ‘dependency’ and ‘independency’ approaches would ultimately cause a range of tensions in how policy, administration and operations are managed within the relationship between the Police Ministers and the Commissioner.
It was certainly acknowledged by Minister Pickering that he had no power to direct a Commissioner regarding the arrest of a person or to charge a person for an offence (NSW Police Weekly 24/2/92:16). At the time, Minister Pickering "had power to direct the Commissioner but sensible ministers left operational matters alone and should not interfere with a commissioner's discretionary power" (NSW Parliament Inquiry Attachment 1993:102; NSW Parliamentary Debates 11/5/94:2287). The advice received by Minister Pickering from the Crown Solicitor was that a "minister could quite properly formulate general policy for the operation of the police service" and this advice was shown to Police Commissioner Lauer (NSW Parliamentary Inquiry Attachment 1993:102; NSW Police Service Weekly 24/2/92:16).

Minister Pickering had a 'dependency' view that directions could be given to the Police Commissioner to target specific crimes and "undercover operations" (Pickering Interview 25/6/97:17). The argument for this approach was based on a belief that the minister is ‘ultimately accountable’ to the Parliament and the community for crime related problems, including police corruption. The minister maintained that the major reason why a New South Wales Police Commissioner would resent intrusion into ‘operational policy’ related to the image problems experienced by the department from police corruption allegations.

He (The Police Commissioner) wanted that image of the department which was terrific....and did not want that image dispersed by constant police raiding of police stations and coppers being put in jail for drug running (Pickering Interview 25/6/97:13).

However, the reasoning for this ‘dependency’ approach on organized crime and corruption was that Minister Pickering saw "the policy area was just literally being taken out of his hands by the Police Commissioner". If the minister wants an area targeted then the "minister must be able to go and direct the commissioner to target that area or even target a particular person" (Yeomans Interview 10/4/96:7).
This "interventionist" policy approach on operations had Minister Pickering stipulating that "nothing was sacrosanct" (Pickering Interview 25/6/97:17). An illustration given related to the licensing laws which Minister Pickering argued "could be equally well done by public servants and didn't need to be done by uniformed police. He virtually directed the police force to get out of licensing, which met with a huge amount of opposition" (Yeomans Interview 10/4/96:8). When the department did get into operational difficulties, as was the case in New South Wales with three major inquiries into failed police operations, it became the responsibility of the Minister to face "no confidence motions in the parliament and win them when the facts were put before the parliament" (Pickering Interview 25/6/97:14; Sun Herald 7/11/93:35; Sydney Morning Herald 14/3/91:1 & 4).

This meant that the Minister Pickering had to defend the police and their performance in front of the media and parliament (Sunday Telegraph 5/4/92:3). The Minister had "two choices, either he had to defend them or he had to get stuck right into them" (Yeomans Interview 10/4/96:11). Minister Pickering maintained that this trifecta of major inquiries had caused the government major problems. In a speech to police executives, Minister Pickering stated:

> I reluctantly revisit those dark days to illustrate a concept of ministerial accountability to Parliament. It is a concept I believe many police officers, many senior officers, have not fully taken into account. To put the matter crudely, when the police service gets it wrong it is eventually the minister's neck that is put squarely on the chopping block (Sun Herald 29/3/92; NSW Police Service Weekly 24/2/92:15).

The problem was that senior executives did not accept responsibility and the Minister had to face the parliament over operational issues (NSW Parliamentary Inquiry 1993:240). Minister Pickering believed that he would have to resign as Minister if a no confidence motion had succeeded in parliament over the three operations (The Bulletin 10/7/90:38; NSW Parliamentary Debates 11/5/94:2296; NSW Police Service Weekly 24/2/92:15).

The last straw which was to cause the relationship to break down occurred over an operational issue and conflicting media statements between the Police Commissioner and the Minister (NSW Parliamentary Inquiry 1993:174-175). Minister Pickering claimed that he had not been fully briefed by the Commissioner on the details of an operation. The Commissioner argued that the Minister had been fully advised. As a
result, Minister Pickering wanted the power to dismiss a Commissioner and daily briefing on policing issues from the Commissioner (Yeomans Interview 10/4/96:12; NSW Parliamentary Inquiry 1993:19,31). After the dispute with Commissioner Lauer about whether police had adequately briefed him on the operational issue, Minister Pickering resigned because their relationship had been "irretrievably destroyed by the Commissioner's actions...If the public interest was to be served, the situation could not be allowed to continue for another day" (Sun Herald 4/7/93; NSW Parliamentary Inquiry 1993:21). The Premier at the time stated that there was a "communication problem with the Police Commissioner, which meant that the public interest will be better served by the Minister moving to the Justice portfolio. I do not have the option of transferring the Commissioner of Police", said the Premier (Sydney Morning Herald 23/9/92:11; NSW Parliamentary Inquiry 1993:110).

Minister Pickering was of the firm view, presented in the research material, that "it is an intolerable situation for a commissioner without the government's approval" to comment on government policy (Pickering Interview 25/6/97:16). The government sets the policy and the public servant is to carry it out. Any public statements the police commissioner makes should not reflect personal views on government policy (NSW Parliamentary Inquiry 1993:139-144). However, the media approach to dealing with policy problems did not necessarily follow the rules:

"Commissioner Lauer was a good presenter on television provided he takes a proper role in that regard....The commissioner must understand the rules and rules are that you do not go on TV shooting down the policy initiatives of the government; nor do you get there spouting policy initiatives (Pickering Interview 25/6/97:16)."

Government policy was often a reaction to community pressure and media influences (NSW Police Service Weekly 24/2/92:17). Initiatives are developed "which publicly would be regarded and well supported, yet might be seen within the organization as mere window dressing" (Yeomans Interview 10/4/96:17). This required Minister Pickering to force the police organization to address problems by "specifically advising or suggesting to the department ways in which they might overcome this particular problem by approaching it in a managerial fashion" (Pickering Interview 25/6/97:7). Ultimately, the government’s direction has to prevail and the police commissioner has
to be prepared to carry out whatever is the government’s policy.

Fundamentally, until the situation occurs where the police are made responsible to the parliament and while the people are always going to be in trouble,...[I]nevitably police ministers and police commissioners lose sight of their responsibilities to the community and only think of themselves. They have got to be brought back to reality - to parliament and the people (Pickering Interview 25/6/97:15).

Minister Griffiths understood the nature of policy, administration and operations in a wider view than Minister Pickering; yet administration and management issues were generally ‘grey areas’ for both ministers.

Ministerial advice on management issues was seen as crucial in the development of government policy. Minister Griffiths believed that the police organization was like "running a large corporation - structures, organization, crisis management and personal relationships" (Griffiths Interview 25/9/95:3). The ‘interdependent’ principle applied by Griffiths, presented in the research material, was to "work as a team with Commissioner Lauer" (Griffiths Interview 25/9/95:10). Giving the Commissioner absolute responsibility for operational control and holding him accountable for his actions and decisions, made it easy to determine accountability within the relationship. This did not mean that Minister Griffiths did not get involved in management or administrative affairs.

Often government policy required the Minister to direct adequate police resources to a location. That may have affected "the efficiency and effectiveness of the Police Service". Nevertheless, cabinet had decided "to take some political action" in the circumstances (Griffiths Interview 25/9/95:12). This ‘dependency’ approach was supported by the Commissioner who acknowledged that executive government was taking control with the Commissioner "not finding government a difficulty" in that respect (Sydney Morning Herald 26/3/94:6A). The distinction between policy and implementation was never fully achieved. The policy was interpreted at different levels and it takes some time for the accountability mechanisms to determine why the various levels have not implemented the policy (Griffiths Interview 25/9/95:5).
COMMISSIONER'S VIEW - OPERATIONAL INDEPENDENCE

Because of the differences in the two Ministers' approaches on policy and operational issues, Commissioner Lauer viewed the relationship between policy, administration and operations as being "blurred" in reality. Policy often came from not only government election initiatives, for example the "anti-theft squad", but also from other sources such as the police ministry, ministerial advisers and the organization itself. Often policies were modified without advice to the organization or the Police Commissioner and these policy changes impacted on operational outcomes (Lauer Interview 12/4/96:10-11). Several illustrations were referred to and included firearms control and the proposed transfer of a senior officer to another government department (NSW Parliamentary Inquiry 1993:254-262 & 229-235). Commissioner Lauer argued that the Minister did not want to work within the proper procedures of 'operational independence' and appeared to be concerned with public perception and interest (NSW Parliamentary Inquiry Attachment 1993:102).

I have one major difficulty with government and that is that the perception is all important to them, not the reality....And of course that is not the case in policing. You must deal with reality or it will eventually come home to rest and that always leads to conflict (Lauer Interview 12/4/96:11).

It is also in the "public interest" for the police commissioner to highlight the inadequacies of the law on current issues such as drugs.

(T)he debate is saying that the laws have failed and that the inclination is therefore to blame the police. The Commissioner ought to be saying that their obligation is to enforce the law. If the law needs changing look to your government. We are not saying that loud enough so the community are better informed. So I think the practice ought to continue and in fact even grow ....I don't see it politicising the Police Service. I think the very nature of policing and the competitive nature of the media will ensure that commissioners are called upon more often to respond (Lauer Interview 12/4/96:15).

Commissioner Lauer maintained that he had an obligation to tell the truth about operational issues particularly where the Minister may be involved in a "massive cover up", so that the community could know the actual situation (NSW Parliamentary Inquiry 1993:119).
Now if that didn't suit the political stand of the Minister, that was a matter for him to address, not to attack the integrity of the community, knowing the truth of the issues. But the alternative proposition is that the Minister can say what he likes, deceive the community and damage the police service in so doing (Lauer Interview 12/4/96:15).

It remained Commissioner Lauer's view that the distinction between policy, administration and operations was unclear. Operations were left to the police commissioner and that is "desirable". Frequently, politicians and then a Royal Commissioner had recourse to directing police resources to areas that are not operational concerns of the police commissioner (Lauer Interview 12/4/96:16).

Commissioner Lauer acknowledged in a letter to the Minister on the 16 July 1992 that the Minister had a responsibility for ensuring that government policies were implemented (NSW Parliamentary Inquiry Annex 1993:101-196). However the commissioner argued that:

Unnecessarily restrictive and inappropriate interpretation has been placed by the minister on his responsibility and the role of the commissioner....in participating in the development of policy (NSW Parliamentary Inquiry 1993:102).

In referring to Professor Weller's address to the Executive Development Seminar at Goulburn in February 1992, Commissioner Lauer pointed out that "in present day public administration there is little distinction between policy and administration. The reality is that the development of policy is the responsibility of both ministers and their departments" (NSW Parliamentary Inquiry 1993:102). As Commissioner Lauer raised, any power used by the Minister to direct the Board and the Commissioner to make personnel changes in the Police Service would take away the Commissioner's "direct command responsibility". This, he contended, would result in a diminution of the Commissioner's office and his 'operational independence'; and, consequently, was "inconsistent with my [common law] responsibility for the operational command and day to day management of the Service" (NSW Parliamentary Inquiry 1993:102)

The experience of this commissioner reveals that 'operational independence' is a myth. The problematic issues relate to defining government policy, the directive power of the minister on operational matters and being supplied with sufficient resources to achieve the policy outcomes. Because of the problems in distinguishing between policy, administration and operations, all three interviewees agreed that there was a need for extensive change.
Personality is an important ingredient in any relationship particularly when there are vital issues affecting the community and the government (The Bulletin 18/4/93:19). Often where strong wills in a relationship exist, then there will be difficulties, as was the case in Minister Pickering's and Commissioner Lauer's circumstances.

I can remember giving Lauer an instruction to do something and he did not do it. So I gave it to him in writing which is the formal way a minister tells a commissioner. This was towards the end of our career when things were really grim....He wrote back and said that he did not intend carrying out the instruction because he considered it to be an operational matter. I wrote back and asked on whose legal opinion had he decided that. He wrote back and said his (Pickering Interview 25/6/97:7).

Minister Pickering had a deep understanding of parliamentary processes, accountability mechanisms and a "close interest in making sure that the forms of parliament were all respected" (Yeomans Interview 10/4/96:15). This meant that Minister Pickering wanted Commissioner Lauer to understand "where the Minister's power starts and ends and where the power of the public servants starts and ends" (Yeomans Interview 10/4/96:15). The reality was the power of balance was not satisfactorily achieved due to the nature and views of Commissioner Lauer on 'operational independence' and the 'controlling influence' of government policy (Yeomans Interview 10/4/96:18; NSW Police Service Bill 1990, 2/5/90).

Minister Pickering argued in his interview that it would be difficult to legislate on relationship requirements and believed that "where you have no good will or a good friendship between the minister and a commissioner then you have an impossible situation" (Pickering Interview 25/6/97:7). It would be difficult to include guidelines which covered personal ethics. The problematic issue was how do you resolve a difference in the relationship - with the Minister or with the Police Commissioner?

The matter should be referred to a standing committee of the New South Wales Parliament made up of all parties and all houses. That committee....should look at the dilemma between the two
men and resolve it. I would give that standing committee a further responsibility ...and make it a responsibility of the Police Minister to brief that committee on an ongoing basis about policing in New South Wales. Now the reason why I am doing all that is, that it is virtually impossible for a police minister to sack a police commissioner (Pickering Interview 25/6/97:11).

Minister Pickering argued that legislation was needed to give the police minister power "to dismiss the commissioner without reference to parliament" (Pickering Interview 25/6/97:18). He further maintained that a police commissioner was not in the same position as an ombudsman who reported to parliament and could only be dismissed by parliament (Pickering Interview 25/6/97:18).

Based on Minister Griffiths’ experience, difficulties in the relationship were often caused from external sources. The cabinet and the Premier often wanted something done politically (Canberra Sunday Times 31/10/93:3). Ministerial directives were often the consequence of cabinet or government decisions. Where a commissioner may disagree with a decision of the government or cabinet, then he should be entitled to express "in the strongest terms his opposition to it", then "he should implement it" (Griffiths Interview 25/9/95:6). According to Minister Griffiths, if the commissioner fails to carry out a direction from the minister or the government, then the commissioner should be sacked (Sun Herald 4/7/93). The government also had to accept the "legal" and "moral" issues that are associated with a dismissal of a commissioner by a government (Griffiths Interview 25/9/95:5; NSW Police News October 1992:17).

However, Minister Griffiths maintained that a minister should not be threatened by a "competent commissioner". He should let the commissioner "make the public running on things and let him be seen as a community leader, giving direction to his police officers" (Griffiths Interview 25/9/95:9; Sydney Morning Herald 23/9/92:5). This did not give the commissioner the right however to express views on government policy.

He has no right to do that under any circumstances. If he cannot follow the policy of the government of the day, whatever the government of the day is, then he must tender his resignation immediately (Griffiths Interview 25/9/95:9).

Minister Griffiths argued, based on the research material that there needed to be a mutual "team relationship" with the commissioner. It was a matter of sitting down and
discussing the issues rather than giving "any directions or any strong advice" to a commissioner (Griffiths Interview 25/9/95:11; Sydney Morning Herald 23/9/92:5). Most important to the relationship, is clearly defining the "delineation between responsibilities and how that relationship was to work....you have got to make provision for political interference" as part of the commissioner's performance agreement (Griffiths Interview 25/9/95:12; Canberra Times 7/4/93:2; Direction In Government March 1991:26; NSW Police News October 1993:32). This was a process Minister Griffiths used to resolve any private conflict within a relationship with a police commissioner.

**COMMISSIONER'S APPROACH - OPERATIONAL INDEPENDENCE**

To help reduce political interference in the role of a police commissioner, the commissioner should be given access directly to the key Premier's Department officer to assist in issues involving government policy and ministerial directives (Lauer Interview 12/4/96:7; Sydney Morning Herald 27/9/92:41). Commissioner Lauer believed it was inappropriate to change the rules on the employment of a commissioner during the course of the commissioner's tenure because the commissioner had a differing view on government policy or ministerial directions. The difficulty, according to Commissioner Lauer, is that if a minister loses the confidence of parliament on government policy or because of maladministration of the portfolio, the minister resigns and a commissioner is dismissed (Lauer Interview 12/4/96:7).

The solution to reduce tension in a relationship, according to Commissioner Lauer, is to appoint a minister with the ability to communicate and manage a large and complex portfolio (NSW Police News October 1992:16). Often "interpersonal skills" are accentuated in parliamentary members who are required to serve an electorate and appreciate the needs of the community more fully. They must demonstrate communication skills to survive the realities of political life (Lauer Interview 12/4/96:11). When a political member, like Pickering, does not have to answer to an electorate and has had a long term in the upper house then they do not have an understanding of people's needs. Unfortunately, he is institutionalised into the parliamentary process (Lauer Interview 12/4/96:12).

There is also the need to have the commissioner more involved in the reviewing process
of parliamentary and government committees when considering reform of the police organization. Often these considerations are done in isolation without the police commissioner's input. In this case, the commissioner advised the minister that this lack of action "led quite clearly to my resignation" (Lauer Interview 12/4/96:13). There should also be "sensible discussion" between the minister and the commissioner regarding media issues and what is in the "public interest". Commissioner Lauer argued that a police commissioner had an "obligation to address the media so that the community are being informed" on policing issues (Lauer Interview 12/4/96:14; Directions in Government March 1991:26).

Within this case study relationship, there is clear evidence of a need for change. Roles and responsibilities not clearly defined caused major concern in the management of the portfolio. The tension between the Police Commissioner and the Ministers was related to control and the process to achieve that control. The result was the exercise of the extremes of the ‘dependency’ and ‘independency’ approaches. This caused public turmoil, political rebuke and organizational instability.

**CONCLUSION - EXTREMES IN APPROACHES**

The ‘dependency’ model argues heavily for the need to control and influence the police commissioner. This argument is supported by the need for the government to have the ultimate power of dismissal (NSW Parliamentary Inquiry 1993:213; The Bulletin 18/4/93:19). The difficulty in New South Wales was that the Commissioner was a statutory officer and could only be dismissed by parliament (NSW Parliamentary Inquiry 1993:213). This caused a difficulty for the government who at any one time controlled one of the two houses of parliament in that State. The government had difficulty getting legislation through parliament and as Minister Griffiths stated, "I would rather govern on my feet for a day, than govern on my knees for three years" (Griffiths Interview 25/9/95:9; NSW Police Service Weekly 24/2/92:15). This allowed a degree of protection for the Commissioner who was not bound to government influence or control, according to the views of Police Minister Pickering. However, this situation did change to provide the power of dismissal to the Minister with the approval of the Police Board "as a safeguard" (Pickering Interview 25/6/97:11; The Bulletin 18/4/93:19).
The reality is that while the membership of a police board is controlled by the government this approach to dismissal is a poor safeguard.

Another emerging development in the ‘dependency’ model of control relates to the increasing corruption problems within policing (NSW Royal Commission 1997; Time 21/5/1990:31). Ministers often do not have the powers or resources to do much about corruption in the organization (Pickering Interview 25/6/97:5,8; The Bulletin 10/7/90:38). Failure to act on corruption often affects the political survival of the minister and the government (NSW Royal Commission 1997; Australian National 2/4/93:5). Because of the political implications of corruption, the premier and staff often become involved in the decision-making process of the policing organization (Yeomans Interview 10/4/96:14). The public response to and perceptions of police corruption were often critical to political interests (Griffiths Interview 25/9/95:13). Minister Griffiths believed that to reduce the controlling influence of the government, it would be necessary to educate police management on public policy and anti-corruption and to introduce an internal process which held the top executive accountable for any corruption under his/her control (Griffiths Interview 25/9/95:17). Political control of the policing organization is often seen as the solution to this vexed problem (NSW Police News July 1985:19).

The ‘dependency’ model is also reinforced with the development of backbench committees supporting the police ministers. Often these committees provide policy advice on policing issues. However, there are no parliamentary standing committees on policing in New South Wales to overview policy development in policing (Pickering Interview 25/6/97:11). Minister Griffiths maintained that this backbench committee had a significant role in policing policy and that they were used as a "corporate council" to advise the minister (Griffiths Interview 25/9/95:7). This approach supported the political notion of ‘ministerial control’.

Minister Pickering believed that ‘operational issues’ were generally not matters for him to address in parliament based on the notion of ‘operational independence’ (Pickering Interview 25/6/97:20). However, when specific operations went wrong the Minister believed that he had an obligation to respond (NSW Parliamentary Inquiry 1993:277-278). The inability to answer a difficult question may result in a "no confidence vote" in the minister and this may be harmful to him and the government particularly if it is a ‘hung’ parliament (Pickering Interview 25/6/97:14). The problem for the minister is that
he is the "one being held accountable for something which he had absolutely no power over whatsoever. He could not have dismissed the commissioner. He could not have dismissed any of the senior officers involved. There was virtually nothing he could have done; and yet Parliament was holding him very much accountable for what had happened" (Yeomans Interview 10/4/96:24). This issue became a central argument for greater 'government control' over police operations.

There was an expectation in parliament and by the government that the minister should be responsible for the management of the police organization based on the 'dependency model'. Minister Griffiths had a slightly different view on parliamentary accountability for operational matters and argued that parliamentary questions were only "designed to embarrass the Minister. It is not to inform. It's to try to get the Minister to mislead parliament. It's a theatre" (Griffiths Interview 25/9/95:15). The 'dependency model' was often reinforced by the government through the use of political pressure from the Premier's Office to diffuse operational issues through the media, which often reflected a controlling influencing over the Police Service (Yeomans Interview 10/4/96:25).

Commissioner Lauer argued that to improve the 'operational independence' of the Police Commissioner would require the appointment of a permanent Police Board Chairman. However, the other difficulty will be the role and functions of the Chair. The Chair could become a "de-facto commissioner of police" (Lauer Interview 12/4/96:8). It was believed that the Board should have been the final arbitrator between the Minister and the Commissioner to ensure the smooth operational running of the Police Service (NSW Parliamentary Inquiry Attachment 1993:102). The Interim Report into the NSW Royal Commission into the Police Service (1996:130) and the Final Report of the Royal Commission into the NSW Police Service (1997:379-381) recommend that the Police Board, its functions and past "achievements" as an independent body, be reviewed. The New South Wales Police Board was abolished in 1997.

The issue of appointing a joint parliamentary committee to overview ministerial accountability and operational independence was an important issue. The difficulty according to Commissioner Lauer and Minister Pickering is that governments establish parliamentary review committees to consider specific issues but do not have a
"committee directly relating to the performance of the police...to police reform" (Lauer Interview 12/4/96:13; Pickering Interview 25/6/97:11; Sydney Morning Herald 17/11/93:1). The NSW Parliamentary Committee (1993:5-6) rejected the establishment of a parliamentary committee to overview police particularly on matters of maladministration or corruption. This concept however would improve the transparent nature of government and policing policies and promote openness and ‘interdependency’ between the police commissioner, minister and the community.

Critical to the relationship between the minister and commissioner, argues Commissioner Lauer, is "openness and clarity which requires documentation and the bringing of it to the notice of parliament" (Lauer Interview 12/4/96:17). This view was also expressed at the NSW Parliamentary Inquiry (1993:119) into the relationship between the Minister and the commissioner. This clarity and openness also included the defining of the role and functions of police boards which overview the police commissioner's performance (Lauer Interview 12/4/96:17,19; Canberra Times 7/4/93:2).

The ultimate problem according to Commissioner Lauer is a need for clarity of the Commissioner's role:

   It's becoming more confused. More indistinguishable - the issue of policy, administration, the ultimate responsibility for police operations. What is the role of the Commissioner as Chief Executive Officer and all these intervening boards such as Police Boards, Independent Commission Against Corruption and Crime Commission? (Lauer Interview 12/4/96:20).

Clearly, the problem identified throughout this case study is one of clarity of roles and responsibilities (NSW Police Service Weekly 7/6/93:5-10; NSW Police News October 1993:31). For the Police Commissioner and Minister to operate effectively and ‘interdependently’ there will need to be role clarification. Minister Griffiths supported this concept on his appointment, arguing that the responsibilities of the Minister, Commissioner, the Police Board and any other overviewing organisations should be clearly defined in an official document (Sydney Morning Herald 29/9/92:3). This was the crucial element for the success of the ‘interdependency model’.

Reconciling of tensions between these two sources of power, ministerial responsibility
and operational independence, according to all the case studies, "lies at the centre of modern government" (NSW Police Service Weekly 24/2/92:18). The Ministers in this case study, as in the other case studies, did acknowledge that there is a legitimate political role that can at times be seen by the police commissioner as quite contrary to department aspirations. At the heart of this dilemma is the fundamental belief honestly held by the politician that the minister and the government can provide the people with the best government. To achieve this all important desirable aim, the minister will at times take political actions that are difficult to comprehend and actions or at least significant elements of them that will be resented by the police department. Compounding the tensions further in this case study and referred to in the Whitrod/Hodges, Newnham/Mackenroth and Avery/Anderson/Paciullo case studies, were the problems of mismanagement of operational issues and police corruption.
CHAPTER 13 - SUMMARY EVIDENCE OF RELATIONSHIP DIFFICULTIES

During the course of the field research interviews for this thesis, twenty-one persons, police ministers, commissioners, personal advisers and a member of a police board, were interviewed. Several of the police ministers', private advisers' and commissioners' interview materials have been referred to in the case studies comprising chapters 8 to 12. Much valuable material however was collected from the remaining interviewees which needs to be analysed. This chapter will provide a brief summary of how other police minister/commissioner relationships operated and factors from the models which influenced those relationships.

All the police ministers and commissioners referred to in this chapter are from Queensland. Two interviewees completed a term under a Labor government which lost power during a by-election in 1996. The thesis had a set timeframe parameter from 1970 to 1995.

It is believed that an analysis of the material obtained from the structured interviews will provide an opportunity to evaluate the alternative views of a broad cross-section of police ministers' and police commissioners' working relationships. The following matrix provides an analysis of how the writer interpreted the interview material. This chapter does not give an indepth analysis of each relationship due to the number of police commissioners and ministers interviewed.

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(1) Dependency - Police Minister controls Department (2) Independency - Police Commissioner is operationally independent (3) Interdependency - Police Minister and Commissioner work co-operatively to achieve a common purpose.

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The approach in this chapter is to identify summary factors which support or conflict with the models presented in the case studies and to draw a range of conclusions which support the thesis hypothesis. These relationships cover a time period from 1976 to 1987.

The summary analysis of interviews is to provide data from the research material which demonstrated parallels with the case studies and to highlight how the models reflected on the working relationship between other police ministers and commissioners. Often other factors which impacted on the relationships have not been the focus of this thesis because of the need for further research on a related topic or due to the limited literature review on the field.

The major factor from the additional interview data of the three police ministers and two police commissioners was the need to define the role and functions between the minister and commissioner. This need for role clarification supports the data examined in the five case studies. Included in the relationship role definition was the need to define the mandate of policing. In the additional research interviews the three conservative ministers emphasised the law enforcement and the ‘dependency’ approach to managing policing problems. Certainly this argument supports the five case studies as to why the ‘dependency model’ is more often supported by police ministers. The extremes in ‘dependency’ and ‘independency’ approaches recognized in the case studies data and in the additional research interviews, often caused further tension in expectations for the two Queensland police commissioners and three ministers, particularly when one police commissioner had served for an extensive period under one particular political ideology. Perhaps authors such as, Sheehan and Cordner (1994), Manning (1977), Skolnick and Fyfe (1993) and Reiner and Spencer (1993) were correct in their views that the mandate of policing, which often requires the use of force, is left in a policy vacuum. This vague mandate gives the government of the day the flexibility to moderate policing operations and provides a mechanism to avoid public accountability for inept policy directions.

The constantly emerging problem of police corruption and misconduct, also found in the five case studies, was often the justification for the three Queensland police ministers to become involved in operational activities. The concept or myth of ‘operational independence’ was being overridden by the controlling needs of Queensland three
ministers and government for political survival. This need for political survival was evidenced in the cases studies. The ‘dependency model’ is then adopted as a ‘public interest’ approach for controlling police operations, according to the additional research interviews. From the interviews it appears the difficulty arises, according to the two police commissioners, when police misconduct results because of government policy being vague and limited to enforcement as the solution rather than addressing the social problems as community issues. A book entitled "Policing at the Crossroads" by Cameron and Young (1986) argues that police misconduct is often linked to poor management and government policy design. This problem of misconduct often resulted in the ‘dependency model’ being instituted by the three ministers.

Of course, the research interviewee responses provided variations on how the ‘dependency’ approach worked in reality. However, the additional research evidence suggests that the three police ministers in Queensland, like the ministers in the case studies, generally adopted the ‘dependency’ stance in their role and expectations of how a police commissioner should respond to ‘ministerial’ accountability.

The two Queensland police commissioners, it appears, based on the additional research data, had a belief that they should be ‘operationally independent’ from political ‘control’ or ‘influence’. The difficulties expressed by the two Queensland police commissioners and the five case study Commissioners presented in the research material about the ‘independent’ approach are based on how to distinguish the operational responsibilities of a police commissioner within policy and administrative directions from a police minister. It appears, based on the additional research evidence of the two Queensland police commissioners and the five case studies, that ‘operational independence’ is a myth and that the cause for the public and private differences in a relationship with a police minister may be the result of how to define policy, administrative and operational roles and responsibilities between the police minister and the commissioner. The approach being argued in this research material is that the police commissioners in Queensland and New South Wales believe that they should operate under ‘operational independence’ but are more than often subject to ‘ministerial control’ or the ‘dependency’ approach, particularly on policy and administrative matters.
Media influence, according to the three Queensland police minister and the five case study ministers, particularly regarding public perception, is often considered crucial in policy recognition for a government particularly during an election period or where government has a slim majority. Often ‘operational independence’ as a public perception, according to the two Queensland police commissioners and, supported by the case studies, is overridden by a political imperative to demonstrate that government strategies are being achieved. Rather than acknowledging that a government policy vacuum exists, often the police agency is attempting to fill the gap through its operational arm. The changing perception of power shifting between ‘dependency’ and ‘independency’ models caused all the police ministers and commissioners interviewed difficulties in determining who is accountable and responsible for policy, administration and operations. Political and economic changes may result in police commissioners having to deal with the media on changing government policy and policing strategies.

The creation of further checks and balances by overviewing agencies on politics and law enforcement institutions referred to in the case study interview data has further complicated the accountabilities and responsibilities and this view was supported by the two Queensland commissioners and the three ministers. All sides consider this complexity of shifting responsibilities to make it difficult to determine who should be held accountable. The outcome is a shift in control, influence and independence of a police commissioner depending on what benefits or disadvantages the agency, government or overviewing body obtains regarding the public issues involved. Periodically, the legislative mandate for overviewing authorities reduce the government or the police commissioner’s authority over determining who runs the policing policy. That regularly also limits the operational capabilities of the police agency.

Royal Commissions and their terms of reference, referred to in the interviews, are often used to define controls on police operations. This causes further problems in identifying the power bases in the politics of policing and who is ultimately accountable for policy outcomes. Thus, the need to control police is often used by a de facto authority of a Royal Commission which was never designed to publicly sustain or be accountable for influencing policing policy, administration or operations. The alternative is to find a mechanism to review police, which realises the necessity of the role of a minister and
commissioner to police in a liberal democratic society.

The constant shifting of power and responsibilities involving these issues of media, corruption and overviewing agencies is demonstrating that the ‘dependency’ and ‘independency’ features are constantly moving within the police commissioner/minister relationship. This brief analysis of several Queensland police commissioners and ministers supports the findings of the case studies regarding the difficulties between the ‘dependency’ and ‘independency’ models. The solution may exist in the ‘interdependency’ model which emphasises defining the expectations and roles between the parties. This requires determining the legal fundamentals upon which policing operates and then regulating policy, administration and operations within our society.

**THESIS HYPOTHESIS - ANALYTICAL INTERPRETATION**

Chapters 8 to 13 have attempted to identify and analyse how police minister/commissioner relationships and model types have operated in two states of Australia. A variety of relationships has existed which have been categorised generally into one of three models. Illustrations in the five preceding chapters showing how conventions and practices have operated between police commissioners and ministers, have been used to determine which of the three models applied in particular circumstances: dependency, independency and interdependency.

A matrix description of how each relationship operated, referring to a model/s, position and political persuasion, has been presented below. Although a model is used to describe the relationship, there are always variations and other factors which need to be considered. However, this matrix will be used as an analytical method to describe the range of practices, conventions and difficulties which were identified and existed between the various police ministers and commissioners.

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<tr>
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<td>DEPENDENCY/INTERDEPENDENCY</td>
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<td>LEWIS</td>
<td>QLD</td>
<td>INDEPENDENCY</td>
<td>GLASSON (NATIONAL)</td>
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Certainly, the case studies involving Police Commissioners Lauer and Newnham who were from different policing jurisdictions and had ministers of different political persuasions, identified major relationship difficulties due to the relationship models adopted - ‘Dependency’ and ‘Independency’. The hypothesis highlighted in this thesis is based on difficulties associated with the ‘dependency’ and ‘independency’ relationship models. When a police minister and commissioner operate at the extreme ends of the ‘dependency’ and ‘independency’ models, conflict and personal problems within the relationship often result. Although there are other factors which influenced elements of the ‘dependency’ and ‘independency’ models, the conventions of ‘ministerial responsibility’ and ‘operational independence’ created significant difficulties in a majority of cases between police ministers and commissioners.

The reason for the difficulties lies in the application of the ‘Westminster system of responsible government’ and the accepted legalistic notion of ‘operational independence’.
with its basis in common law. In the extreme cases where differences existed, as in the
case of Police Commissioner Lauer and Minister Pickering, it was due to a minister
requiring the commissioner to obtain approval for all or specific administrative,
operational and policy requirements. Police commissioners, in particular Lauer and
Newnham, were expected to be subservient to the police minister. There was an
expectation that the minister would be assisted in his responsibilities by the police
commissioner. However, often the police minister blamed the commissioner for the
results achieved on policy, administrative and operational matters. This was
particularly evident in the Lauer and Pickering case study.

The case studies demonstrated that structural variations within the police minister and
commissioner relationship, including boards and overviewing agencies, have had little
or no impact on reducing relationship difficulties between the ‘dependency’ and
‘independency’ models. Conversely, several parties argued that there was scope for
boards and external agencies to act as mediator, a feature of the ‘interdependency’
model. Many of the police ministers and commissioners argued that these structures
provided further checks and balances in the democratic system, but caused problems in
determining who was responsible and accountable - the police minister or the
commissioner - for policy, administration and operations. Often the ‘independent’
structures appeared to support the police commissioner and the ‘independency’ model
by arguing that a police commissioner should have independent discretion on policy and
administrative matters which effect operational outcomes.

The analysis of the case studies supported the hypothesis that legislating roles and
functions in itself does not reduce tensions between police ministers and commissioners.
The Newnham case study illustrated that even with radical changes to a Police Act and
the introduction of a policy register to differentiate the role of policy, ‘dependency’ did
not circumvent difficulties between a police minister and commissioner. Tensions
appeared to be resolved through a range of elements ultimately found in the
‘interdependency’ model.

On the other hand, most police commissioners in the case studies argued that they were
‘operationally independent’. This meant and extended to, in many instances,
‘independence’ on administrative matters, and in some instances, on policy directions.
Often, ‘independency’ in the personal relationship with the police ministers was seen to be a reaction to being ‘controlled’. In Newnham's case it appeared that a claim to independence was a reaction to the minister's need for controlling the Police Service. There were incidents where ministers like Pickering and Mackenroth wanted to define the commissioner's role and to administer departments to achieve government objectives.

The other three case studies of Whitrod, O'Sullivan and Avery also identify difficulties between the ‘dependency’ and ‘independent’ models. The analysis of these relationships suggests that there was an acceptance or tolerance of the differing roles between the parties. In most cases, there appeared to be elements of the ‘interdependency’ model operating. There was an attempt by one party or both to define the boundary of the roles through understanding and communication. Both parties appeared to have a fundamental understanding and in some cases an extensive understanding of the policing mandate and the need for ‘operational independence’ on law enforcement matters. In these three case studies, all three commissioners and most of the ministers supported a combined and co-operative effort to achieve the objectives of the government and the requirements of the police department. Often there was an acceptance of each other's personal values. In a few cases there were remarkable similarities in personal values. This was particularly evident in the Avery/Paciullo, O'Sullivan/ Braddy and Whitrod/Hodges cases. The analysis of the case studies has demonstrated that where elements of the ‘interdependency’ model were operating, then there has been fewer difficulties in the relationship between a police minister and commissioner.

The challenge for future Australian governments and communities is to provide a relationship environment for police ministers and commissioners where tensions and difficulties are significantly reduced. To achieve this objective will require an understanding of roles, greater appreciation of government administration, defining structural boundaries, improving bipartisan agreements, interpreting more fully the "office of constable" in common law, training in professional policing excellence, changing defective legislation and obtaining an understanding of the relationship by the community through a public debate.
In 1989, the Fitzgerald Report recommended the continuation of the ‘operational independence’ of the Queensland Police Commissioner (Independency Model). The report however reinforced the checks and balances in a Westminster system of government by recognising the conventions whereby a police commissioner is accountable to the police minister for policing the State (Dependency Model).

The Minister can and should give directions to the Commissioner on any matter concerning the superintendence, management and administration of the Force. The Minister may even implement policy directives relating to resourcing of the force and the priorities that should be given to various aspects of police work and will have responsibility for the development and determination of overall policy....The Commissioner should continue to have the independent discretion to act, or refrain from acting against an offender. The Minister should have no power to direct him to act, or not to act, in any matters coming within his discretion under laws relating to police powers (Fitzgerald 1989:278-279).

Police ministers in this research material believed that many of the commissioners of police did not understand the political and democratic processes and how to interpret the machinery of government and its requirements. Police ministers argued that they have a role which is dependent on the commissioner of police. The question then is, how far are they to be responsible for policing a state? Most of the police ministers believed they should take responsibility for government policing policy, and take general responsibility for administration. On operational matters they considered they should be supplied with transparent information as a form of accountability. The challenging issue identified by all police ministers is that the conventions and practices under the Westminster system make them accountable for errors, including operational matters of the police agency, even if they were unaware of them.

Commissioners of police noted in their interview data that police ministers often deny responsibility for issues and policies that they were aware of or should have been aware of. The issue then arises: Who is answerable for problematic policing policy? Administration and operations between a police minister and commissioner of police appeared to be critical, particularly since ministers ultimately are accountable to
parliament. Often however responsibility for and lack of answerability for policing problems may result in the dismissal of the commissioner of police. Perhaps one answer to the dilemma rests in one critic's view of the Westminster system of government:

The restoration of clear ministerial responsibility is, at least for reformist governments (of whatever political colour), the most urgent task facing public administration and that will necessitate extensive changes in our system of government (Wilenski 1979:44-5).

This view however does not resolve the public or political dilemma of ‘operational independence’ - as founded in common law - as espoused by commissioners of police when criticism occurs about the organization. The perceived answer to the division of responsibilities has been to manage the relationship through a range of government, parliamentary and community accountability processes. These have produced little success.

The ministerial principle to be applied in this relationship is that the government wants responsibility and accountability for public policy. However, the case studies indicate that government policy is heavily influenced by the police commissioner. The commissioner wants responsibility and accountability for policing operations. The case studies nevertheless show that private and more recently public influence of police ministers often underpin the changes to operational practices and outcomes. Unfortunately, both police ministers and commissioners in Queensland and New South Wales want to control the administrative process which by convention rests with the Minister. The result of improving any future system between a police minister and commissioner, it is hoped, is that society will be policed by a system of accountability through checks and balances:

Accountability is essentially a political process, since it is the means whereby a public service submits to the scrutiny of those whom it is designed to serve. The proper safeguard against the exercise of improper political interference is not to ban politics from policing but to ensure the elaborate system of checks and balances, which already exists, but is seldom invoked, is brought into effective operation (Oliver 1987:74).

The public debate however continues to manifest the inadequacies of the ‘independency’
and ‘dependency’ models. The difficulties in administrative relationships between police commissioners and ministers continue to exist and will not abate in the near future. These difficulties have been supported by the case studies contained in this thesis. The observation from the thesis material is that governments, the community, and the police want a system or framework which is reliable, authoritative and impartial to manage policing of a state. The models used in this thesis have assisted as an analytical tool to better understand this difficult relationship.

Certainly, the research material presented in this thesis improves our understanding of police minister/commissioner relationships, particularly using the ‘dependency’ and ‘independency’ models as an analytical framework. This analytical framework has been useful in not only identifying how a police minister/commissioner relationship operates but how the analytical framework can be successfully applied in future research. Such an approach to research could be used as a indicator to determine likely future outcomes within a police minister/commissioner relationship.

This thesis research provides a new analytical approach and interpretation of the interrelationships between the three models and the policy, administrative, operational and private/public differences between the parties. As a result, the analytical framework has developed a pattern or a matrix of various factors which will impact on how police minister/commissioner relationships operate. This matrix of factors has identified a hybrid relationship existing between police ministers and commissioners in the Australian context.

This Australian hybrid relationship differs from the British context. The extremes in ‘dependency’ and ‘independency’ features vary between the Australian police minister/commissioners due to personality differences, no tripartite system of accountability operating as it does in England and the closer proximity of ministerial control to policy, administration and operational matters. In the research material presented in this thesis there appears to be a moral dimension or acceptance of ‘ministerial control’ based on ‘dependency’ features operating between a police commissioner and a police minister. However, Australian police commissioners appear to definitely disagree with the police minister controlling or influencing operational decisions though they do acknowledge that the police minister ought to be informed on operational matters.
The research material contained in this thesis supports the view that the private and public relationship between a police minister and commissioner is affected by ‘dependency’ and ‘independency’ features. Often individual perspectives changed the midpoints of where the ‘dependency’ and ‘independency’ features were operating within the relationship. These changing midpoints within the extremes of the ‘dependency’ and ‘independency’ features appeared to be altered regularly with new conventions governing the changes. As a result, this research’s analytical framework has given us a greater appreciation that neither the Westminster system of government nor the traditional policing conventions that exist between a police minister and commissioner are adequate and hence there is a need to enact better practical and administrative principles.

To achieve these better principles, elements of the ‘interdependency’ features which were identified in several successful case study relationships need to be enacted. These elements include an understanding of how the roles and goals are perceived by commissioners and ministers and how these goals relate to their personal paradigm, understanding and interpretations of the conventions and processes that operate within the Westminster system of government. Only when these principles are applied can reforms be initiated.

To enhance and invoke these principles using the concepts developed from the ‘interdependency’ features needed between a police minister and commissioner, this thesis suggests several practical and administrative principles which could be publicly debated and supported by a bipartisan parliamentary process. They are that:

- Administrative guidelines be developed and regularly reviewed, to chart a direction for the relationship between a police minister and commissioner;
- Legislation be introduced which more accurately defines the policing mandate and the conventions and practices operating between a police commissioner and Minister; and
- Management practices based on principle-centred leadership for continuous improvement be encouraged within the police minister/commissioner relationship.
ADMINISTRATIVE CHANGE AND THE MODELS

Through an examination of various relationships, organizations and the ideologies of policing and politics, this study has investigated whether the rhetoric of ‘operational independence’ or ministerial ‘dependency’ within a police minister/commissioner relationship can be realised. The two notions are often interwoven to such an extent that it is part of the general machinery of government. The Police Ministers of Queensland and New South Wales, believe that the overviewing role and ultimate accountability to parliament for police performance rests with the government of the day. The challenge is to find a balance between the two competing ideals referred to in this thesis as the ‘dependency’ and ‘independency’ models.

The notion of ‘interdependency’ argues that the challenge can be met by greater clarity in the roles of the positions, in the application of the policing mandate and in acceptance or agreement between the parties on how to achieve a balance in the use of coercive power and control. The outcome should be a flexible, evolving, and mutually trusting relationship with its direction focused specifically on how to govern society in terms of the broad historical principles of ‘good government’. The solution to the problem is in applying ‘interdependency’ principles within the context of the two other models - Dependency and Independency. To chart and apply administrative guidelines for the police minister/commissioner relationship would require an examination of the system through public debate and supported by a bipartisan parliamentary process. The public debate would need to consider the following types of core issues identified in the research material:

- The constitutional position of the police commissioner, including the office of constable;
- The police minister’s position in the Westminster system and the need for the future stability of the state;
- Overcoming the appearance of party political interference;
- Stressing values of western democratic policing;
- Defining responsibilities for policing policies, administration/management practices including anti-corruption and media strategies and operations;
- Defining the roles of police boards, ministries and parliamentary committees within the relationship;
• Establishing a process for the regular reviewing of administrative regulation including expectations, roles, responsibilities and accountabilities of a police commissioner and minister;
• Establishing a process where the coercive powers of policing are regularly reviewed and defined within the operation of the police minister and commissioner relationship.

For any administrative guidelines developed from a public debate and bipartisan parliamentary process to succeed, they would need to be made available to the community. There should be a constant reviewing and clarifying of the administrative guidelines through public inquiry to provide clear direction from the people of the state. Clearly defined guidelines would specifically help the management of the police minister and commissioner relationship. The guidelines would provide probity with importance being on enhancing clarity of role, functions and expectations within the police minister/commissioner relationship to achieve the desired political and community outcomes for policing excellence.

LEGISLATIVE AND ACCOUNTABILITY CHALLENGE

Both Queensland and New South Wales Westminster systems of government rely heavily on the convention of ‘ministerial responsibility’ to ensure police service accountability. Given the growing complexity of policing activity, it has been seen as unrealistic to expect a police minister to take responsibility for the entire range of activities and corruption problems that occur within the police department. As a result, mechanisms for government scrutiny of key aspects of policing administration and possible corruption activities have gradually emerged. It has been argued by the Queensland and News South Wales Police Ministers in the case studies that this has provided a means of reinforcing Westminster accountability provisions on police commissioners. There is, for instance, a great deal more transparent information required by New South Wales and Queensland Police Ministers. This information is being made available now to central agencies, overviewsing anti-corruption agencies, cabinet and parliament in the form of information papers, impact statements, disciplinary reports, departmental submissions, annual reports, corporate plans and evaluation reports.

Queensland and New South Wales governments operate on the doctrine of the
separation of powers. Police agencies are considered, by the case study police ministers, to be an arm of the executive government. This causes a major dilemma. The concern raised by several Queensland and New South Wales Police Commissioners is the difficulty in implementation of police policy which, in order to effectively control law and order, are no longer seen as impartial.

The Queensland Police Service, as a government department, is part of the executive arm of government. The Police Commissioner is responsible for the day to day administration of the Service with the Minister for Police as the political head. Section 4.8 of the Queensland Police Service Administration Act 1990 provides that "the Commissioner is responsible for the efficient and proper management of the Police Service in accordance with the law". The Act goes a significant step towards clarification of the independence of the constable and the relationship between the Commissioner and the Minister. As Bersten (1990:316) states:

> The Act attempts to clarify the command hierarchy within the Police Service as well as [the relationship] between the Commissioner and the Minister responsible for the police. It appears to preserve the common law doctrine of the independence of the constable generally.

These legislative provisions were to enhance accountability. In practice, the need for the Minister to give such directions, under Section 4.7 of the Act to a police commissioner referred to in case study 10 (O'Sullivan/Braddy), was limited as most issues are resolved through the consultative process that occurred between the Minister and Commissioner as matters arose. However, the chapter 9 (Newnham/Mackenroth) case study referred to poor consultation as a major impact on the relationship between the Police Commissioner and the Minister and, indeed, exacerbated the problem in their personal communications.

The statutory requirements relating to the accountability of the Commissioner referred to in case studies 9 (Newnham/Mackenroth) and 10 (O'Sullivan/Braddy) were not limited to the Police Service Administration Act 1990. Further obligations are prescribed by the Criminal Justice Act 1989. The Criminal Justice Commission (CJC) is accountable not to the government, but rather to the parliament through the Parliamentary Criminal Justice Committee. In the view of Colleen Lewis (1992:2), a situation where the Police Commissioner is accountable to the Minister and the CJC is untenable. In Bryett's view (1990:21), there are advantages for the Police Commissioner
in Queensland having a body such as the CJC in place. He believes that the cross-representational nature of the supervising entity (the Parliamentary CJC) provides a degree of legitimacy for political control. Bryett (1992:23) argues that such a supervisory body should not have an analogous function to the police, but rather should remain detached and therefore impartial. In the event of conflict, clarification with regard to the requirements that would take precedence would be required. This situation became evident in case study 9 where the CJC was used as a mediator to resolve differences between the Police Commissioner and Minister.

While Queensland legislation has gone a considerable way in clarifying the relationship between the minister and commissioner, some concerns still remain as shown by on the case studies in this thesis with regard to the extent of the authority of the police commissioner. What is evident however, is that the ‘independence of the constable’ is confined to authority in enforcing the law and would therefore apply only in operational situations. The matter of ‘ministerial’ accountability of the commissioner for the administration and management of a large and complex public agency clearly goes beyond operational issues and needs further consideration in defining the role and functions of the police commissioner and minister in relation to each other. Other circumstances existed in New South Wales which blurred the roles and responsibilities between police ministers and commissioners.

Evidence of the problems between the New South Wales Police Minister and Commissioner referred to in case study 12 (Lauer/Pickering) arose due to the blurred lines of responsibilities. A Parliamentary Inquiry (1993) into police accountability ensued and arose out of the breakdown in relations between the minister and the commissioner. Issues of defying ministerial directions and of failing to properly advise the minister were raised. Obvious disagreements over an agreed acceptance of the roles within the relationship between the parties related to a restrictive interpretation of the commissioner's responsibilities and role in policy making.

The reality shown in case studies 11 (Avery, Anderson, Paciullo) and 12 (Lauer, Pickering, Griffiths) has been that the roles, responsibilities and authority of the Minister, Board and the Commissioner have not been easy to separate. The
arrangement worked reasonably well for a number of years as referred to in case study 11. The potential and actual conflict and confusion among all three parties have been well documented in recent history. The Board’s role in providing assistance during the recent conflicts between the Commissioner and the Minister has been an ineffectual one. The political perception from case studies 11 and 12 is that although the Board has apparently deplored the conflict, it has not played any part in overcoming it. The recent Royal Commission into New South Wales Police has a range of views about the functions of the Police Board, Minister and Commissioner. The Royal Commission recommended the Board be abolished on four grounds:

- the pressing need to provide the new Police Commissioner with the power to properly manage the Service, including the selection of a key management team which he can trust;
- the distinction which needs to be preserved between operational matters and policy;
- the strategies developed in the Royal Commission’s report; and

The New South Wales Police Board was abolished in 1997.

The major difficulty experienced in Queensland and New South Wales police minister and commissioner relationships, is the inability of governments to clearly articulate the role and function of police within the modern democratic administrative and legislative processes of government and parliament. The case studies demonstrated that there is often a lack of consistency and understanding of the policing function by governments and political parties. Legislation needs to exist which better defines the legal mandate of police which can be accepted by differing political ideals.

The legislative challenge for the ideal ‘interdependency’ relationship between a police minister and commissioner is determining what the police mandate is within our political system. This was a theme Justice Lusher discussed in the Commission of Inquiry into the NSW Police Administration (1981:23-25). Defining in legislation the conventions and common law practices that impact on the operations of the relationship
is another important factor. Agreement for the legislative policing mandate and relationship conventions and practices can be achieved through a bipartisan parliamentary process.

**CHANGING MANAGEMENT PRACTICES**

One of the main aspects of this thesis has been the range of jobs that police ministers and police commissioners must perform. They are controlled by a range of pressures. A failure to deal with them adequately often leads to political problems. How police ministers perform can be explained by a number of factors. It will depend on their relationship with the police commissioner, their role in the government and on their position in the Labor, Liberal or National parties.

Some of the police ministers interviewed for this thesis appeared to perform well in their positions. Others coped adequately at times, but often experienced a great deal of difficulty. Personal abilities were important in understanding their performances in terms of scope and potential to do the job. However, police ministers operated in a distinct political and institutional framework which defined limits for their managerial performance. Police ministers often listened to advice from a wide range of people. As ministers, they were involved in some policy areas, the development of specific programs and, in several instances, heavily involved in routine operational matters. These actions determined the personal, political and environmental outcomes of the agency and government policy.

On the other hand, many of the police commissioners interviewed appeared to have an overwhelming influence and, on occasions, power in the development and outcomes of policies and administration. Operational matters appeared to be the sole province of the police commissioner except when ministers such as Pickering became involved in directing operations. Because of the uniqueness of policing, the police commissioner had the extensive knowledge, expertise and access to the information which in a majority of cases was superior to the minister's experience. The police ministers interviewed would accept a recommendation from a police commissioner unless it related to a specific issue like corruption, reforms or party policies. Some police ministers trusted their commissioner and regarded their opinion highly. However, it was generally accepted that there should be a distinction in roles, although there were differences in opinions about the degree police ministers should become involved in the day to day
administration and operations of an agency.

Police ministers on both political sides had a range of serious reservations about the managerial performance of police commissioners. Both conservative and labor police ministers over the past ten years have been more vocal in public about their private criticisms of police commissioners. Police commissioners were accused of being unable to control corruption, offering narrow policies on policing and covering up incompetence by relying on the legal notion of ‘operational independence’. In many areas of policy directions by police ministers, commissioners often were slow to support the minister and ‘operational independence’ was used to slow any reforms or changes. This often led to major tensions privately and on occasions publicly between the police minister and the commissioner.

Often police ministers had difficulty understanding the technical and legal needs of policing. Policy making is based on political or organizational beliefs which are often subjective. When issues are too complex and the police minister is not sure of the outcome, there is a heavy reliance and trust on the commissioner of police rather than other advisers.

The research has shown that commissioners have had an influential ability to affect policing policies. However, in recent times, this ability to influence has been reduced by the development of police ministries and boards, central government policy units and sharing of enforcement legislation with other government agencies. Interaction between commissioners of police and other chief executive officers in the public sector and their corresponding policy units have increased and there is a regular exchange of information.

Commissioners of police more often wanted a police minister who accepted their proposals, who understood them, who would fight politically for the organisation externally, and who was an advocate for the agency's ideology in general, although in one case a commissioner of police was not particularly concerned with several police ministers because the commissioner had direct access to the premier. Commissioners also had to deal with police ministers with experiences from other departments, with previous external employment not related to policing and with different public and mass media perceptions. Often when commissioners were critical of police ministers, it
related to the minister's inability to bend and be supportive. Trust and integrity became central issues when corruption allegations were an inflamed political problem implicating police and causing an adverse reflection on government. Commissioners often complained that they had to make the hard decisions when the police minister did not want to use his/her authority. The result, argued the commissioners of police, was a lack of accountability by police ministers with the commissioner becoming a scapegoat for the public and the media and in the political arena.

It appears from the analysis of the case study material that managing external and internal accountability measures is the essential key to future police minister/commissioner relationship success. There is a specific need for the police minister and commissioner to develop better management and leadership practices based on principles contained in the 'interdependency' model. This means that they will need to cultivate a range of exemplary practices expressing a commitment to ethical and moral principles and to demonstrate thereafter that they will operate consistently by those principles. Their relationship legitimacy will need to be based on a co-operative vision with a joint understanding and commitment to reform police management practices and to understand that the ideals of western democratic policing and politics are interrelated.

This official partnership must have a capacity to find effective 'interdependency' leadership ideals among the wider public and to ensure the fundamental freedoms in society are safeguarded. The application of these fundamental principle-centred leadership practices must be supported by legislative and administrative guidelines or standards that will ensure excellence in policing outcomes as expected and demanded by our society from a police minister and police commissioner.

**CONCLUSION - A CHALLENGE FOR THE FUTURE**

The reforms proposed in this chapter do not advocate any sympathetic views towards a police minister or commissioner of police because of the difficult and demanding burdens of their roles in our society. Often they actively seek these roles and may even revel in the intensity of the task. Their performance in office depends on their personality and management skills. Demands from the public or organization cause differing expectations on police ministers or commissioners of police which impact on
their personal communications, the decision-making processes and even the redirection of priorities and policies.

This thesis has been concerned with examining possible changes to the roles, conventions and expectations of a police minister and commissioner of police which are relevant to excellence in policing service delivery. Both players fulfil functions which are unique in western democratic societies, government and parliamentary processes related to the public good.

What is needed is a framework in which a police minister and commissioner of police may operate as public figures and together develop solutions to problems heavily involving our society at different levels and affecting its different social role performances. At the present time, pressures enforced on both police ministers and commissioners of police mean that policing issues are difficult to resolve within the confines of a complex and demanding political environment. The changes suggested in this chapter are not designed to resolve the issues of all police ministers and commissioners of police, but to allow them the best possible opportunity to achieve satisfactory ‘interdependent’ relationships and policing outcomes. The community needs to understand the problems facing police ministers and commissioners of police and help suggest alternative workable strategies. Indeed, society depends greatly on their good performance.

The literature presented in this thesis highlights the problems of police commissioners and ministers, but offers little beyond theoretical constructs. Based on observations and material used in this research, there must be more attempts at quantifying, better understanding, and managing this relationship if policing is truly to become more effective in governing our liberty and freedoms. Researchers must also realise that this is a double-edged sword. Several of the case studies point to a problem where the police commissioner possessed too much autonomy. However, there are numerous other examples in which police commissioners have been unable to ensure that their departments provided the best possible service because of a lack of political autonomy.

In the Queensland and New South Wales Police systems examined, the police function is largely a local adoption of a widely accepted premise that relatively few police commissioners and ministers exercise power and authority over society at large except by the consent of that society. Confidence in this relationship is so vital that it must be
reinforced by the most credible means of accountability available. The police/government relationship must engender public confidence. In contemporary society this includes all manifestations of the power of the state. In addition, that relationship must always reflect deference to service in the interests of the public. To this end the problem in defining the police role and the flexibility of structures within the Westminster model appears to make it difficult to legislate an appropriate relationship between a commissioner of police and the nominated minister of police. This makes the private 'interdependent' interactions and the quality of the people concerned of great significance:

That both are of impeccable moral and ethical qualities, that they respect each other and that they can interact professionally at all times is most essential (Bryett 1994:56-57).
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APPENDIX A - MODEL TYPES

SUMMARY OF DEPENDENCY FEATURES:

1. The commissioner of police is accountable to the police minister and the government within the Westminster system of Government.
2. The police minister is responsible for the policy and administrative direction of the department.
3. The police commissioner is responsible for implementing the instructions of the police minister and becomes subordinate and obedient to the police minister.
4. The police minister has power over appointment and dismissal of the police commissioner.
5. The police commissioner is an adviser to the police minister.
6. The police minister can be called to account for the actions of the department.
7. The police minister is often required to make political decisions which impact on operational strategies.
8. The government through the police minister controls the use of coercive force and influences operational decisions which often influence the liberty of the community.

SUMMARY OF INDEPENDENCY FEATURES:

1. The police commissioner is independent from political intrusion, has a wide area of independent professional discretion and is legally accountable for law enforcement decisions.
2. The use of police boards/ministries assists the commissioner with shared responsibility, broadens the accountability of a police commissioner, reduces political incursion, increases public credibility and operational independency.
3. The police commissioner has control over the operational and administration functions of the police organization.
4. The police commissioner is under a minimum amount of direction/control by the Minister but is required to provide reports.
5. The common law or original powers status of a police commissioner (office of constable) limit the instruction which can be given by a police minister.
6. The police commissioner enforces the law, and influences greatly the policy decisions of a police minister.
7. The police commissioner is accountable and responsible to the minister through reports and inspections.
8. Police independence is a reaction to political dependence in having the police minister control, define, use and manipulate the police commissioner.

SUMMARY OF INTERDEPENDENCY FEATURES:

1. The model requires redefining of the relationship rules and conventions based on greater personal trust, honesty, commitment and confidence through better defined expectations.
2. Both the police commissioner and minister must rely on the confidence of the public.
3. The government needs to accept the impartiality and neutral role of the policing function.
4. There needs to be a degree of balance between political control and operational and administrative independence.
5. ‘Policing by consent’ or ‘mutual accountability’ needs to be clearly defined by the government with sharing of responsibilities between the commissioner, government and the community.
6. There needs to be open and effective challenging of executive decisions and policies.
7. The relationship should be based on moral principles applying the ‘rule of law’ and the ‘explanatory and co-operative approach’ and not relying on administrative accountability.
8. The police commissioner should be free to control organizational management without party political interference.
9. The police commissioner should provide progress reports and have a mutually agreed framework for the conduct of the organization.
10. A deciding criterion should be determined for overriding problems between the Minister and the Commissioner based on a public written statement of agreements.
APPENDIX B - OBJECTIVES AND METHOD OF RESEARCH

Australian Police Ministers and Commissioners occupy a pivotal position in the system of law enforcement. Collectively, they are responsible for the general policy, administration and operational direction and control of policing throughout the Australian States. There has been in the past twenty years a growing complexity and a variety of problems facing police agencies which are arduous and demanding. Continuing social tension of recent years have given police ministers and commissioners higher public profiles than ever before.

Yet little research has been undertaken about the conventions and practices which direct Australian police minister/commissioner relationships. What are their legal, conventional, historical powers and responsibilities of those who govern state police agencies? A recent systematic English study into police commissioners in Britain by R. Reiner (Chief Constable, 1992 London: Oxford University Press) has provided some extensive data on their senior command level. I would like to gather systematically, some similar but much broader data, about Australian police ministers and commissioners.

In addition to library research on legal powers and political conventions of the role and responsibilities of police ministers and commissioners in Australia and overseas, I would like to conduct structured interviews with current and previous Queensland and New South Wales police ministers and commissioners.

I have been studying a doctorate at the Griffith University with Professor Pat Weller and Dr. Glyn Davis for the past three years. I have developed three models to help my research: Dependency, Independency and Interdependency models.

Ideally, I would like to interview about 20 current and past police ministers and commissioners from Queensland and New South Wales in order to provide a balanced and comprehensive picture of the differing practices and approaches within this relationship. The results will be analysed and reported on. The purpose is to portray the office not the individual. The interview will last about one and half hours and be based on a standard set of questions which should provide the basis for discussion which I hope participants will find interesting. I will be in NSW from Monday 8 April 1996 to Saturday the 13 April 1996 and would like to arrange an appointment with you. My thesis will be submitted for examination in 1998 and I am prepared to make a copy available to you after the thesis has been accepted.
QUESTIONS

INTRODUCTION

What would you say was the highlight of your career as a Police Minister/Commissioner?
What can you tell me about how this highlight was supported by your Police Minister/Commissioner?
1. In your view what are the main jobs including roles that a Police Minister/Commissioner has to do? Which are the most important?
2. To what extent should a police minister be involved in the management of a police agency?
3. How often did you seek advice from other sources on policing matters? What were your three major sources?
4. Should a police minister be able to direct a commissioner in respect to any matter or only have a limited power of direction and this be confined to government policy, administration/management or operational matters and why?
5. Where did the detailed government policy initiatives come from to implement policing operations?
6. What sorts of issues created tensions/differences between you and your minister/commissioner?
7. If a major problem occurs in the management of policing a State then - When should the Minister be sacked and when should the Commissioner be sacked?
8. What role did Parliament (including committees) play in policing issues? What role did the executive/cabinet play in policing issues?
9. What do you understand by the political term "separation of powers" and how it applies to policing issues?
10. During the past decade it appears that police commissioners, are adopting a much higher profile, frequently expressing views on policing and other social issues.

What are your views about these developments? Is there a danger that they could lead to the police no longer being seen as politically impartial by the community?
11. What distinction/s can you make between government policing policy, administration/management and operations? (Please give illustrations)
12. Who should ultimately have the power of decision-making when there is a conflict of viewpoints over (i) government policy (ii) administration/management (iii) operations?
13. Can efficiency and effectiveness of policing functions be readily separated in practice from political and legal issues? If not, why not?
14. If you had to design legislation/guidelines which included the essential characteristics of the Police Minister/Commissioner relationship, what would be its main features?
15. What changes are possible to improving the role and functions of the Commissioner/Minister relationship based on the evolving nature of our society and policing?
## APPENDIX C - LIST OF INTERVIEWEES

<table>
<thead>
<tr>
<th>NAME</th>
<th>POSITION</th>
<th>STATE</th>
<th>PERIOD</th>
</tr>
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<tbody>
<tr>
<td>Raymond Wells WHITROD</td>
<td>COMMISSIONER</td>
<td>QUEENSLAND</td>
<td>1970 - 1976</td>
</tr>
<tr>
<td>Terence Murray LEWIS</td>
<td>COMMISSIONER</td>
<td>QUEENSLAND</td>
<td>1976 - 1986</td>
</tr>
<tr>
<td>Ronald J REDMOND</td>
<td>ACT. COMMISSIONER</td>
<td>QUEENSLAND</td>
<td>1986 - 1989</td>
</tr>
<tr>
<td>Noel R NEWNHAM</td>
<td>COMMISSIONER</td>
<td>QUEENSLAND</td>
<td>1989 - 1992</td>
</tr>
<tr>
<td>Jim Patrick O'SULLIVAN</td>
<td>COMMISSIONER</td>
<td>QUEENSLAND</td>
<td>1992 - PRESENT</td>
</tr>
<tr>
<td>Allen Maxwell HODGES</td>
<td>POLICE MINISTER</td>
<td>QUEENSLAND</td>
<td>1968 - 1974 (National)</td>
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<tr>
<td>William Hamline GLASSON</td>
<td>POLICE MINISTER</td>
<td>QUEENSLAND</td>
<td>1982 - 1986 (National)</td>
</tr>
<tr>
<td>William Angus GUNN</td>
<td>POLICE MINISTER</td>
<td>QUEENSLAND</td>
<td>1986 - 1988 (National)</td>
</tr>
<tr>
<td>Theo Russell COOPER</td>
<td>POLICE MINISTER</td>
<td>QUEENSLAND</td>
<td>1987 - 1988 (National)</td>
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<td>Paul Joseph BRADDY</td>
<td>POLICE MINISTER</td>
<td>QUEENSLAND</td>
<td>1992 - 1995 (Labor)</td>
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<td>Gary HARRIGAN</td>
<td>PRIVATE SECRETARY (MINISTER - T. MACKENROTH)</td>
<td>QUEENSLAND</td>
<td>1989 - 1991 (Labor)</td>
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<tr>
<td>Tim MORONEY</td>
<td>PRIVATE SECRETARY (MINISTER - N. WARBURTON)</td>
<td>QUEENSLAND</td>
<td>1991 (Labor)</td>
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<td>John Keith AVERY</td>
<td>COMMISSIONER</td>
<td>NEW SOUTH WALES</td>
<td>1984 - 1991</td>
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<td>Anthony Raymond LAUER</td>
<td>COMMISSIONER</td>
<td>NEW SOUTH WALES</td>
<td>1991 - 1996</td>
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<td>Peter Thomas ANDERSON</td>
<td>POLICE MINISTER</td>
<td>NEW SOUTH WALES</td>
<td>1981 - 1986 (Labor)</td>
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<td>George PACIULLO</td>
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<td>NEW SOUTH WALES</td>
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<td>Edward Phillip PICKERING</td>
<td>POLICE MINISTER</td>
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<td>1988 - 1993 (Liberal)</td>
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<tr>
<td>Laurie YEOMAN</td>
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<td>Darryl GODSELL</td>
<td>MEDIA OFFICER: (COMMISSIONER - A. LAUER)</td>
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<tr>
<td>Gary STURGESE</td>
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<td>1996</td>
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