

# WHEN THE GOOD GUYS ARE THE BAD GUYS

The NZ Police must bristle every time Ross Meurant opens his mouth. But the former police inspector and MP speaks from a position of experience and scholarship. In a blunt self-appraisal and brutal debunking of police mythology, he provides a sobering insight into an institution that most New Zealanders support with unstinting faith.

ROSS MEURANT IS A FORMER POLICE INSPECTOR AND WAS A RED SQUAD COMMANDER DURING THE 1981 SPRINGBOK TOUR; HE WAS AN MP FROM 1987-1996 AND ADVISER TO NZ FIRST'S WINSTON PETERS, 2000-2004 (HIS AUTOBIOGRAPHY, *THE BEAT TO THE BEEHIVE*, WAS PUBLISHED IN 1989). NOW 64, HE'S AN INTERNATIONAL BUSINESS CONSULTANT, WORKING WITH COMPANIES IN NEW ZEALAND, EASTERN EUROPE AND THE MIDDLE EAST.





Left: Ross Meurant as a young constable with the Wharf Police in Auckland, 1970.

## Deep in the Forest

Like most recruits, I entered the police as an impressionable young man from a provincial working-class environment with a basic education. I was nothing special; I was altruistic but I was also easily manipulated.

The moment you become part of the police, you are immersed in a culture that sees its role as guiding society and deciding what is right and wrong. You feel you have an obligation – yes, even a duty – to guide the country towards being a decent society. Your task is honourable. What better vocation, in fact, than to rid the country of evil? Unfortunately, when you're instrumental in preserving society from villains, it doesn't take long to come to believe that the ends justify the means.

No recruit is ever formally taught to use violence, to lie and cover up. None of my mentors did that to me and I never did it to those I mentored. But the culture sends a very clear message: "When you witness a transgression by a colleague, keep your mouth shut; better still, provide an account which supports the miscreant and helps him/her out of a sticky situation."

If you don't, as a new recruit, you are ostracised. You may as well quit there and then. Later you will witness another indiscretion and you will again "cover". After all, you've been accepted as one of the team. You are "reliable". To lose that status is not desirable. But already you are compromised. Then one day you will commit an indiscretion and others will cover for you. Then you are beholden. You are now Deep in the Forest and there is no light to show the way home.

Police culture is introverted and self-protecting. It is mostly working-class – conservative in its origins and mostly bigoted and intolerant. It is a culture which looks after itself, reinforced by heavy drinking and bonding sessions. The "them and us" ethos becomes tangible. If someone has tattoos or hair too long or dresses the "wrong" way or does not have "acceptable" politics, then they are one of "them" and not to be trusted. Liberals are a menace to stability and are even more dangerous than unemployed Maori.

The police remain a conservative bastion, drawing their strongest support from



Above: Meurant (standing on the right) bonds with a group of police mates on his wedding day in 1973.

One day on our farm at Mamaranui, about an hour's drive north of Dargaville, my Dad took me down the back of the farm to tend a sick cow. I can still see that creamy-coloured Jersey girl lying beside the creek which ran across our land.

With one strong grip and swing, Dad dropped me to the ground from my seat behind him on the horse. He dragged a shotgun from the scabbard under the saddle. "You going to shoot that cow, Dad?" I asked timidly. "Why?"

"She's sick, mate," he replied.

"Why don't you give her medicine?"

"I tried that," he replied.

My bottom lip began to tremble. "But Dad, you said our cows are special!"

"They are mate, they are sacrosanct," he said, using one of the few big words he seemed to know.

I thought for a moment then, in desperation, I said, "What about the other cows? Lots of them get mastitis in their tits and you don't shoot them."

Dad turned to me and placed his hand on my shoulder. "When a cow gets too sick to fix, it is the best thing to do. Shoot it. And

if all the cows got really sick I would have to shoot them all."

I was stunned. No cows meant no money and no money meant no presents at Christmas or birthday time. I was eight and a country boy but I had figured out the elementary facts of life beyond why the bull was run with the cows.

"But, Dad, if we had no cows we'd have no milk and if we have no milk we get no money from the factory!"

"No," said Dad. "We would have some milk and money because we would start again with new cows."

Dad then shot the cow, fair between the eyes, and a whole lot of blood gushed out. When it stopped gushing, it looked like the cow had three eyes.

Eleven years later, I joined the New Zealand Police. I stayed for 21 years and it took me many more years after that before I began to see that blind loyalty to your mates is no more sensible than letting a sick cow go on suffering. Eventually, you have to muster the courage to do the right thing, or say what needs to be said about what is wrong in an organisation, however painful and difficult, and sometimes dangerous, that might be. This is necessary even when you want to believe – as I did for a long time – that the NZ Police are sacrosanct.

provincial and older people. And, in day-to-day policing, I believe the anti-Maori, anti-Islander sentiment still pervades the force; it was, of course, Maori posing a threat to the establishment that sparked the Urewera "terror" raids in 2007.

I well recall as a detective in the mid-seventies, in the aftermath of the Vietnam War, when I applied to go to university and was asked by my commissioned officer, Detective Inspector Graham Perry: "Meurant, why do you want to go to university? Are you a communist?"

Later in my career when I found myself incarcerated as supervisor in a control room – a job I loathed – I did go to university. My teachers included Michael Bassett, Phil Goff and Helen Clark – peers later in Parliament and each had decidedly different political beliefs to me.

Yet they were prepared to suppress their natural aversion to me and mark my opinions objectively. This juxtaposed starkly for me the attitude and culture of the two institutions. One was prepared to tolerate alternative views; the other was not.

In all, I studied for 11 years at Auckland and Victoria universities and I am immensely grateful for how those institutions helped me overcome the effects of my over-exposure to police culture. By the time I was commissioned as an inspector, I was writing papers

within the police advocating commissioned officers be seconded to quasi-government entities such as the Dairy Board and Air New Zealand to gain some commercial acumen and have exposure to management and company culture outside the police. I also advocated the appointment of a commissioner recruited from the private-sector corporate world rather than one steeped in police culture. I did not then realise that I was emerging from the Forest.

For someone who was as ambitious and steeped in the police ethos as I was, this behaviour was heretical. I had advanced up the police ranks relatively quickly. In the seventies, I was a detective on the Regional Crime Squad and the Drug Squad. I was also on the Armed Offenders Squad. My formal police assessments were high: "excellent" as a detective; "outstanding" as a commissioned officer.

In my formative years, my immediate supervisors included Detective Sergeant John Hughes, Detective Inspector Perry and later Detective Inspector Bruce Hutton (Hutton was my boss on my first homicide case, the Crewe murders). These men were legends in their own time, each of them relentless and with a determination few could match.

My last job in the police was inspector in charge of special operations and a criminal intelligence section. At the time, the focus

was on the activities of Maori activists at Auckland's Carrington Hospital. I took raw police data and used it in my maiden speech in Parliament in 1987.

At the time I believed in the conclusions that we, as a police unit, had reached and peer-reviewed. Some form of revolution or armed insurrection had been threatened. There were threats of "Kill a white, die a hero". Maori wanted political sovereignty and Maori activist Syd Jackson was one of several who had been to Libya. But did a contrary political view and aspirations really pose a threat to the security and stability of our country? History has provided the answer. There has been no revolution and at least one of the Maori activists of those times is now in Parliament working within the system.

I made a mistake when I used untested police data in my maiden speech. It took another nine years in Parliament, another three years at university and five years living in Eastern Europe, where the legal protections and freedoms we take for granted often do not exist, for me to finally ask: are the police so sacrosanct we may not review



An SAS and Armed Offenders Squad exercise on Motuihe Island, 1973. Meurant, with rifle, is second from left. Mike Charles (who found the cartridge case the Royal Commission said had been planted in the Crewes' garden) directs the police with a hand signal.

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their conduct? Can we not call them to account for their actions before a court of law? Why do the police seek to hide from the public what they do in the name of protecting the public and preserving the peace?

My years working in Eastern Europe and the Middle East have shown me what happens when police are able to avoid scrutiny by independent courts – arrogance, injudicious conduct and corruption are an inevitable consequence. It's true that New Zealand is largely free of blatant corruption – such as kickbacks, bribes and inducements for the personal gain of officers – but in its place has emerged a corruption of zealotry; where police break the law to put someone behind bars because of the belief within the police that they know what is best for society.

This sanctimonious type of corruption is particularly evident when the police, rather than an individual police officer, are subject to scrutiny for an unlawful act. By not subjecting the actions of the police to the courts' scrutiny, police believe they are protecting themselves and thereby serving the greater public good. But abrogating elementary constitutional checks and balances, which are part of the legal fabric of all Western democracies, is the beginning of a form of corruption which can become endemic.

### Little Ticket, Big Ticket

Deviant behaviour by police may include excessive zeal that leads to excessive force being used and subsequent denials in court on oath, or "solving" a crime by fabricating evidence to find the "missing link", and later perjury when denials are made in court. This may be simply because a police officer or group of officers has decided someone should be taken off the streets – either for what they perceive as being for the public good or simply as a malicious act toward someone they do not approve of.

The problem is compounded when police as an organisation are complicit in these crimes by failing to put before the courts officers whose conduct is evidence of a crime – often in the misguided belief that for the greater good of society they are protecting the police image from being tarnished.

"Unfair!" cry the police, who with alacrity will point to cases where police officers have been charged in open court with assaults, perjury, sexual and other crime. But invariably these are cases where police can easily condemn the miscreants as "bad apples" or isolated cases of personal misconduct.

Although the officers may be accused of serious crimes in this "small ticket" category, they are treated in a manner very different

to those crimes I describe as "big ticket".

Big-ticket items are those events which have the potential to pull down the walls of the castle. The case of former Assistant Commissioner Clint Rickards was a big-ticket item. Ultimately, the police were forced to press charges against a man many saw as likely to become the first Maori commissioner – but they prevaricated for years as they knew the negative impact of the allegations against Rickards and others being aired in court would have on the public perception of the police.

Although Rickards was acquitted of rape and indecent assault, public confidence in the police was affected.

The classic case of a big-ticket item is the failure of Commissioner Robert Walton to press charges against Detective Inspector Bruce Hutton and Detective Len Johnston for fabricating evidence and perjury following the findings of the Royal Commission inquiring into the convictions of Arthur Allan Thomas for the murders of Harvey and Jeanette Crewe.

Former Prime Minister Rob Muldoon had responded to growing concerns about the conduct of the original investigation, which resulted in Thomas being twice convicted of the double murders, by convening a Royal Commission. In its report, the commission said: "We conclude Mr Hutton and Mr Johnston planted the shell case, exhibit 350, in the Crewe garden and that they did so to manufacture evidence that Mr Thomas' rifle had been used for the killing."

On the basis of what the Royal Commission labelled an "unspeakable outrage", the Muldoon government pardoned Thomas and paid him almost \$1 million in compensation. Yet in the opinion of Commissioner Walton and subsequently Solicitor-General Paul Neazor, the same commission report (produced after the Royal Commission subpoenaed both prosecution and defence witnesses, observed their demeanour as they were questioned, as well as evaluating ballistics and other scientific evidence) was not sufficient to establish a case for Hutton and Johnston to answer.

Regrettably, this practice of placing the preservation of the police above preservation of the rule of law has been condoned by successive governments. John Key's refusal to act on the plea of Rochelle Crewe for the case of her parents' murders to be reopened is instructive.

Rochelle Crewe did not expect Key to direct the police to open a new inquiry. She asked for an independent inquiry into the unsolved double murder of her parents – on



Former Assistant Commissioner Clint Rickards.

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the strength of new information; also that a corrupt police inquiry run by Hutton ignored or did not investigate much of the evidence. Which were almost precisely the grounds on which Muldoon took his courageous decision to anoint an independent Royal Commission of Inquiry.

In the Crewe homicide, which is the biggest of the big-ticket items, the police case rested on spurious and inane circumstantial evidence and ballistics evidence linking a cartridge case found in the Crewes' garden with a rifle owned by Thomas and the bullet fragments found in the bodies of Harvey and Jeanette Crewe. Eventually, ballistics experts independent of the New Zealand Police and Department of Scientific & In-

dustrial Research (DSIR) established beyond reasonable doubt that the bullet fragments did not come from the cartridge case, which the Royal Commission found had been planted by the police to fabricate evidence. This was the coup de grace which finally destroyed the police case.

The Royal Commission, comprising former New South Wales chief judge Robert Taylor, former National Party cabinet minister Peter Gordon and the Right Reverend Allan Johnston, laid the blame for this travesty of justice firmly at the door of Hutton and Johnston. But in my view, other evidence suggests that these men were not alone.

Author Chris Birt, who has spent 37 years studying the Crewe murders, has recently uncovered evidence which transfers some blame for what happened in the Crewe inquiry right to the top of the New Zealand Police – to the head of the national Criminal Investigation Branch, Bob Walton.

When the Crewes were murdered in June 1970, Assistant Commissioner Walton was a shoo-in to replace the ageing Gus Sharp as police commissioner. Standing in his way, however, was a number of unsolved homicides. Evidence subsequently prised from the police reveals Walton was unhappy about this situation and his discontent manifested itself in harsh edicts to the homicide squads under his command. Birt discloses that in July 1970 Walton called on the homicide headquarters in Rotorua from which the Olive Walker murder inquiry was being run. Walton made it clear to senior officers on that case that he wanted an arrest without delay.

The second in command of that case resisted pressure from Walton to arrest a known criminal who was close to Walker's family. There was good evidence that this "suspect" was not the offender, but Walton left Rotorua after telling that officer his career in the CIB was over.

The next morning, this hard-working and dedicated police officer – at that time on his way up in the CIB – was handed a letter advising he was being transferred back to the uniform branch. The Walker case, unsolved to this day, was to be his last as a detective.

That same day Walton went to Auckland, to a homicide conference, and told the officer in charge of the Crewe investigation, Bruce Hutton, in no uncertain terms that he also expected an arrest in that double murder – and sooner rather than later. When Birt interviewed Walton about these incidents, just before Walton's death in 2009, the retired commissioner justified his instructions by saying he was "merely seeking to motivate".



Above (left to right): Assistant Commissioner Bob Walton, the national head of the Criminal Investigation Branch, Detective Superintendent M. J. Ross and Detective Inspector Bruce Hutton, outside the Crewe homestead at Pukekawa in 1970. A caption in a booklet published by the *NZ Herald* said, with unintended irony: "Police plan one of the most elaborate murder investigations in New Zealand criminal history."

Right: Detective Len Johnston, accused by the Royal Commission of planting evidence to secure the conviction of Arthur Allan Thomas, pictured behind him, on the left.



Walton's "motivation" would have left little room for misinterpretation in the mind of a subordinate as to what the boss wanted. Walton would have placed Hutton under pressure but may have also infused him with the confidence that any "solution" would be accepted. Hutton, of course, delivered an arrest and remained in the Criminal Investigation Branch, later taking the plum job of officer in charge of the Drug Squad, by which time I was a detective in that unit.

Years later, the actions Walton took to pressure me to change the evidence I was about to give before the Royal Commission from that evidence I'd given on oath in previous hearings was far more direct.

I'd been a member of the "scene detectives" on the Crewe homicide. Our job was to record every aspect of the crime scene in the Pukekawa house where Harvey and Jeanette were murdered while their toddler daughter Rochelle slept in her cot in an adjacent bedroom. I was allocated the mun-

dane task of searching a strip of garden near the house, but which turned out to be critical. I failed to find a cartridge case, even though I'd been meticulous, but another officer, Detective Sergeant Mike Charles, later a superintendent, did find a .22 cartridge case in a search of the same plot four months later. That cartridge case formed the basis of the ballistics evidence that the police claimed locked in Arthur Allan Thomas as the murderer.

When I was asked in court sequels about my time as a scene detective on the case and if I'd been careful and methodical in my duties when searching the grounds of the Crewe property, I could say "Yes" because it was true. Imagine then my shock when nine years later, while serving as a senior sergeant in Auckland's control room, Commissioner Walton and my area CIB boss, Detective Superintendent Brian Wilkinson, took me aside one morning and asked what I was going to say in my evidence when I attended

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the Royal Commission later that day. Of course, he already knew what I was going to say as my brief of evidence had been prepared well in advance and repeated what I'd said on oath in previous court sessions.

In response to Walton's probing, I said that I would confirm I had been thorough and methodical, on my hands and knees at times, and that I used a sieve on occasions when searching the strips of ground that included the specific spot where Mike Charles subsequently found a cartridge case. Walton shook his head.

In the presence of the other executive officer, who at the time was hoping to be promoted to detective chief superintendent and dependent on the commissioner for his promotion, Walton said: "Come on! Senior detectives don't get down on their hands and knees and sift through dirt." Effectively, the Commissioner of Police was telling me to lie on oath to a Royal Commission.

I was stunned – not least by the fact that the attempt by Walton to encourage, entice or intimidate me to change my evidence is an indictable crime punishable by 14 years' imprisonment.

Needless to say, I did not alter my evidence and in fact emerged from the hearing as one of the very few police witnesses who was not castigated by the Royal Commission.

It is significant that when I was part-way through my evidence, the commission accepted a report from Australia which categorically discredited the ballistics evidence of the police and the New Zealand DSIR that the bullet fragments in the bodies of the Crewes had come from the cartridge case "found" by Charles.

Until that time, Walton stood firmly behind Hutton's case against Thomas, built as it was on a cartridge case planted, according to the Royal Commission, by Hutton and Johnston. That Walton wanted me to vary my evidence



Former Detective Inspector John Hughes pays his respects at the memorial to murdered Swedish hikers Heidi Paakkonen and Urban Hoglin on the 10th anniversary at a service atop Crosbies Crossing near Thames. Hughes led the inquiry into the murder of the missing pair.

to create the impression I'd been careless and missed the cartridge case during my search of the garden in June 1970, causes me now to conclude the Commissioner knew of Hutton's fabrication of evidence and was doing all he could to protect the police from the truth being made known.

The extent to which Walton was prepared to go to preserve the police reputation at the expense of the rule of law was, and remains to this day, astonishing. It culminated in him trying to intimidate me, by his manner, his rank and my vulnerability at a critical stage of my career – promotion to commissioned rank imminent – to change my evidence. As it transpired, although I was one of only five per cent of the officer corps with tertiary qualifications, I was not commissioned until after Walton retired – shades of the treatment handed out to the officer second in command of the Olive Walker homicide who refused to buckle.

### Leo Ngamu

While the framing of Arthur Allan Thomas is the best known of the big-ticket items, there are other, lesser known cases in which police corruption has

been protected. One such is the Ngamu case.

In the late 1970s, Detective Senior Sergeant John Hughes rejected a statement being taken by a detective from robbery suspect Leo "Beaver" Ngamu. It did not contain an admission, so Hughes retyped a new statement including an admission, then directed the detective to arrest the suspect on that evidence. Should any objection be raised at a future court hearing, he expected the detective to deny any fabrication of evidence.

Barry Hart, the barrister who defended Ngamu at his trial for armed robbery, told the *New Zealand Herald* he was involved in two cases in which Hughes' conduct was called into question. But he was so astounded over what happened to Ngamu he kept the case files.

What undid Hughes on this occasion was that Ngamu, unseen by the two police officers, picked up and pocketed the discarded first statement, which Hart was able to produce in court to contradict the young detective's evidence that there had only ever been the "confession" statement.

"He [Hughes] wrote [Ngamu's] 'confession'," Mr Hart told the *Herald*. "It was all bullshit. In my career, that was one of the worst situations... dreadful."

The judge recommended the apparent perjury by the young detective be referred

to the Commissioner of Police, Bob Walton, but Hart says the commissioner effectively rubber-stamped his officers' behaviour.

"The Commissioner said he looked into it and he had counselled both policemen. They should have been charged with perjury."

Thus we have a classic case of fabricated evidence, with Hughes as the principal perpetrator. In my view, this was mostly a matter of Hughes deciding that someone he knew to be a criminal was going to jail on this occasion; that the end justified the means, for the public good. This point of view was endorsed by Bob Walton, who put preservation of the reputation of the police above preservation of the rule of law. Effectively, Walton was committing another crime – that of white-washing a crime the presiding judge in the Ngamu case had concluded was evident from the behaviour of two detectives.

### David Tamihere

The Tamihere case is another example of questionable conduct by John Hughes (who died in 2006).

In 1990, David Tamihere was convicted of the murders of Heidi Paakkonen and Urban Hoglin.

Let me say at the outset that I have no doubt Tamihere committed these murders, just as he was rightly convicted of the manslaughter of stripper Mary Bacham in Upper Queen St, Auckland in 1971 – a killing where I was initially the detective responsible for all matters pertaining to the victim. But I do share barrister Barry Hart's view of the integrity of the evidence police presented to sustain the convictions against Tamihere in the case of the murdered Swedish tourists.

Hart explains that the inquiry team, led by Hughes, was accused of manipulating identification evidence by parading Tamihere before media at a court appearance, and of making improper inducements to prisoners who testified on appeal that Tamihere admitted to the killings in jailhouse confessions.

In the *Herald* interview, Hart said two trampers who reported seeing a man with a blonde woman near Crosbies Clearing in the Coromandel had failed to identify Tamihere as the person they saw when police showed them a photograph. But after the court appearance, one of the two trampers identified him.

An unsuccessful appeal was launched after Hoglin's body was found in 1991, far from where police allege Tamihere had

killed the couple. False police evidence is manifest in their reference to a watch that police claim belonged to Hoglin and which Hughes maintained Tamihere said he gave to his son. This evidence was tendered to the court as part of the homicide investigation run by Hughes. It's highly relevant that when Hoglin's body was finally discovered, the young Swede's watch was still firmly on his arm.

Bob Walton and Hughes were involved in a similar systematic course of misconduct in the Crewe case. When the focus shifted to Thomas from Len Demler, Hughes' signature policing style again emerges.

Hughes swore on oath at the first Thomas trial that the young Pukekawa farmer had told him he'd worked on the Crewe farm, had met Harvey Crewe and had found him a nice guy. Despite evidence showing that Thomas ended his role as a loader driver for a top-dressing company before the Crewes moved to Pukekawa in 1966 – and thus could not possibly have worked there during their tenure on that farm – Hughes repeated this at the second trial in 1973. In doing so, he linked Thomas at a very personal level with Harvey Crewe. But it was never true and there can be little doubt that Hughes knew it was not true when he gave evidence on that very matter.

The failure of the police to fully investigate Thomas's employment records was one of the instances of malpractice identified by the Royal Commission in its damning 1980 report to Parliament.

## Police Still Looking After Police

Another example of police avoiding court scrutiny was the police shooting of Stephen Bellingham in Linwood, Christchurch, in 2007. The law is clear about when a police officer or civilian may kill another human being. One must fear, on reasonable grounds, death or grievous injury to oneself or a third person which cannot otherwise be prevented.

In my view, the circumstances of that killing are not as transparent as the police's public relations would have us believe. A man shot wielding a hammer on cars! I suggest a reasonable man would conclude the officers should have walked away. So what if cars were damaged? If the offender had attacked the officers and they could not retreat to safety it would have been different,



**Above:** Police Commissioner Howard Broad arrives at the funeral for Halatau Naitoko held at the family home in January 2009.

**Right:** Ivoni Fuimaono Teputepu mourns her son Halatau Naitoko during the funeral. Naitoko, 17, was fatally shot as police tried to stop a gunman after a high-speed pursuit involving more than 20 police cars. Police admitted Naitoko was killed by a police bullet.

but this was not the case. And, even if it was, the place to test the evidence was before a court of law. Yet immediately after the killing we had the Police Association president, completely out of line in my view, seeking to influence public perception by claiming the shooting was justifiable and that we should trust the police to judge their own actions.

This of course is the manifestation once again of the police culture of looking after the police.

In January 2009, on Auckland's Northwestern Motorway, members of the police Armed Offenders Squad (marksmen trained to act under pressure) shot and killed 17-year-old courier Halatau Naitoko, who was driving on the opposite side of the motorway to the location of the intended target, gunman Stephen McDonald. Several shots were fired by the police; none hit McDonald.

In August, coroner Gordon Matenga said he was greatly concerned that officers had missed their intended target with four shots "from a reasonably close range of between seven and nine metres". He was also critical of one of the officer's failure "to appreciate what was within the line of fire..."

Although there is no suggestion the police deliberately shot the wrong man, in my view their actions were negligent.

Negligence is grounds for a charge of manslaughter. The police, under Commissioner Howard Broad, did not lay charges against

the police officer who fired the fatal shot.

The strength of our police is public confidence and support, without which they are nothing. The best way to retain that public support is for transparency and that's best achieved by testing police actions in a court of law, where the credibility of all witnesses and all evidence can be evaluated.

An Independent Police Conduct Authority review of a police inquiry is not, in my view, sufficient independent scrutiny to determine the culpability of police actions. Open review rather than behind closed doors is the type of justice which delineates Western democracies from quasi-totalitarian states of the "East". IPCA reviews are behind closed doors. This usurping the role of the courts is corrosive to an open society. The IPCA was set up to review evidence in cases where complaints were made against the police or where a death appears to have been caused by police. It cannot lay charges but can make recommendations that court proceedings be instituted. In my view, the IPCA has taken upon itself the role of a court in determining whether or not an act by police is culpable.

In a 2009 Northland case subject to an IPCA investigation, Constable Jamie Anderson was found to have been using his personal mobile phone while on duty and had his patrol car headlights on low beam when he ran over and killed a 16-year-old youth walking on the road at night just





The Auckland Armed Offenders Squad, 1972, with Graham Perry, later an Assistant Commissioner of Police, in the centre of the front row. Meurant, then a detective, is third from right, second row.

## All the Commissioner's Men

My style of policing and attitude toward my vocation was greatly influenced by Graham Perry, who rose to be Assistant Commissioner; Bruce Hutton, Chief Inspector; John Hughes, Detective Inspector, and Robert Walton, ultimately Commissioner of Police. These men – and I – were bonded by the *esprit de corps* of the Criminal Investigation Branch (CIB) and Armed Offenders Squad (AOS) and all of us, by my observations of them (and myself) at work and play, exhibited a pathological desire to succeed.

In my view, John Hughes' motivation was always for the public good. In the case of Walton, for the good of the police. At the very best, you might say both men were well-intentioned but misguided.

People are like sheep. They follow the leader. The police are no different, and perhaps they're even more sheep-like, from being in a hierarchical organisation. Powerful figures like Walton, Hughes, Hutton and a few others, who emerged as legends in their own time, influence police culture well beyond the impact of their individual authority.

The bonding which developed between Perry and Hughes and the detectives on the Regional Crime Squad was very much a product of the times. This was a period of much violent crime: there were armed robberies of banks and hotels almost weekly; widespread safe blowing with explosives; turf wars among felons, and deaths by shooting as wannabe

drug lords staked out territorial claims. Hells Angels and Head Hunters gangs were at their zenith, with pack rape a regular occurrence. These men were seriously dangerous as far as the police were concerned. Many police were intimidated to the extent they would drive past an incident involving any of these malefactors for concern of retaliation at a later stage – if not the immediate fear of having one's head kicked in if they stopped to investigate.

The Regional Crime Squad was the police's foremost weapon to deal with these elements. Being a tightly knit squad was a prerequisite for survival for those of us who regularly confronted angry men in dark alleys.

With his unique and inspiring qualities of leadership, Perry did all he could with the squad to bring peace to the city of Auckland, short of arresting everyone in the place.

As I emerged as a leader, my style was similar to these men. I had an aggressive personality, displayed boldness in front-line policing – including several times as duty inspector and being armed myself, having to face down armed gunmen (but not shooting any) – and taking command risks.

A reputation I had acquired from my days as a detective who dispensed summary justice was reinforced by initiatives I took as second in command of the Red Squad.

The media portrayed the Red Squad as a brutal unit and my book, *The Red Squad Story*, elevated me to be the feared and public face of that squad.

outside Ohaeawai, near Kaikohe. Anderson received a text message 20 to 30 seconds before the crash and it was determined he'd been texting as he drove out of Ohaeawai. He claimed he'd not read the text – and the IPCA accepted that the available evidence did not establish he was using it just before the crash. (Although it was not unlawful to use a cellphone while driving in mid-2009, it was a much-debated issue and the practice was discouraged by government agencies, including police.)

Independent advice was sought from the Crown Solicitor, who advised that Constable Anderson should not be prosecuted for careless driving.

The IPCA did not recommend any penalties against Constable Anderson, who will not face criminal charges and is still working for the police.

## Out of the Forest and into the Future

Now, many years after my career in the police ended in 1987, I would like my legacy as a policeman and politician to also include agitating for significant reforms to the way police operate in New Zealand.

If I may be so audacious as to make a suggestion – for the public good – it would be to adopt the following initiatives:

- Appoint a Commissioner of Police selected from the corporate private sector. This would inevitably result in a commissioner with higher education, a social network outside the police and a person with management and financial planning skills of the highest standard.
- Introduce lateral recruitment for university graduates at commissioned officer level. This would overcome the problem of all commissioned officers being promoted from within. (Police still target young recruits – 18 to 25-year-olds – and last year said they wanted to drop the average age of new recruits. Recruits with higher educational qualifications appear not to be sought after.)
- Outsource all police-recruit instruction in law (and sociology) to universities. This would obviate the problem of recruits being exposed to unqualified instructors – police sergeants with no formal teaching certificates, almost certainly no law degrees, but imbued

with a decade of police prejudice. The practical (non-law) police education could be delivered “on the job” during a probationary period by police sergeants.

- Government adopt a policy that any and all deaths caused as a consequence of any police involvement be put before a properly constituted court of law – not a court martial and not a review body such as the Independent Police Conduct Authority, which should never be permitted to usurp the role of a court and must always remain an agency to review the evidence available to help ensure courts are not presented with prejudiced evidence.

UNTIL THIS NEW dawn, one very encouraging sign has been the appointment of Peter Marshall as Police Commissioner. Within the first week of taking office, Marshall unequivocally put his stamp above that of the Police Association president (who in my view was acting as a de facto commissioner during the reign of Commissioner Howard Broad) when he said “No” to general arming of the police.

His logic that weapons taken from a generally armed police can be used against them is, in my view, flawless. Marshall's vision thus far is entirely consistent with the high calibre of the man I remember when he was a young cop and I was Deep in the Forest.

## TERROR ALERT?

In 2007, police launched a massive nationwide campaign of search and detention for terrorists. Under the leadership of Commissioner Howard Broad, the police abrogated the rights of the individuals – rights entrenched by constitutional precedent and statutory law – on the flimsiest of pretexts, with echoes of President Bush's justification for invading Iraq, in essence: “There are weapons of mass destruction... Trust us.”

Police operation manuals require the Prime Minister to be briefed in advance (except when operational immediacy precludes it) whenever any anti-terrorist action is to take place. It is all the more disturbing that the government of the day was persuaded to accept this nonsense.

Police claim they collated information over 12 months that led them to conclude there was a real threat to the stability and security of our



Rongomai Bailey, one of 18 defendants charged with firearms offences following nationwide police raids, talks to media outside the Auckland District Court after Judge Mark Perkins found there was insufficient evidence to bring him to trial.

country. The problem was that the information was assessed by the same people who collated the data or, at best, by the supervisor of the “intelligence-gathering unit” and his superior – all of whom have a vested interest in producing an outcome which justifies the retention of their unit. The result was the first test of the draconian Terrorism Suppression Act, passed in 2002 around the time Iraq was being scoured for those elusive WMD.

The 2002 act has the effect that citizens are no longer protected from arbitrary detention without being charged and, where charged, the right to be taken before a court as soon as possible. There is a fundamental flaw in the present legislation where it allows a subjective test of police information by police to form the basis of the reason to catapult us onto a terror-alert footing.

Fortunately, under the terrorist legislation, before police can charge people they must have the approval of the Solicitor-General who, on November 8, 2008, said he was “...unable to authorise the prosecutions that have been sought under the Terrorism Suppression Act. There is insufficient evidence to establish to the very high standard required that a group or entity was planning or preparing to commit a terrorist act as that term is defined in the legislation.”

Commissioner Broad then came under public pressure to justify the use of anti-terror legislation and said, “If I could place all this information

in the public domain as a means of assuring the public the police acted reasonably and justifiably, I would do so but I am constrained.”

In November 2007, TV3's *Campbell Live* obtained documents relating to the police raids but backed down from revealing their contents on air after the Crown Law Office warned the programme could face legal action if court suppression orders were breached.

A week later, journalist Phil Kitchin published a series of stories in the *Dominion-Post* based on leaked police files on the raid. The paper's publisher successfully defended the contempt of court charges that followed, claiming the public had a right to know.

The *Dom-Post's* actions underscore for me the role of the Fourth Estate as an important part of our constitutional system of checks and balances.

Since the arrests of these “terrorists”, not only have the police sought to avoid accountability for their actions in any public forum, but also it seems they now seek to avoid proper public scrutiny in a court of law of the evidence Commissioner Broad once claimed would justify police actions. And more disturbingly, it seems to me that the government is a consort to covering up its own role in this shabby affair.

The stalemate has now led to the denial of a trial by jury for the accused – another alarming development.