

REPORTING MAJOR CRIME INCIDENTS

In the light of recent events, such as the media's direct involvement in the siege at Cangai, public concern with the media's role has been answered by discussions between the police and the media.

The question of media relationships with the police and other emergency services has been the subject of recent discussions between government authorities and representatives of the media organisations.

The discussions were held under the auspices of the Standing Committee on Commonwealth/State Co-operation for Protection Against Violence (SAC-PAV), Australia's senior advisory body on politically motivated violence. The meeting with representatives of regulatory bodies, the journalists' union and the ABC aimed to have "well-formulated arrangements for media co-operation in place" should an act of "politically motivated violence" (i.e. terrorism) occur.

Kevin Rogers, head of the Protection Services Co-ordination Centre (PSCC) of the Federal Justice Office, noted, at the start of the meeting, that there was a need to reconcile competing obligations: the police aimed to uphold the law and protect life; the media had to inform the public. Poor resolution of these conflicting obligations, he said, can cause injury or loss of life. "Under the pressure of operational decisions or under the commercial pressures of professional life, we do not always act in a considered way". This had led to a relationship described as a balance between "police evasiveness and journalists' intrusiveness".

New technologies had exacerbated the problem, leading to a need for a framework to manage the changes. Events at the Cangai siege have exposed the problem in police/media relationships. He noted that earlier efforts which sought only to deal with the media side, by the adoption of a set of guidelines on reporting, had not worked. Police and official attitudes had to be dealt with as well - leading to, perhaps, guidelines but

also co-operation and mutual understanding.

NEGOTIATION

Superintendent Norm Hazzard of the NSW State Protection Group, the SAC-PAV Training Adviser on Negotiation, talked about the official strategies used in hostage situations. The primary aim was a safe and peaceful resolution, with a primary emphasis on saving lives - those involved the siege as well as those in its vicinity, emergency personnel, media and the general public. Based on a study of similar operations around the world, the necessary elements are isolation and containment and negotiation.

Isolation and containment not only means the securing of a wide perimeter around the incident but also the establishment of the police negotiator as the sole link to the outside world. The skilled work of the negotiators, advised by psychiatrists, builds up a rapport with the hostage taker, and leads, in most cases, to a peaceful resolution. However, the interference in this isolation by a third party breaks the rapport and can lead to aggressive behaviour by the offender.

Superintendent Hazzard noted that in his experience most members of the media acted "with integrity and did not deliberately interfere with police operations". However, lack of understanding of the police methods occasionally led to interference. He stressed the need for greater understanding by the media and the police of each other's objectives.

MEDIA LIAISON

The third official speaker at the meeting was Jane Munday, Victoria Police's Media Director, and SAC-PAV Training Adviser on Media Issues. She stressed that the era of the police policy of "tell them nothing; take them nowhere" was over and that police forces

around Australia were more aware of media liaison and acknowledged the right of the media to report events.

However, the technological changes in equipment and the emphasis on entertainment in some news reporting had led to new problems. The ability of the new equipment to give an immediacy to reports had created a capacity to affect operations. This seemed to have made the media participants rather than observers in some situations. It was necessary to work out how to co-operate for mutual benefit.

SAC-PAV was trying to foster such a co-operative attitude, improving the skill of emergency services in their dealings with the media at major incidents. Material was being prepared for release to the media as background information to help them understand the "dynamics of major operations". Contact was also being made at journalism schools and courses for police in Media Awareness were being organised.

Ms Munday concluded by noting that the media could be of use to authorities as a source of information. The police could provide the media with accurate and informative reports. She hoped that co-operation in dealing with these issues would avoid the need for legislative control.

FEEDBACK

In the discussion that followed the three presentations, the main issues that arose included:

- agreement that education at all levels was important but recognition was needed of the pressures already on journalists' and editors' times and the number of other interest groups that were similarly pressing for attention, including multicultural organisations, indigenous people, environmental

groups and those whose priority was concern with the treatment of gender;

- noting that journalists' codes of ethics and the principles of regulatory bodies covered some of these issues and that these codes were under review;
- concurrence that legislation was the last resort;
- consensus that a national forum on these issues was one element of a broader solution.

Media representatives stressed that any additional sensitivity of police operations would need to be balanced by the reinforcement amongst journalists and students of the need to seek out additional sources and to "report without fear or favour".

Allan Behm of the Federal Justice Office explained that the Australasian Police Ministers' Council had decided to sponsor a forum which would seek

a non-statutory approach to media coverage of major incidents. The meeting discussed whether such a forum could achieve its aims and how it should be organised. There were several problems that were inherent in the media industry: the distinctive nature and different approaches to news gathering among print media, radio and television; the difficulty - due to the hours worked and constant nature of the demands - in getting news personnel together at one place and time; the unlikelihood of change at the "coal-face" even if a national forum endorsed a change of policy at management level; the high turnover rate among staff; the need for support to come from both the workers in the industry and from the regulatory bodies. The meeting agreed that the forum could not initiate the process but should be designed to consolidate a process more involved at the local level. This would active police-media liaison at the state level "probably on an enterprise by en-

terprise basis". These discussions would lead to better understanding and could culminate in a national forum which would have broader aims:

- endorsement of the process and commitment to make it on-going;
- addressing of issues best covered at the national level, such as ethics; and
- provision of a platform at which the public could be informed of the progress in addressing its concerns with the issues of reporting of major crime incidents.

The meeting agreed to take the views and positions back to their respective bodies and to continue the state level liaison. The national forum would follow from these discussions.

((This report is based on the notes on the meeting provided by the PSCC))

CASE NOTE

US ENFORCEMENT OF BRITISH LIBEL LAW

BACHCHAN v. INDIA ABROAD PUBLICATIONS INC, New York Supreme Court 28692/91. 13 April 1992. Fingerhood J.

20 Media Law Reporter 1051 (1992)

In an important decision, Justice Fingerhood refused to enforce a libel judgment by the High Court of Justice in England against a news service.

Her Honour's reason was that English courts do not adhere to the constitutional standards for libel actions applicable in US courts.

An English jury had awarded £40,000 damages for a wire service story on a report in a Swedish daily newspaper. This stated that Swiss authorities had frozen an account belonging to the plaintiff. Transfers were allegedly made into it from another (coded) account, into which commissions paid by Bofors, the Swedish arms company, were deposited. Bofors had been charged with receiving "kickbacks" to obtain a large munitions contract

from the Indian government. It was argued that the plaintiff was a public figure: he was a friend of the former Indian Prime Minister, the brother and manager of a movie star and a former member of parliament. The court decided it was neither necessary nor appropriate to decide this - the matter obviously related to a matter of public concern. Even if the plaintiff were a private figure, there was authority in *Gertz v. Robert Welch Inc*, 418 US 323, that, in a libel action against a media defendant as such, he could not recover damages without showing fault. Where a private figure sues on a matter of public concern, s/he also had to bear the burden of showing falsity.

The court said that the burden under English law of proving truth upon media defendants who publish speech of public concern was unconstitutional in the US. Fear of liability might deter such speech and such a chilling effect would be antithetical to the First Amendment's protection of true speech on matters of

public concern.

"The chilling effect is no different where liability results from enforcement in the US of a foreign judgment obtained where the burden of proving truth is upon media defendants. Accordingly, the failure of Bachchan to prove falsity in the High Court of Justice in England makes his judgment unenforceable here."

The decision of the New York court demonstrates the American attachment to the free flow of information, particularly on matters of public concern. It contrasts starkly with the approach in England, and in Australia. The English approach is somewhat mitigated by the possibility, at least in some cases, of a reference to the European Court of Human Rights which has already introduced an approach analogous to, but not identical with, the US public figure defence (see *Lingens Case* [Eur Court HR, 8 July 1986, Series A, No. 163]).