

Private Sponsorship of Public Policing

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Abstract

As fiscal constraints on public police agencies intensify, law enforcement agencies in many jurisdictions will become receptive to donations in cash or in kind by private individuals or organizations. This article seeks to develop a framework for analysing the balance of advantage derived from private sponsorship of public police. It discusses a number of risks posed by private sponsorship, including capture by the donor, inequality in the provision of service, and the erosion of legitimacy. Creative thinking about the future funding of public police will include consideration of the limits of private sponsorship, and of the management of sponsorship programs that are introduced.

Keywords

Private sponsorship; Police resources; Police funding;

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I. INTRODUCTION

The revolution which has characterised policing in western industrial societies over the past quarter of a century has received a great deal of attention. Perhaps the best overview to date is provided by Bayley and Shearing (2001), who refer to the “multilateralization” of policing. By this they mean the proliferation of organisational forms relating to a) who authorizes policing and b) who actually performs the function.

This multilateralization may be explained by a combination of factors. On the one hand, there is unprecedented demand on traditional public police organisations. As Cohen and Felson (1979) would suggest, the convergence of motivation, opportunity, and absence of guardianship (in western industrial societies, if not worldwide) has created more business than public police agencies can handle. The challenge is compounded somewhat by the traditional insularity and inflexibility of police organisations, some of which have been less than quick to adapt to their changing environment (Davids and Hancock, 1998).

At the same time, what we have come to know for the past three decades as the “fiscal crisis of the state” (O’Connor 1973) means that governments are disinclined to spend taxpayers’ monies unless dictated by the imperatives of political survival. Indeed, across a number of policy domains, governments have been encouraging their publics to assume greater responsibility for their affairs. In Australia, retirement income and health insurance are but two domains in which governments of both sides of politics have consciously sought to shift the burden back to the private individual. It is no longer novel to suggest that criminal justice is immune to this trend. The apposite if awkward term “responsibilization” has been used by Garland (1994) in the context of crime prevention. Thus, one sees increasing investment in residential alarm systems, motor vehicle engine immobilizers, and a burgeoning private security industry.

The purpose of this essay is not to discuss what an ideal institutional configuration or “system” of protection should look like. Rather, it is to begin to develop a framework for analysing the balance of advantage in those circumstances involving a mix of public and private. The basic questions are who pays, and who benefits. At its most basic, one can think of three interests which might be served by some combination of police-private interface: the interest of the private actor, that of the (public) police service, and that of the general public. The specific issue in policing which will serve as the model for this analysis is the private sponsorship of public policing, that is, donations in cash or in kind by private individuals or organisations to state police agencies.

II. THE DISTRIBUTION OF COSTS AND BENEFITS

The distinction between public interest and private interest has become blurred. There are private or otherwise parochial interests whose benefit is also consistent with the public interest. When police are deployed to ensure that a minority religious congregation is free to worship without being exposed to harassment or attack, it is not only the worshippers who benefit. The principle of freedom of religion is upheld on behalf of the entire community. In such a context, policing is very much a public good.

In some situations, it is regarded as appropriate for the beneficiary of police presence to pay for these services. Promoters of public events of a profit making nature (in contrast to events held for charitable purposes) are often required to engage police (on or off duty) to maintain order. The term “user pays policing” has entered the vernacular to refer to such circumstances (Berwick 1983; Gans 2000).

Then, there are situations in which services are provided by public and private sector, either independently or with some degree of coordination. Each January, a festival of motoring enthusiasts takes place in Australia’s national capital, Canberra. The “Summernats” as they are called, attracts around 100,000 lively people (mostly males) to Canberra. Such a concentration of masculine exuberance necessitates that the promoters of Summernats engage the services of private security personnel, whose role is to maintain order within the exhibition areas. The Australian Federal Police perform their usual functions outside the grounds, and there is regular communication and co-ordination between the public and private sector service providers.

Since the promoters profit from the event, it is entirely appropriate that they contribute to security. But the promoters, and the motoring enthusiasts, are not the only beneficiaries of the public-private mix of protection services. The good citizens of Canberra also benefit, and not only in terms of personal safety. The festival participants inject an estimated \$10 million into the local economy. It might be said that, at least to some extent, what’s good for the promoters of Summernats is good for Canberra.

Given the proliferation of forms of interaction between police and private institutions, one could envisage a continuum of engagement ranging from the most coercive to the least coercive. But it would help to simplify this. Davis (2000) refers to three basic relational modes of exchange: coercion, sale and gift.

Let us look first at coercion. Elsewhere, I have used the term conscription to refer to the process by which the state commands commercial organisations to engage in certain actions in furtherance of law enforcement (Grabosky 1995). Perhaps the

most prominent of these are cash transaction reporting requirements, where banks and other defined entities are required by law to report transactions over a particular threshold, or those of a suspicious nature regardless of their quantum, to law enforcement authorities. Similar requirements are imposed on specified professionals in the case of suspected child abuse and neglect, and on second hand goods dealers and pawnbrokers. The future may well see the conscription of Internet service providers in some jurisdictions in certain circumstances.

Next, we can see the commercial acquisition of goods and services. This is nothing new to public police organisations, which, since their establishment in the 19th century, have purchased commodities from pencils, to means of transport, to weaponry. What is new is the growing tendency on the part of police organizations to purchase services that might otherwise have been provided from their own ranks. By way of illustration, the first person whom one encounters upon entering the headquarters of the Australian Federal Police in Canberra is a private security guard. Of course, the new challenges facing public police organisations may require specialised expertise which may not always reside within police ranks: one thinks of information technology, for example. And circumstances may arise wherein special outside assistance may be required for a short period. Thus did the New South Wales Police engage specialised expertise during the Sydney 2000 Olympics.

There are circumstances in which the public police organisation, a private actor or institution, and the general public, will all benefit from a given configuration. We might call this a win-win-win or “trifecta”. Whatever the mode of exchange, this should be our goal.

III. PRIVATE SPONSORSHIP OF PUBLIC POLICING

The third mode of exchange, and the primary focus of this paper, will be the donation or gift. By this we mean private sponsorship of public policing. This can entail the giving of cash grants, or the provision of complimentary goods and services to the police organisation, usually in return for acknowledgment or recognition. This is more familiar in the United States and South Africa, relatively uncommon in Australia, and unheard of, if not prohibited by law, in many other places. But if current trends continue, it may well take on greater importance in more jurisdictions around the world.

While the notion of private sector subsidies or sponsorship of public police agencies and operations might strike those who favour a large state apparatus as less than desirable, the idea of private sponsorship of governmental functions is not at all new. Let’s start with some easy cases:

- Consider funding for the arts. Many works of art are donated to public museums by private citizens. Many public art exhibitions are sponsored by corporations.
- Consider funding for higher education. The tradition of private universities is perhaps greatest in the United States. But even in Australia, with a long history of public funding of higher education, a significant percentage of university revenue derives from private or corporate endowment.
- Consider funding for health and medical research. The United States has its National Institutes of Health, as well as the Scripps Foundation for Medicine and Science and the Robert Wood Johnson Foundation. Individuals also make donations for medical research. A prominent Sydney businessman recently offered to give AU\$10,000,000 to support research at the new Children's Hospital in Sydney. But for the quantum, he is not alone; the Hospital receives 40,000 individual gifts each year.

And, if present trends continue, private sponsorship of functions that have thus far been largely, if not exclusively, governmental is likely to become even more prominent. Where will this end? In January 2001 Senator Jesse Helms advocated that foreign aid be distributed by private and religious groups rather than the US Agency for International Development (Schmitt 2001).

As governments withdraw from many areas of activity which were previously regarded as core public functions, they are making explicit and implicit pleas to commercial and non profit organisations to fill the vacuum. The current federal government of Australia has embarked upon a program of promoting philanthropy. The Prime Minister of Australia has argued that "if business prospers from a stable society and a well run economy. . . then there's some obligation to put something back, and increasingly businesses are doing that" (Howard 2000)

"Our purpose is to build a new social coalition of government, business, charitable and welfare organisations, and other community groups—each contributing their own particular expertise and resources in order to tackle more effectively the social problems that directly or indirectly affect members of our society in one way or another." (Howard 1999)

The Prime Minister of Great Britain has spoken of harnessing private sector expertise in reforming the British public sector (Blair 2001)

And of course, in the United States, President George W. Bush has indicated his intention to encourage private contributions to the resolution of social problems:

“...the Federal Government should do more to encourage private giving — from individuals, corporations, foundations and others — to the armies of compassion that labor daily to strengthen families and communities.

“America is blessed with social entrepreneurs who see a problem and set about with energy, ingenuity, and organizational savvy to provide solutions. Foundations provide private support for the public good. This is civil society at work. At the least, government must be sure not to harm such efforts by over-regulation or providing insufficient legal protections for good-faith volunteers, nonprofit groups, and philanthropic companies.” (Bush 2001)

The question is, how far are these principles generalisable to criminal justice? Corporate, or private contributions to criminal justice activities are by no means without precedent (Grabosky 1992). Indeed, the NSW Police published detailed guidelines for sponsorship in 1992, some time before the development of guidelines for engaging and managing police informants (New South Wales Police 1992). The first Australian academic treatment of the issue of sponsorship of policing appears to be that of Bryett (1996).

Consider the following:

Australia

- The New South Wales Police Service Annual Report for 2000 indicates that the Service received 28 separate donations of \$2,000 or more from a diverse range of donors including Toyota Motor Corp, the Liverpool City Council, Lions and Rotary Clubs, and private individuals (NSW Police Service 2000). The gifts in question ranged for cash for specific crime prevention projects to “covert vehicles”, fingerprint cameras, petrol, and pushbikes (61-62).
- Melbourne's commercial television stations purchased aerial surveillance camera equipment for the Victoria Police Air Wing helicopter fleet. In return, they will be able to broadcast pictures of events involving police via a digital microwave television downlink (Miller 1999).
- The Westfield Carousel Shopping Center in Perth donates computer, fax, video interviewing facilities, and office space to the Western Australia Police Service (Western Australia Police Service 2000, 14).
- The Western Australia Police Service Macro Task Force, investigating a series of murders of young women in Perth, was subsidised in part by donations from members of the public.

The annual reports of some if not all Australian police services contain lists of private donors/ sponsors, and may refer explicitly to the nature or purpose of the gift.

The United States

Of course, corporate sponsorship is more common in the United States, where small and under-resourced municipal police services exist in a climate of philanthropy arguably more generous than that prevailing in most nations of the world

These may take the form of special purpose grants or collections:

- The ElCajon, California, City Council accepted donations totalling US\$5000 from local tow truck operators and community businesses to the Police Canine Acquisition Trust Account (El Cajon City Council 1998)
- In Crown Point, Indiana, local businesses donate \$1,500 each to provide communications and other equipment for patrol cars. Under the Adopt-a car program, the cars may bear the message “This vehicle is equipped by ‘XYZ company’” on the back of the car (Pilant 1998, 44).
- In the State of Virginia, insurance companies return a percentage of liability insurance premiums to the criminal justice system earmarked for auto theft reduction (Pilant 1998, 44).
- In Los Angeles, Allstate Insurance Company is sponsoring the recruitment and training of reserve officers for the LAPD (Allstate Insurance 2001).

(see also Gallagher’s Beat 1994).

Other general purpose organisations also exist. Perhaps the most significant of these in the United States is the New York City Police Foundation, established in 1971. This is an independent, non-profit organization dedicated to strengthening the Police Department and promoting public safety in New York. Over the years, it has received tax-exempt donations from prominent (and less prominent) corporations and citizens, including Merrill Lynch; Tiffany; Motorola; David Rockefeller; and The New York Times Company (New York City Police Foundation 2001). The Foundation in turn contributes funds to support programs which can not be funded through the City budget. It sponsors a Horse Donation Program for the Mounted Police Unit, launched a campaign to raise \$2 million to provide bullet-proof vests for police officers, and has organised a series of networking and educational activities involving leaders from the corporate community to promote the professional development of women members of the

Department. In 1996, the Police Foundation obtained a state-of-the-art computer system to facilitate crime analysis.

South Africa

The crime problems which confront post-apartheid South Africa are overwhelming by any modern standard, and have given rise to a very large private security sector. But not everyone in South Africa can afford private security services, and economic development requires a degree of security more than the market can deliver. So it is that former President Nelson Mandela invited the South African business community to assist the public police.

An organisation called Business Against Crime was established to provide training and materiel support to police agencies. It organised R8.5 million worth of gun-proof hi-tech closed circuit television (CCTV) cameras monitored 24-hours and linked to emergency services (Business Against Crime- Western Cape, and the City of Cape Town 1998) It even provided assistance in drafting the white paper on Safety and Security (South Africa, Department of Safety and Security 1998)

Philips SA Contributed R500,000 for the refurbishment of a court house near their headquarters. According to CEO and Chair Wouter Dronkers “Business has an important role to play in the development of this country” <http://www.polity.org.za/govdocs/pr/1999/pr/1026.html> (visited 31/12/00)

IV CONSIDERATIONS

Davis’ (2000) typology of coercion, sale, and gift, while conceptually distinct, may not be so clearly visible in the real world. Indeed, Davis herself concedes that the three forms of exchange may overlap or interact in certain circumstances. It may be asked whether there is such a thing as a “pure” gift. In his anthropological overview of gift giving in pre-industrial societies, the French sociologist Mauss (1969, 1) distinguished between gifts that are voluntary, disinterested and spontaneous on the part of the donor, and those that are linked in some way to the donor’s interests. He observed that in some cultures, the receipt of a gift creates an obligation on the part of the recipient. Mauss (1969, 6; 80) uses the term “contractual gifts” to refer to such cases. He also observed the function of gifts in maintaining mutually satisfactory alliances (1969, 71).

Even the anonymous clandestine philanthropist derives a “warm inner glow.” But there are those donors who give in order to display, and/or who receive some form of prestige or recognition for their gift. And some energetically seek such recognition, so much so that but for the anticipated acknowledgment, the gift would not have been forthcoming in the first place. Ostentatious giving by indigenous community leaders in the Pacific northwest of North America served

as an expression of the donor's superiority (Mauss 1969, 72). The most extreme position is that of Derrida (1994 Chs 1-2) who argues that true gifts are impossible.

Distortion of public policy

One basic rule of sponsorship is that "the sponsor must not dictate to the agency". This sounds reasonable, and simple enough. But even differentiating between sponsorship and user-pays policing may not be as clear as it seems. If for example, the managers of a shopping mall offer to underwrite the cost of police presence on site during opening hours, and also offer to provide complementary office space for the police, is that sponsorship or user-pays policing? Davis (2000, 67) observed that in 16th century France, gift and market were in tension. The same might be said of 21st century policing.

It could be suggested that under a sponsorship arrangement, the activity is directed by the police, whereas under circumstances of commercial exchange, the client specifies the nature of the service. In a commercial relationship, he who pays the piper calls the tune.

Even so, there are circumstances in which the uses to which a donation may be put may provide for very little discretion. Consider the donation of workspace, (a "police work station"-- Law Enforcement News, 15/9/95). by the proprietor of a fast food outlet. Acceptance and use of this donation would imply a police presence at that location, not down the block.

Regardless of the nature of the exchange, and of the donor's motive, there are certain considerations on the part of the prospective recipient of sponsorship which must not be overlooked. These, at least in theory, are understood and recognised by police services.

Capture

First is the threat of "capture" by the donor, or at least the appearance of a conflict of interest.

Is there any risk that the police agency will be "captured" by the donor, or even be seen to be providing a degree of service different from that delivered to similarly situated non-donors? A police service which enjoys a degree of private sponsorship must ensure that its services are delivered in the public interest, and there is no actual or apparent conflict of interest. The existence of other regulatory or contractual relationships between the prospective donor and the recipient may render a sponsorship agreement suspect

One might note that it is not unheard of for public sector agencies to have been captured by commercial contractors, or indeed, held to ransom by public sector unions to a very significant extent.

Personal benefit

Perhaps less problematic would be a requirement that any given member or members of the police service not benefit personally from any sponsorship agreement to which their service becomes a party.

The NSW Police has a code of conduct relating to acceptance of gifts or benefits, For individuals, the decision “to accept a gift must not influence or appear to influence your ability to act impartially in the discharge of your duties” (New South Wales Police Service 1992, 52)

Actual or perceived endorsement

Another consideration is whether sponsorship is perceived as an endorsement by the police service of the sponsor and its products The relatively detailed guidelines developed by the NSW Police and published in 1992 explicitly stated that acknowledgment of sponsorship must not confer naming rights on the sponsor. (New South Wales Police Service 1992, 9). Police services may be concerned about being seen, explicitly or implicitly, to endorse a donor’s product. Not only are they concerned about commercial exploitation, where a provider invokes the police connection for business advantage, there may also be a risk of liability on the part of the police service in the event of product failure.

But the acquisition by a police service of a particular brand of product, from Glock pistols, to Holden cars, to BMW motorbikes, could be regarded as an implicit endorsement of that product in what is often a very competitive marketplace. Ironically, those who sell goods and services to the police, whether pistols, tyres or intelligence software, are certainly able to advertise that fact. Is this endorsement any less when the product is given as a gift rather than in a commercial transaction?

Association with certain interests

There are certain industries with which some police services may prefer not to be publicly associated: alcohol, tobacco, gambling, firearms, and the sex industries among them. Those industries, even where they are legitimate, are either of such a nature that they may find themselves subject to a degree of surveillance by police, or whose externalities may entail a degree of tension with government policy (ie tobacco).

Beyond the obvious, the police service may choose not to accept sponsorship where the circumstances may provoke controversy or pose any risk of adverse publicity. At stake is the legitimacy of the police itself.

Of course, the police organisation can always refuse a gift. Some, such as the gift of a corporate aircraft, may entail maintenance costs which are prohibitive and may therefore constitute a drain on police resources. At the end of the day, police will decide whether a gift is in their interest and/or in the public interest.

V CONCLUSIONS

For some time now, the basic security requirements of the public in all western industrial societies have exceeded the capacity of the state to meet them. The growth of the private security sector has been the most visible consequence. Yet fiscal restraints on public policing remain. Barring discovery of a new source of wealth commensurate with the oil reserves of the Middle East, it seems most unlikely that governments will have the financial capacity to invest in public policing to meet the demand for public policing services. Not only will this drive further growth in the private security sector, but it will also inspire creative thinking about the funding of public police.

There may be limits on the extent to which governments will be able to conscript private individuals or institutions in furtherance of public policing, but this may merit consideration in a separate essay. The limits of “user pays” policing have also yet to be determined; the kind of decentralization of contract policing envisaged by Shearing, where local communities have security vouchers that they are able to spend as they wish, may not be totally unrealistic.

Other English-speaking democracies may not follow directly in the path of the United States or South Africa, but it seems not unlikely that corporate or other private sponsorship of policing may increase in years to come. To their credit, many Australian criminal justice agencies have devoted a great deal of thought to processes by which sponsorship may be managed with integrity (NSW Police 1992; NSW Independent Commission Against Corruption 1993; NSW Department of Corrective Services 1999).

The Western Australian Police are permitted to retain operating revenue as part of appropriation agreement with government. According to their most recent Annual Report, WAPOL in 1999-2000 received \$458,000 in donations and sponsorships. Would an increasing degree of corporate sponsorship constitute an invitation to governments to reduce their appropriations to police from general revenue, or “skim off” funds from police budgets?

For their part, treasury bureaucrats may seek to cap such revenues or to “confiscate” the excess for general revenue. Alternatively, just as “efficiency dividends” and “capital use charges” have induced a degree of resourcefulness on the part of public sector managers, so to might there be incentives for police services to supplement their appropriations with other legitimate sources of revenue. In these circumstances, would this distract police attention from their core business, or lead to inequalities in the delivery of services?

One might also note that this may provide an opportunity to exploit this for illegal purposes. Solicitations from the public by individuals claiming some police affiliation may be fraudulent.

<http://www.ci.nyc.ny.us/html/nypd/html/iab/iabpdinf/html> (visited 31/12/00)

Whatever the circumstances, if the idea of a social coalition persists, one can expect that public donations to public police will remain with us. If corporate philanthropy in furtherance of law enforcement increases to any significant extent, changes in the quantum or the conditions (if any) attached to these gifts will require a re-examination of the procedures through which they are sought and received.

The notion of policing as a public good, available to all, and paid for by all through the system of taxation and government appropriations, seems to have faded considerably. Perhaps it was an illusion all along, as those who claimed that there was one system of justice for the rich and another for the poor were fond of telling us. In any event, government’s ability or willingness to provide what was once known as “the basics” seems unlikely to expand in the short term. What are the limits of corporate sponsorship of public policing? How much is desirable? How much is feasible? As Davis (2000, 9) reminds us, there are good gifts and bad gifts, and those that are not really gifts at all.

Australia’s most celebrated horse race, known for a century simply as the “Melbourne Cup” became the “Foster’s Melbourne Cup.” One wonders whether we will one day see a Microsoft Computer Crime Squad?

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