Chapter 4
The machinery of law enforcement

We have seen something of the pattern of early modern crime and of the array of courts operating at the time. But what of the territory in between? Was there a satisfactory system of bringing people to court once a crime had been committed? And were there in place mechanisms to put the rulings of the court into effect once a decision had been made? It is the purpose of this chapter to suggest that by the close of the sixteenth century there was in existence a sophisticated and many-layered system of law enforcement and that, if anything, this system became more complex and effective as time went by.

The macro-level

Some law-enforcement agencies operated on a regional level. The Council of the North, based at York, whose jurisdiction covered Durham, Yorkshire, Northumberland, Cumberland and Westmorland, is an example. So too is the Council in the Marches of Wales, which had its headquarters at Ludlow and performed a similar function in Wales and along the borderland of the principality. However, the crucial large-scale unit of law enforcement was the county.

Arguably, the principal figure operating at county level was the justice of the peace. It is certainly beyond question that, as well as acting in the capacity of judges at quarter sessions and petty sessions and sometimes sitting singly in their own homes, the justices had a considerable hand in imposing the law. This involvement took several forms. One way the JPs played a part in law enforcement was as supervisors, keeping others up to the mark. It was the justices, for example, who generally oversaw the imposition of the Poor Law. They appointed officials such as parish overseers of the poor, they scrutinized Poor Law accounts, they approved parish poor rates, they adjudicated in disputes and they heard appeals against overseers’ decisions. Frequently, lax officials were heavily reprimanded by the justices. In 1622, for instance, the overseers of Northallerton were peremptorily commanded by the assembled JPs at Richmond Quarter Sessions “to receive and provide for Jane Dawson al[ia]s Aselbie”. The order was accompanied by the threat of a hefty £5 fine “for everie Overseer that shall refuse”.

J. Briggs et al., Crime and Punishment in England
© John Briggs, Christopher Harrison, Angus McInnes, David Vincent 1996
In another Yorkshire case in 1651 the justices imposed the huge fine of £20 on a group of overseers “for contemning an Order and not paying monies due”.

As well as acting in a supervisory capacity, JPs performed a regulatory role – fixing wage rates, for instance, and licensing alehouses. The latter function was regarded as particularly important. Alehouses were looked on with apprehension for a whole variety of reasons. They were regarded by many in authority as a leading cause of poverty – places where working people frittered away their earnings on drink and gambling. Some observers also saw them as politically subversive. “Too many of them”, declared Robert Harris in 1610, “are even the nurseries of all riot, excess and idleness.” Many alehouse keepers were suspected of harbouring thieves and other criminals, a charge in which there was probably some substance. Certainly a surprising number of landlords were brought before the courts accused of receiving stolen goods. On top of all this many people had moral qualms about the rougher houses. Here drunkenness and brawling were commonplace, and sexual licence suspected. Many London premises were known to double as brothels. Some provincial establishments, too, had far from blameless reputations. Elizabeth Hodges, a lodger at one Worcestershire alehouse, was allowed by her landlord to have sex with her clients “upon his own bed and his wife put her apron before the window to shadow them”. Their reward was a cut of the profits.

Still more important than his work as regulator and supervisor was the JP’s direct involvement in imposing the law. His most significant contribution was the way he acted on receiving a complaint from a member of the public. It was the JP’s duty, once an allegation of wrongdoing had been made, to take evidence from the aggrieved party and also from witnesses. Next, he would take the accused’s statement. If the case was a trivial misdemeanour the justice might deal with it there and then. But if it was anything more serious the JP usually took all the necessary steps to bring the issue before the appropriate court – normally the quarter sessions or the assizes. In practice this meant either bailing or remanding the accused in custody and, in the fullness of time, ensuring that the defendant, plaintiff and prosecution witnesses turned up at the court hearing. At the same time, of course, the justice would hand on to the court officials the various statements and depictions he had taken. These documents would then form the basis of the court’s examination.

Thus it can be seen that the JP’s direct involvement in law enforcement was absolutely crucial. Most cases that came before the assizes and the quarter sessions were initiated by a member of the public, and, although a citizen could go direct to a court, the normal procedure was to take complaints to a JP. The reason for this was that courts assembled only intermittently and then often in a distant town. JPs, by contrast, were much nearer to hand: normally there was a justice resident in most villages of any size.