

**Committee on the Administration of Justice**  
(The Northern Ireland Civil Liberties Council)

# **Cause for Complaint**

*The system for dealing  
with complaints against  
the police in Northern  
Ireland*

C.A.J. PAMPHLET No. 16

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# Committee on the Administration of Justice

The Committee on the Administration of Justice is an independent civil liberties organisation formed in 1981 to work for the "highest standards in the administration of justice in Northern Ireland by examining the operation of the current system and promoting discussion of alternatives".

By carrying out research, holding conferences, lobbying politicians, issuing press statements, publishing pamphlets and circulating a monthly bulletin, the CAJ hopes to stimulate awareness and concern about justice issues.

Open meetings for CAJ members and the public are held every two months to discuss current justice topics. Sub-groups work on an on-going basis on areas such as prisons, policing, Bill of Rights, emergency laws, social legislation and magistrates courts.

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Membership entitles you to receive CAJ's monthly civil liberties bulletin **Just News**, to take part in the work of the sub-groups and to use the CAJ library and newspaper clippings service.

If you would like to join CAJ or find out more about its activities, please contact:

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# Preface

This report was prepared for the **Committee on the Administration of Justice** by **Tim Moran**, a law student at Harvard University who spent ten weeks in Northern Ireland during the summer of 1989. It was largely compiled from the notes he took during interviews which he conducted with a wide variety of participants in the complaints system. He spoke with police officers, officials at the Police Authority, the Independent Commission for Police Complaints, the Northern Ireland Office and the Standing Advisory Commission on Human Rights, solicitors, advice workers, political figures, ministers, journalists and, most importantly, actual complainants. He came to the task with no pre-conceptions and with a limited knowledge of the political and legal background to policing in Northern Ireland. His thoroughness and seriousness while undertaking this project greatly impressed those who knew him while he was in Belfast. The CAJ is most grateful to him for his efforts in this regard and wishes him well in his future legal career. The organisation also wishes to express its sincere thanks to all those individuals who gave so unsparingly of their time in order to assist Tim in his research.

This pamphlet is the third CAJ publication devoted to police complaints. Pamphlet No.3 (1982) surveyed the alternative systems which could have been introduced in Northern Ireland in the early 1980's. Pamphlet No.4 (1983) explained the CAJ's own preferred system and an updated version of this will be published in the near future. We believe that the current pamphlet is the first publication to assess the effectiveness of the new complaints system put in place for Northern Ireland in February 1988.

Readers may also find interesting three other CAJ publications. One is Pamphlet No. 11 (1988) entitled "Police Accountability in Northern Ireland". This examines the powers and duties of the Police Authority for Northern Ireland and recommends radical reform. The other is the CAJ's Policy Document on Policing, which summarises the organisation's views on a broad range of controversial policing issues. Finally, in November 1989, CAJ published a further pamphlet, dealing with the topic of lay visitors to police stations.

Anyone wishing to become involved in future CAJ work on policing is warmly invited to contact the relevant CAJ sub-group by writing to the Information Officer, CAJ, 45-47 Donegall Street, Belfast BT1 2FG (Tel: 0232 - 232394)

Executive Committee of the CAJ

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# Complaints against the Police in Northern Ireland

## Summary

The following report examines the history and operation of the current system for investigating complaints against the Royal Ulster Constabulary. The report considers ways to improve the system to make it more effective in dealing with complaints against the RUC.

- ❑ **Part One** summarizes the development of the present system. An analysis of this development reveals that - despite the rhetoric to the contrary - the complaints system has changed little in the last 20 years. With only extremely rare exceptions, investigation of complaints has remained in the hands of the police. Part One also criticises the process by which changes have been made to the complaints system.
- ❑ **Part Two** details how the present system works. It also recommends minor changes. The recommended changes highlight several problems in the current system. In particular, the current system is too concerned with determining guilt or innocence, rather than improving policing. It is too secretive, providing for too little information to the public and the complainant. And it is structured in such a way that the RUC is in a position to exercise too much influence over the Commission's decisions and the complaints it considers. Implementing the recommendations, either administratively or by legislation where necessary, will improve the system.
- ❑ **Part Three** examines one major flaw in the system which the recommendations made in Part Two will not remedy: namely, investigations are still conducted by the police themselves. Accordingly, Part Three advocates the use of independent investigators in some or all complaint investigations.

**Variations of a truly independent system are used successfully around the world. Trying such a system in Northern Ireland is long overdue.**

# PART ONE

## How the current system was developed

### 1. The origins of the present system

Since 1969, many observers familiar with the situation in Northern Ireland have advocated radical reforms to the procedures for dealing with complaints against the RUC. To date, however, the government has rejected these proposals and the Northern Ireland complaints system has instead mirrored the more moderate course of developments occurring in England and Wales.

Prior to 1969, the complaints procedure in Northern Ireland, like the rest of RUC operations, was largely left to the "general government, direction and superintendence" of the Inspector-General, the post now known as the Chief Constable. In March 1969, in the wake of highly publicized clashes between civilians and the RUC, the government-appointed **Cameron Commission** launched an exhaustive inquiry into the "causes and circumstances" of the disturbances of the preceding year. The Commission gathered testimony from a wide array of organizations, politicians, and members of the public and released its report six months later. Although it was not specifically authorized to suggest legislative reform, the Commission recommended the establishment of an independent tribunal, modelled on the Ombudsman system, to investigate complaints and recommend disciplinary charges against RUC members.

Shortly after the release of the **Cameron Report**, the Northern Ireland government authorized the **Hunt Committee** to recommend changes to the law relating to the RUC. The Committee hurriedly interviewed members and representatives of the RUC, as well as a limited number of government officials and public representatives, and released its report six weeks later.

Though the Hunt Committee declared reform in the complaints procedure to be "essential to the improvement of relations between the RUC and the public", its recommendations were far less radical than those proposed by the Cameron Commission. Under the **Police Act 1970**, which implemented the Hunt recommendations, most complaints have continued to be investigated by the RUC, but with the safeguards which then existed in England and Wales. The Act:

- Required the RUC to record all complaints, to appoint investigating officers from a different division from that of the accused officer, and to forward information relating to possible criminal conduct by a police officer to the requisite criminal authority (now the Director of Public Prosecutions).
- When a complaint affected the public interest, however, the Police Authority could refer it to an independent tribunal, which would investigate the complaint and hold public proceedings.

- The Lord Chief Justice would appoint an experienced barrister or solicitor to head the tribunal, and the Police Authority would appoint two additional members from the RUC or another UK force.

## 2. The Police Complaints Board

Changes to the complaints procedure in England and Wales soon brought further changes in Northern Ireland. In 1973, the Working Group for England and Wales, chaired by **Lord Gardner-Brown**, recommended introducing a modest independent element into the **ex post facto** review of police investigations. Then, in January 1974, the **Black Working Party** was set up to suggest further changes to the complaints procedure in Northern Ireland. The group, composed of representatives from the Police Authority, the Northern Ireland Office, the RUC and its representative organizations, heard testimony from the Police Federation, the Police Authority and a few independent groups.

In their submissions, the **Northern Ireland Civil Rights Association**, the **Central Citizens' Defence Committee**, the **National Council for Civil Liberties** and the **Alliance Party** criticized the existing system and called for the investigation of all complaints against the RUC by independent tribunals or bodies. The Black Committee also acknowledged the report of the **Gardiner Committee**, which had been appointed to examine the workings of the emergency provisions in Northern Ireland. Its report had proposed an "independent means of investigating complaints" against the RUC. The newly appointed **Standing Advisory Commission on Human Rights**, in its first annual report, endorsed the Gardiner recommendation and said an independent system would "be an important step towards restoring wider confidence" in the RUC.

The Black Committee did not address the merits of these criticisms and recommendations, but simply noted that the proposals for independent investigations were inconsistent with the principle, adopted by the Gardner-Brown Committee, that "investigation of complaints in the first instance must remain in the hands of the police". Without elaborating, the Committee expressed its full agreement with that principle, and recommended that the Gardner-Brown proposal be adopted in Northern Ireland with virtually no changes.

Parliament adopted the Gardner-Brown Committee proposals for England and Wales in the **Police Act 1976** and, the next year, the **Police (NI) Order 1977** established a similar system for Northern Ireland. The Order:

- Required the Chief Constable to forward all investigative reports to an independent **Police Complaints Board**, together with his recommendation as to disciplinary charges.
- The Board could request more information and, if it disagreed with the Chief Constable's decision, it could recommend or direct that disciplinary charges be brought.

### 3. The Bennett Inquiry

Criticism of the new procedures began soon after they were in place. In June 1978, after the publication of an **Amnesty International** Report detailing widespread allegations of ill-treatment in Northern Ireland detention centres, the Northern Ireland Secretary of State appointed a Committee of Inquiry, chaired by **Judge Bennett**, to examine both interrogation procedures and the system for dealing with complaints against RUC interrogators. The Committee received written information from a number of public officials, RUC officers, private organizations, doctors, solicitors, and members of the public, including some who had been held in detention centres. The Committee also heard 14 days of oral testimony from 58 witnesses. It released its report to the Secretary of State in February 1979.

The Report made searching criticisms of the complaints system which questioned the thoroughness and objectivity of the investigative process. The Committee speculated that the investigating officers' questioning of the accused officer might not be "as searching or persistent as it might be", and it complained that the investigative reports sometimes "incorporated an assumption" that the statement of an alleged "terrorist" could not be believed.

To remedy these problems, the Committee recommended:

- More frequent use of outside investigators.
- The Chief Constable should appoint an investigating officer from another United Kingdom police force whenever there was an allegation of serious assault and medical evidence consistent with this allegation.
- The Police Authority should make "appropriate" use of its power to convene a tribunal. Up to that point, the Police Authority had referred only one case to an independent tribunal, partly because it was unsure whether the tribunal would have the power to subpoena witnesses and compel the production of documents. The Committee recommended that the tribunal be given this power if necessary.

Most of the Bennett Committee's proposals for reform in the interrogation procedures were implemented; but its proposals for changes in the complaints procedures were not:

- The RUC never adopted a policy of appointing outside investigators.
- The Police Authority did refer one case, **the Rafferty case**, to an independent tribunal, but the High Court ruled that the tribunal lacked judicial powers to compel witnesses to attend to give evidence.
- The Police Authority later asked for legislation giving the tribunal such power, but the government ignored this request.

### 4. The Scarman Inquiry

Ironically, it took events across the water to reform the police complaints procedure in Northern Ireland. **The Scarman Inquiry**, appointed in the aftermath of riots and deteriorating racial relations in Brixton, received exhaustive written and oral testi-



mony from members of the public regarding their confidence in the police complaints procedure. Lord Scarman found widespread public doubt about the impartiality and fairness of the complaints procedure and concluded that this distrust would remain as long as the investigation of complaints remained in the hands of the police. He therefore recommended that an independent body should conduct the investigation of all complaints against the police.

Earlier that year, shortly before the Brixton disorders, the **Plowden Working Group** for England and Wales had recommended the far more modest reform of requiring a lay supervisor in the investigation of serious complaints. Perhaps cognizant that the Plowden proposals were more likely to be adopted than his own, Scarman endorsed the Plowden recommendations as a less satisfactory, but desirable alternative, provided that they included two major changes.

- First, an investigating officer from another police force should always conduct the investigation of serious complaints.
- Second, the lay supervisor should not confine him- or herself to a consultative role, but should be directly involved in the investigation process.

## 5. The current system

For England and Wales, the **Police and Criminal Evidence Act 1984** established a system of lay supervision in the investigation of serious complaints. Groups as diverse as the NCCL, the Police Federation and the Superintendents' Association had advocated an independent system for investigating complaints as the most effective way to command public confidence. **The Home Affairs Committee of the House of Commons**, however, had concluded that the cost and practical difficulties of recruiting and training independent investigators in England and Wales made lay supervision of police investigations the best option. The Committee had stressed that there were "powerful arguments on both sides" and that the decision was one of practical policy, not principle (para.55).

In 1985, the Northern Ireland Office published a **consultative paper** which recommended similar changes to the police complaints procedure in Northern Ireland. The paper arose out of consultations with the RUC, the Police Federation, the Police Authority and the Police Complaints Board. It proposed to replace the PCB with a Police Complaints Commission, which would supervise the investigation of serious complaints, and others it deemed to be in the public interest. The independent - and by now powerless - tribunal would be abolished and replaced with a procedure whereby the Police Authority, the NI Secretary of State or the Chief Constable could refer matters not the subject of a complaint to the Commission, which would then supervise the police investigation.

Like the 1984 Act, the consultative paper rejected the Scarman proposals for greater independence in the investigative process. Citing the Home Affairs Committee report, it concluded that a wholly independent system for investigating complaints would be "impracticable". It did not require the Chief Constable to appoint investi-

gative officers from another police force, and it specified that the supervisor would not be "directly involved" in the investigation.

The NIO distributed the paper to over one hundred groups and leaders, including the Northern Ireland MPs, the constitutional political parties, churches, trade unions and industry groups, and community groups and leaders, and invited their comments. It received a number of submissions which proposed independent investigations, including a proposal from the Labour Party and from the Committee on the Administration of Justice.

The Standing Advisory Commission on Human Rights (SACHR) offered particularly detailed criticisms and proposals. SACHR found the paper's discussion of the case for and against an independent system for investigating complaints "disappointing"; so it undertook a limited survey of civilian investigation schemes in other countries. It found two cities (Toronto and Detroit) and one nation (Australia) which had successfully given a significantly greater investigative role to police complaints bodies than the paper proposed for the Commission. It therefore recommended that the Commission should have the power to appoint one of its members as an additional investigator when it was in the public interest. Such an investigator, unlike the supervisor, would be directly involved in all aspects of the investigation. The 1987 Order did not contain these changes.

Parliament approved the **Police (NI) Order** on 6 May 1987, but the Order received little support from Northern Ireland politicians. The Official Unionist Party and the Police Federation strongly opposed any deviation from the system in England and Wales. The differences were slight: the Northern Ireland Order permitted a third party to make a complaint on behalf of a complainant and permitted the NI Secretary to refer a non-complaint matter to the Commission; but they were enough to trigger a "No" vote in Parliament from OUP and DUP (Democratic Unionist Party) members and an impassioned speech opposing the Order from Sir Eldon Griffiths, the Police Federation's adviser. Seamus Mallon, of the Social Democratic and Labour Party, called the lack of an independent system for investigating police complaints a "fundamental flaw" and voiced serious concern as to whether the Commission's supervisory powers were adequate (House of Commons Debates, 6 May 1987).

## 6. Analysis of the system's development

A review of the development of the police complaints procedure in Northern Ireland reveals several disturbing aspects.

- First, while the government has gradually increased the legal safeguards and constraints on the investigation of complaints by the RUC, it has ignored repeated calls by government reports and bodies to establish a workable system for the mandatory investigation of complaints, even in limited circumstances, by either an independent body or members of an outside police force. It has done this, moreover, despite persuasive evidence that such a system would improve public confidence and, based on the experience of other countries, would work.

- Second, it has ignored advice from precisely those official inquiries which were most familiar with the actual social dynamics which an effective complaints system must address to be effective. It is no coincidence that the commissions which studied an actual series of events involving the police and the public and which took extensive testimony from the public and their representatives - the Cameron, Bennett, and Scarman inquiries - all recommended more frequent use of outside and independent investigations. By contrast, the more moderate proposals which were eventually adopted, came from those bodies - the Hunt Commission, the Black Committee, the 1985 NIO Consultative Paper - which consulted mainly police and government representatives. At best, one could say that the limited nature of these inquiries led them to be less imaginative and to focus more on legal and bureaucratic problems than on broader social questions. At worst, one could say, particularly of the latter two groups, that they were stacked from the beginning with narrow, established interests, more concerned with defending their own priorities than with those of the greater public.
- Finally, the politics of England and Wales have exerted undue influence on the police complaints procedure in Northern Ireland. The government always gives Northern Ireland substantially the same police complaints procedure as that of England and Wales. Reforms in Northern Ireland are always adopted after they are adopted in England and Wales, even when, as with the Bennett Inquiry, the need for reform becomes evident in Northern Ireland before it becomes evident in England. And Northern Ireland always adopts the reasoning and conclusions of the England and Wales Working Groups without seriously considering whether the very different situation in Northern Ireland might merit a different conclusion.

## **7. Adopting future changes**

When future changes are considered, the process should ideally be quite different from that in the past.

Members of the public, particularly politicians, solicitors, and social workers who have dealt with complainants, should be represented on the working group. It is quite fair that police and government representatives should have an active role in shaping any police complaints legislation, but it is equally vital that the interests of the potential complainants should both be and be seen to be equally represented at an early stage. Such public representation is particularly crucial in Northern Ireland, since changes to the police complaints procedure are generally introduced by Order in Council, and Northern Ireland MPs therefore do not enjoy the same opportunity to shape and amend the legislation that their counterparts in England and Wales do.

The working group should seek input from the public before actually preparing a proposal as well as afterwards. This will ensure that the full range of possibilities is considered from the beginning and avoid the possibility of stifling debate and creativity by restraining discussion to an existing framework.

The Northern Ireland Office should not necessarily wait until after changes have been made in England and Wales before considering changes in Northern Ireland,

nor should it necessarily consider itself bound by the conclusions reached in Britain. The argument that the RUC is a United Kingdom police force which should in principle be governed by the same procedures as those in England and Wales is deeply flawed. The government and some Northern Ireland political parties readily admit that the violent situation requires special powers for the police. The converse is true as well: the special powers conferred on the police require special procedures for ensuring public accountability.

# PART TWO

## The current system in operation

This part details the working of the present system for investigating complaints against the RUC. Where appropriate, relatively minor criticisms and recommendations are made.

### 1. Players in the complaints process

The **Independent Commission for Police Complaints for Northern Ireland (ICPC)** and the **Complaints and Discipline Branch (C & D)** of the RUC play the most extensive roles in the present system for investigating complaints against the RUC.

The Complaints and Discipline branch is composed of 120 officers of the rank of inspector and above, and has offices in Belfast, Armagh and Enniskillen. It investigates public complaints against RUC members and internal matters referred by supervising officers. Members are assigned to the branch for an average of three to four years. One of the RUC's 12 Assistant Chief Constables (ACC) heads the branch.

In the past 15 years, the size and role of the C & D branch have grown considerably, to the extent that, at present its members personally investigate virtually all public complaints. The lower ranking RUC officers consider the C & D personnel to be among the most competent and ambitious officers in the RUC. They also often resent them because they feel C & D personnel are often willing to enhance their own reputation at the expense of an officer's career.

The ICPC must consist of at least seven persons. The Secretary of State appoints members for up to three years and may remove them only for cause. Members may be reappointed when their term expires. None of the Commission members may be, or have been, a member of any British police force. Members may be appointed on either a full-time or part-time basis.

The current Commission numbers eight, as did its predecessor, the Police Complaints Board. Two members are solicitors, two are barristers, and one other has a law degree. Three, including one of the two Deputy Chairpersons, were members of the Police Complaints Board. All serve part-time, which generally entails at least one full day at the Commission, plus additional work in the evenings.

The Commission has an annual budget of £430,000, twice that of the PCB, and a staff of 15. The PCB had a staff of 11. The Commission is currently negotiating with the Secretary of State to increase its staff and funding levels, so that it can increase the quality and extent of its supervision of investigations, and provide more personalized feedback to complainants. Commission members have met with MPs, the

Police Authority, the Police Federation and the Superintendents' Association. The Commission's main contact with the general public, other than through the complaints process itself, is an annual report and a short leaflet, entitled "Complaints against the Police", which explains the system, and is available at police stations and elsewhere.

Given its increased supervisory powers, it is quite remarkable that the Commission has the same number of part-time members as did the Board, and only a slight increase in funding and staff. The increased workload and the need to become more involved and familiar with the investigation process probably requires full-time service by some or all of the Commission members, as in England and Wales. (The Police Complaints Authority for England and Wales has 14 full-time members.)

- The Commission's request for increases in staff and funding should be met as soon as possible.**

## **2. The scope of the system**

The complaints system applies to all members of the RUC, including the full-time and part-time RUC reserve. Senior officers, however, are in a special position (see page 10 below). The system does not apply to members of the British Army or the Ulster Defence Regiment.

- Given the substantial role which these forces play in patrolling communities, it would make the present system more logically consistent, and more publicly acceptable, if the Commission were to have some role in the investigation of the most serious complaints against members of the Army and the UDR.** The Gardiner Committee and SACHR have also advocated an independent role in complaints against HM forces.

## **3. Making a complaint**

Prospective complainants can get advice from a variety of sources. The Commission's leaflet recommends that people get advice from the **Law Centre**, a **Citizens' Advice Bureau**, or a **solicitor**. Solicitors can get legal aid for a consultation session and give advice frequently. Citizens rarely use the Law Centre. Complainants most frequently get advice initially from local political party offices or their MP, both of whom have staff who deal with complaints on a regular basis. Somewhat less frequently, complainants get advice from community resource centres. Advice may include everything from advising people that a complaints system exists to helping the complainant prepare a written statement.

Either a complainant, or a third party acting on their behalf, may initiate a complaint. It is fairly common for complainants to ask a solicitor, their MP, a clergyman or a friend or relative to complain for them.

People may lodge a complaint, either in person or by letter, with either the RUC - by visiting a police station or writing to the Chief Constable - or the ICPC offices in Great Victoria Street in Belfast. Most complaints are lodged at RUC stations. In fact, a number of complaints concern incidents which have occurred in detention centres, RUC stations, or during arrest, and when a person arrives at or leaves the RUC station, an RUC officer will generally ask if he or she would like to make a complaint.

- An RUC officer of at least the rank of sergeant - or an inspector if one is available - will take complaints from the public at police stations.
- The officer will first give the complainant a copy of the Commission's leaflet, and may call the complainant's attention to the section which explains that police may sue complainants who deliberately make false allegations.
- The officer will then record the complainant's allegation on a standard form, but the complainant will not generally receive a copy. If the complainant has any statement or document to submit, the officer will attach these as well.
- Finally, the officer will take any steps which are necessary to preserve evidence relating to the complaint. Such steps may include ensuring that the complainant has had a medical examination by a police doctor, or sealing off the interrogation room where the assault allegedly occurred.

Many complainants are reluctant or afraid to go to a police station to make a complaint, and others encounter scepticism or discouragement when they do.

- It would be desirable, therefore, for the Commission to make alternative means of making a complaint more readily available, such as **permitting complaints to be made by telephone and advertising the number in the leaflet, and/or by permitting complaints to be lodged directly at Citizens' Advice Bureaux.** Similar procedures are followed in Chicago, Cincinnati, Baltimore, New York, and Kansas City (see Petterson at pp 3, 6, 15-19). Also, **it would defuse the opportunity for suspicion if complainants were automatically provided with a copy of their recorded complaint,** as is done in Toronto. (See Lewis)

#### 4. Classifying a complaint

All complaints, whether made at police stations or at the Commission, are forwarded to the Deputy Chief Constable. If the complaint concerns a senior officer - Assistant Chief Constable or above - the DCC will refer the complaint to the Police Authority, which must ordinarily cause the complaint to be investigated by an RUC officer of at least the same rank as the accused officer. If the Police Authority determines that the allegation, if proved, would not justify criminal or disciplinary proceedings, no formal investigation is required. Very few complaints involve senior officers, because such officers are unlikely to have the kind of contact with the public which gives rise to complaints.

If the complaint concerns a non-senior officer, the DCC next determines whether the matter is a complaint within the meaning of the legislation. Matters relating to the "direction or control" of the RUC - also known as operational matters - are excluded from the legislation. No court has adjudicated on the meaning of this term,

but according to a legal opinion commissioned by the Police Complaints Authority in England and Wales, it refers only to "strategic and central command of the entire force" by the Chief Constable, not tactical decisions by junior officers (see PCA Triennial Review at p 7). The Commission and the RUC both consider it a broad category which includes matters such as the deployment of personnel in certain areas or the re-routing of parades. If the DCC determines that a complaint concerns an operational matter, no public record will be made of the complaint.

It seems incompatible with the aim of introducing an independent element into complaint procedures to permit the DCC to dispose of a complaint in this manner before the Commission even knows the complaint exist.

- Having the Commission determine whether or not a complaint concerns an operational matter would eliminate public disquiet about the RUC abusing its authority and would enhance the Commission's claim to independence. At the very least, **the DCC should notify to the Commission all complaints he classifies as operational matters.**

## **5. Informal resolution of a complaint**

If the DCC determines that the legislation does apply, he then determines whether the complaint is suitable for informal resolution. A complaint is eligible for informal resolution if the allegation, if proved, would not justify a disciplinary or criminal charge, but could only lead to informal discipline. If the DCC determines that the complaint is suitable for informal resolution, he will appoint an RUC officer of at least inspector rank to supervise the case.

Neither the legislation nor the regulations specify any set procedure for informal resolution, but it often involves a meeting between the complainant and the officer concerned, which is mediated or conciliated by the supervising officer. An explanation, an apology or an assurance that the officer will be spoken to may be sufficient to resolve a case. Furthermore, after hearing the officer's version, the complainant may decide he or she will be unable to prove the complaint and will voluntarily withdraw it. However, it is always open to both the complainant and the officer to decline informal resolution or to halt the process at any time and insist on a formal investigation. The supervisor may also recommend that the case be investigated formally if experience or new revelations suggest informal resolution is inappropriate.

Every four months, the RUC forwards to the Commission copies of the complaints where informal resolution was attempted, together with a record of the outcome. In 1988 51 complaints were informally resolved.

The informal resolution process was introduced after concerns that many complaints were formally investigated when the complainant wanted only an apology or an explanation. If effective, it will, like any system for mediation and conciliation, increase understanding and respect between groups and individuals who too often regard each other with suspicion and distrust. Unfortunately, the present system



authorizes one of the parties to the misunderstanding, the police, to do the mediating! This may make the complainant who distrusts the police susceptible to real or perceived pressure to end the complaint before he or she is really satisfied, and perhaps more hesitant to enter into the process at all. Furthermore, the police conciliator will be in a better position to understand the perspective of the officer than that of the complainant. And the police officer is likely to be defensive and overly concerned to justify his or her behaviour before a superior officer.

- For these reasons, **trained lay mediators should informally resolve complaints**. This could be done at minimum cost, by using volunteers or students, as is sometimes done in small claims courts in the United States. The PCB for Northern Ireland and SACHR recommended the use of lay mediators (Consultative Paper at para. 16(b); SACHR 1984-85 Annual Report, Appendix B para. 28); and lay mediators are used in the complaints process in New York (cf Petterson at pp 17-18).

## **6. The role of the Independent Commission**

All complaints not informally resolved are formally investigated. The DCC first forwards the complaint to the ICPC, which decides whether or not to supervise the investigation. If the complaint alleges death or serious injury, the Commission must supervise the investigation. Serious injury is defined as "fracture, damage to an internal organ, impairment of bodily function, a deep cut or a deep laceration". 2033 cases were notified to the Commission in 1988. The Commission supervised 55 of these cases in 1988. None alleged death.

The Commission also has the discretion to supervise the investigation of any case where the Commission determines "that it is desirable in the public interest" for it to do so. The Commission exercised this discretion 56 times in 1988. The Commission gives special consideration to cases involving women, children or the elderly, as does the Police Complaints Authority in England and Wales, but feels that its discretion is not limited to any particular kind of case. In practice, the Commission's funding and staffing levels limit its capacity to supervise investigations; the 111 total investigations which it supervised in 1988 reflect the maximum number that the Commission could adequately supervise rather than the total number where it felt the public interest made supervision desirable. Indeed, the Commission hopes to increase its funding and staffing level so that it can supervise 10 - 20% of all investigations. This would mean supervising at least 200-400 investigations per year.

The Commission has the final authority to determine whether or not it will supervise an investigation, but in practice it will consider the views of the DCC or the ACC.

## **7. Matters not the subject of a complaint**

The legislation also permits the Chief Constable, the Police Authority or the Secretary of State to forward a matter which is not the subject of a complaint, but

which is of grave public concern, to the Commission. To date, this has occurred only once, after a plastic bullet round killed 15 year old **Seamus Duffy** on 9 August, 1989. The rationale for this provision is that, in the past, deaths caused by RUC members have not been the subject of a complaint.

- It would reassure the public if referral to the Commission were made automatic in deaths caused or apparently caused by the RUC.** (Deaths caused by police shooting do trigger an automatic independent investigation in Chicago. "Shots fired incidents" trigger an automatic independent investigation in Cincinnati and New Orleans).

## **8. The investigating officer**

Prior to, or immediately after, notifying a complaint to the Commission, the DCC appoints an investigating officer (IO), who is almost always a member of the Complaints and Discipline branch. This officer must be at least two ranks superior to any constable, sergeant, inspector or chief inspector who is accused, and at least one rank superior to any accused superintendent or chief superintendent. Most complaints dealing with incidents on the street concern constables or sergeants. Most complaints alleging irregularities in detention centres concern inspectors or chief inspectors who conduct the interrogation. Complaints against superintendents and chief superintendents are more rare.

If the Commission has decided to supervise an investigation, it may veto the DCC's choice of an investigating officer. The Commission exercised this power twice in 1988, because the prospective IO in both cases served in an area too close to that where the incidents occurred. It accordingly required that a new IO be appointed from a different area.

The Commission could probably exercise its veto power to require that the Chief Constable appoint an officer from another United Kingdom police force. The Commission has never done this, however, and would probably do so only in extremely serious or unusual circumstances, because both it and the Police Authority consider the cost of appointing IOs from outside Northern Ireland to be prohibitive. In the Seamus Duffy case, the power was not used in this manner.

The lack of investigating officers from outside Northern Ireland is a major deviation from the present system in England and Wales, where investigating officers from outside forces are appointed frequently, and almost always after a civilian death.

The Stalker/Sampson investigation into the "shoot to kill" incidents in 1982 showed that an outside police officer can uncover evidence which an initial internal investigation has missed. The lack of outside investigators encourages the public to believe that the real reason outside officers are not appointed is due to the fear that the RUC would obstruct the inquiry, as occurred during the Stalker investigation.

- For these reasons **officers from outside of Northern Ireland should be appointed to investigate serious incidents, especially those involving death or serious injury.**

## **9. The taking of statements**

The IO always sends a letter to the complainant which proposes a time and venue for an interview and includes a self addressed envelope by which he or she can confirm or ask for different arrangements. For security reasons, most interviews of complainants are conducted in police stations, and RUC officers are reportedly becoming more and more reluctant to conduct interviews in a solicitor's office, as they sometimes have in the past. Occasionally, an interview is conducted in the Commission's offices. The security concern is that the knowledge that an officer will be in a particular place at a particular time makes him or her vulnerable to paramilitary assassination.

A solicitor or a friend may accompany the complainant, but most solicitors do not sit in on interviews, mainly because legal aid would not cover any work relating solely to a complaint, other than the consultation session. There is no formal transcript. However, at the end of the interview, the IO will prepare a statement which summarizes the complainant's testimony, and the complainant will sign the statement if he or she approves it. The complainant can generally get a copy of the statement if he or she asks for it then. If he or she waits until after the interview, obtaining a copy will be more difficult because all requests will be referred to the police's legal department, which will be reluctant to provide any document which might be used in a civil action.

- It would be more efficient and, from a complainant's standpoint, more considerate to provide this copy automatically.

The IO will next interview in the same manner any witnesses other than the accused officer(s).

As soon as possible after taking the statement of the complainant, the IO will provide the accused officer with a detailed summary of the substance of the complainant's allegation and inform the officer in writing of his or her right to silence and the possible use of any statement in criminal or disciplinary proceedings. Usually several days after providing this information, the IO will interview the accused officer alone. The officer is under no obligation to say anything, but in practice almost all officers make a statement.

After taking the statement of the accused officer, the IO may go back to the complainant or other witnesses and confront them with contradictions or clarify ambiguities in their testimony. But, generally speaking, the complainant will never hear what the accused officer(s) told the IO.

## 10. Supervised investigations

If the investigation is supervised, the Commission will send a letter to the complainant advising that it is an independent body which will supervise the investigation. The Commission appoints a member to take direct responsibility for the supervision. Prior to interviewing the complainant, the member will usually meet with the IO and discuss how the investigation should proceed.

The supervising member and a member of the Commission staff are generally present when the complainant's statement is being taken. Since the Commission is not permitted to be "directly involved in the investigation", the member does not question the complainant directly; nor does the member generally instruct the IO in the complainant's presence. The member will ensure, however, that the IO has gathered all the information which is relevant.

- The Commission does not generally sit in on the interviews of other witnesses, mainly because it does not have the time and resources to do so. **In order to fulfil the Commission's mandate of assuring that the investigation is thorough and fair, the supervising member should sit in whenever a witness's statement is being taken. If necessary, it should be given the requisite staff or extra members to do so.**

The Commission does not sit in when the statement of an accused officer is being taken. The Commission had been planning to do so, but delayed its decision after the Police Federation for England and Wales brought a suit challenging the authority of the Police Complaints Authority to be present during the interview of the accused officer. It is hard to see how a Commission member can satisfy himself or herself or the complainant that an investigation has been thorough if he or she does not attend when an officer's statement is being taken in supervised investigations. Most complainants feel an investigating officer will be more sympathetic, less sceptical, and less probing with a fellow officer than with a complainant, a concern shared by the Police Complaints Board and the Bennett Committee (Cmnd 7497; PCB Triennial Review at 7-8). On the other hand, some officers reportedly allege that the investigating officer is oppressive and threatens to make life miserable for the officer unless he or she co-operates.

- Permitting the Commission to sit in would thus protect the interests of both the complainant and the accused officer. **The Commission should therefore be given the clear authority, by legislation if necessary, to sit in on interviews of officers in supervised investigations, and should follow this procedure regularly.**

Throughout the investigation, the IO will keep the Commission member informed of the progress of the investigation and furnish him or her with all relevant forensic and medical evidence, and the statements taken from the various witnesses. The supervising member may request to meet with the IO at any stage during the investigation. Normal practice seems to be that the meeting takes place when the IO has completed the investigation and is ready to prepare the report. At this time, the

supervising member may suggest or direct that the IO obtain additional information or contact additional witnesses.

The Commission maintains that the investigating officer is subject to its direction and that the supervising Commission member has ultimate authority to determine how an investigation is to be conducted. This is supported by both the regulations and the 1985 consultative paper, which permit the Commission to make "reasonable" directions to the IO. In practice, the Commission reports that the IO generally listens to and follows its advice. Where there are disagreements, these are resolved by discussion.

## **11. The investigative report**

The investigative report is the IO's final, authoritative account of the investigation. The report, which is often quite lengthy, contains all statements given by parties to the investigation, all medical and forensic evidence, and detailed background information on the complainant, the witnesses and the accused officer. Such information includes a list of their criminal record and, in the case of the accused officer, his or her disciplinary record and a record of previous complaints filed against him or her. In the report, the IO will freely comment on the plausibility of the testimony and on the credibility of the witnesses. The ACC and any other officer who is overseeing the investigation will review the report. The report is a legally privileged document which the complainant can neither see in the normal course nor "discover" in civil proceedings. (*Neilson v. Laugharne* [1981] 1 QB 748).

If the Commission is supervising the investigation, the IO forwards the report to the Commission. The Commission may make no substantive changes, but it may require the IO to include more information. The Commission then issues a certificate to the Police Authority and, where appropriate, to the Director of Public Prosecutions, stating whether or not it was satisfied with the investigation, and, if not, specifying which aspects are deficient. Articles 9(9) and 9(10) authorise the Commission to issue a copy of this certificate to the complainant and the accused officer "where it is practicable to do so" and in practice this certificate is almost always issued. The Commission may issue separate certificates as to its satisfaction with the disciplinary and criminal aspects of an investigation. The Commission generally continues to request information until it is fully satisfied, but, in theory at least, the IO could take some irrevocable action - such as failing to take a statement from a witness who is no longer available - such that the Commission would have no choice but to issue a certificate of dissatisfaction. In practice, the Commission has never expressed dissatisfaction with an IO's conduct of an investigation, but it has issued certificates which criticised the lack of co-operation by a complainant.

## **12. Bringing criminal and disciplinary charges**

The Deputy Chief Constable must forward the investigator's report to the Director of Public Prosecutions (DPP) whenever the complainant has alleged a criminal offence. The Deputy Chief Constable has a limited discretion not to refer the report

to the DPP if the alleged offence is a minor one and if the DCC determines that a criminal charge would not be appropriate. The Commission reviews this decision and always has the discretion to direct that information must be sent to the DPP. The final paragraph of the investigative report will contain a recommendation, reviewed by the Assistant Chief Constable, as to whether or not the officer should be prosecuted. According to the Commission, reports rarely recommend prosecution.

The vast majority of investigative reports go to the DPP, who almost always directs no prosecution. The DPP considers all the evidence, and determines whether it provides "reasonable prospects of obtaining a conviction", a phrase which is generally interpreted to mean that conviction is more likely than not (Bennett at p 123; Cohen at p 253). The DPP may also direct no prosecution in the public interest. The possible criminal record and relative inarticulateness of the complainant, as well as the perceived reluctance of juries and courts to convict a police officer, make prosecution unlikely (Cohen at p 253). There is also the danger that the DPP will hesitate to prosecute a police officer for fear of alienating the police officers from whom he desires co-operation (cf. Beral and Sisk at p 500). Apparently, the DPP considers and generally follows the recommendation contained in the investigative report. In 1988, out of 549 completed reports, 452 were sent to the DPP, who directed prosecution only three times. The DPP generally does not give reasons for his decision; even if he does, these cannot be judicially reviewed in a court.

The IO sends the complainant a letter which notes the DPP's decision and, where the DPP directed no prosecution, informs the complainant that the report will go to the Commission for its decision on disciplinary proceedings.

After criminal proceedings are either completed or ruled out, the investigative report goes to the ACC. Because the RUC disciplinary code is often broader than the corresponding parts of the criminal code, the investigative report may contain new evidence that was not relevant to the criminal investigation. The report will also recommend whether disciplinary charges should be brought and, if so, which ones.

If the officer has been tried and acquitted of a criminal offence relating to the complaint, the "double jeopardy" rule prohibits bringing disciplinary charges which are, in substance, the same. If the officer has been tried and convicted, a similar rule applies, although the officer may be charged with the disciplinary offence of "criminal conduct".

If the DPP directs no prosecution, and if the evidence necessary to substantiate a criminal offence is substantially the same as that which would be necessary to substantiate a disciplinary charge, bringing disciplinary charges will not violate the principle of double jeopardy (see **R. v. Police Complaints Board, ex parte Madden & Rhone** [1983] 3 All ER 353). In practice, however, the RUC is reluctant to recommend charges in such circumstances.

The ACC forwards his decision as to disciplinary charges, and his reasons, together with a copy of the investigative report, to the Commission, which may request more information. If the Commission disagrees with the decision not to bring disciplinary

charges, it may recommend, and ultimately direct, that disciplinary charges be brought. The Northern Ireland Office Guidance to the Chief Constable specifies that direction should be a last resort. Accordingly, the Commission and the ACC generally work out their disagreements by discussion and negotiation. According to the Commission, the RUC generally take the view that the decision not to prosecute is a persuasive argument against bringing disciplinary charges. Statistics provide support for this. Formal disciplinary charges were heard only five times in 1988, all but one at the recommendation of the Commission. In addition, 11 cases in which the Commission had recommended disciplinary charges, and one case in which the Chief Constable had recommended disciplinary charges, were pending at the end of 1988. "A number" of the charges recommended by the Commission were cases where the DPP had directed no prosecution (Commission's Annual Report for 1988 at p 12).

If disciplinary charges are not preferred, the Commission informs the complainant by letter and gives a brief reason, generally that there was insufficient evidence or that the officer(s) could not be identified. Occasionally, the Commission may include a more personalized discussion of the case. The Commission plans to use its increased staffing levels to meet personally with some complainants whose complaints are not substantiated.

- There are several flaws in the present system for bringing criminal and disciplinary charges. Firstly, **the investigative report should not make any recommendation as to prosecution.** The risk that the RUC has any substantive input into the decision of the DPP, an entity which is supposedly completely independent of the police, makes the RUC appear to be judges in its own cause.
- Secondly, **the DPP's decision not to prosecute should have no bearing on the decision regarding disciplinary charges.** A determination that a jury or court would be unlikely to convict a police officer does not necessarily dictate the same decision for proceedings before a disciplinary board. Furthermore, a decision that there is insufficient evidence that conduct was criminal begs the question of whether the conduct was proper for a police officer.

Unfortunately, if the RUC unduly relies on the DPP's decision not to prosecute, it is likely to affect the number of disciplinary charges brought. Because of the complicated consultation and direction procedure, the Commission faces an uphill battle whenever it chooses to recommend disciplinary charges which the Assistant Chief Constable has determined are not appropriate. The ACC may accept the Commission's recommendation, but the parties may compromise and reach a decision which is not wholly satisfactory to the Commission. The Commission is unlikely to be willing to reverse the ACC's recommendation too often for fear of antagonizing these officers, and the arrangements could easily lead to unnecessary tension between the Complaints and Discipline branch and the Commission. It would be far better to eliminate the ACC's recommendation and to make the decision as to disciplinary charges that of the Commission alone. This would eliminate any public concern that the RUC was unwilling to bring disciplinary charges against itself.

- Thirdly, it is not clear what purpose is served by forwarding so many reports to the DPP, other than to delay the considering of disciplinary charges and decrease the likelihood of disciplinary charges being brought. It would be better to amend the **Prosecution of Offences (NI) Order 1972** so as to give the Deputy Chief Constable greater discretion not to forward cases to the DPP, as occurs in England and Wales. (In England and Wales, the report need not be sent to the DPP if the Chief Constable is satisfied that no criminal offence has been committed.) The government had originally considered sending only cases involving the most serious offences to the DPP, but the proposal was scrapped after intense lobbying by the Police Federation. The Police Federation for England and Wales favors sending as many cases to the DPP as possible, so as to minimise the chance of disciplinary charges, a concern which is probably behind the policy of sending so many complaints to the DPP in NI (see Cohen at pp 253-4)).
- Fourthly, the complainant receives plenty of correspondence from the RUC and the Commission, but not much substantive feedback. The less the complainant knows about the investigation and processing of the complaint, the more likely he or she will be to suspect a whitewash or a cover-up. At the very least, **the complainant should know how the accused officer responded to the allegation. An opportunity to view the investigative report would also increase the complainant's understanding of the investigation process. And a detailed discussion of the reasons why the Commission made the decision which it did would be ideal.** It may not be advisable to provide this information in writing, but the complainant could be given an opportunity to go the Commission offices and look at the documentation and/or discuss the case with a Commission member or staff person. Summaries of investigative reports are provided to the complainant in Ontario. (Pettersen at p 14.)

### 13. Disciplinary proceedings

Formal disciplinary proceedings are ordinarily heard by a senior officer, either the Chief Constable or another senior officer with no previous involvement in the case, sitting alone. However, the Commission may direct that two of its members, who have had no previous involvement with the case must sit on the tribunal as well, whenever "exceptional circumstances" make it "desirable". The Commission must appoint members whenever it has directed that disciplinary charges be brought.

Disciplinary proceedings are rather formal. The accused may have legal counsel or may be represented by a fellow police officer. Presently, a sergeant is permanently assigned to represent accused officers in disciplinary proceedings.

A Complaints and Discipline officer who has had no previous involvement with the case will present the charge(s). The complainant will be permitted to testify, be present during the cross-examination of the officer, and will instruct the C & D officer to put certain questions to the accused. At the C & D officer's discretion, the complainant may question the accused directly.

The tribunal enters a finding of guilty or not guilty by majority vote. The required standard of proof is beyond reasonable doubt, the same standard as is required in



criminal proceedings. The presiding officer, after consulting with the other members of the tribunal, imposes the punishment he or she thinks appropriate, ranging from dismissal to a caution. The accused officer may appeal against both the findings and the punishment to the Chief Constable and, if unsuccessful there, to the Secretary of State. If the Chief Constable presides at the hearing, he will appoint another senior officer to hear the appeal. The RUC will inform the complainant of the finding but not of the punishment imposed. Of the five disciplinary proceedings held on complaints matters in 1988, two cases involving three officers ended in guilty verdicts. The Chief Constable allowed at least one appeal.

The disciplinary procedure is rife with real and apparent conflicts of interest. From a complainant's perspective, the RUC investigates, prosecutes, sits in judgement, metes out punishment, and hears appeals. Although in practice the officers who perform these functions are different, the dearth of senior officers in Northern Ireland is such that it is likely that more important decisions throughout an investigation will be made by the ACC or the DCC in consultation with his superior. This increases the possibility that the Chief Constable or another senior officer will later sit in judgement or hear an appeal in a case with which he has already had some involvement (Bevan and Lidstone p 320). Furthermore, the ACC may have to appoint an officer to present disciplinary charges which he, the ACC, was not eager to bring. Experience in England has shown that the ACC's reservations may result in a less than forceful presentation by his junior officer, with the consequent failure of a charge that would otherwise have succeeded (Home Affairs Committee, Fourth Report, 1988, submission by Police Complaints Authority). Finally, if a tribunal is sitting, the accused officer will perceive that the Commission is sitting in judgement on a charge that it brought or recommended.

- These problems could be easily remedied if the Commission were to present the charge before **an independent tribunal, composed of civilians and police officers who are associated with neither the Commission nor the RUC complaints and discipline machinery**. The Police Complaints Authority has advocated such a change (see memorandum submitted to the Home Affairs Committee of the House of Commons, 6 July, 1988).

#### **14. Informal disciplinary action**

The Chief Constable always has the discretion to take informal disciplinary action where an apparent disciplinary offence or act of misconduct is sufficiently minor or mitigated by circumstances, such as the officer's inexperience or previous record. Informal discipline involves parading the officer before a divisional commander who administers, in order of severity, advice, admonishment or a warning. The Commission has no statutory role in informal discipline, but in practice it may recommend it or agree to it in lieu of directing formal disciplinary charges. Informal disciplinary action was taken in 40 cases in 1988, roughly half at the recommendation of the Board or Commission.

## **15. Information to the public and the complainant**

The RUC will advise a complainant of the outcome of disciplinary hearings and informal disciplinary action, but not of the precise punishment. The Chief Constable's Annual Report will note what types of disciplinary action were taken, but will not differentiate between punishments imposed for public complaints and internal matters. (The bulk of disciplinary action is taken with respect to internal matters. Disciplinary charges were heard against 91 RUC members in 1988, but only six members were charged in relation to public complaints. The RUC directed informal disciplinary action for 212 officers, 18 of them for complaints matters.) This lack of information permits both complainants and the general public to believe that officers are dealt with by slaps on the wrist, a perception heightened by the apparent secrecy of the Commission and the Chief Constable.

- The Commission and the RUC should therefore provide more information to both complainants and the public on the specific formal and informal disciplinary charges administered with respect to public complaints.**

## **16. Withdrawals**

A complainant may, at any time before an officer is found guilty of a disciplinary offence, withdraw his or her complaint by signing a written statement. When a complaint is withdrawn the RUC's obligation to investigate the complaint and pursue disciplinary charges ends, as does any role of the Commission. 682 cases were withdrawn in 1988, 11 of them cases supervised by the Commission

New procedures for handling withdrawn complaints are urgently needed. It is well documented that complainants sometimes withdraw due to pressure from the police or fear of further harassment or of being charged with a criminal offence in retaliation (Brown at pp 17-18). The IO may also apply pressure by commenting on the weakness of the complainant's case, by stressing the harsh effects of disciplinary charges on an officer, by assuring that the complainant will not suffer further trouble if he or she withdraws, or by telling the complainant that he or she may face a civil action by the accused officer if the complaint is pursued (Brown at p 33). Such pressure tactics may be endemic in any complaints procedure, but they are likely to be especially potent in Northern Ireland, where the power to arrest and detain under reasonable suspicion of "terrorist" activities is frequently used, and the fear of deadly force and the actuality of police collusion with protestant paramilitaries are common in some communities.

A further problem is that even an unpressured withdrawal may not be in the public interest if it prevents the identification and deterrence of undesirable RUC behaviour.

These problems could be curtailed by permitting withdrawals only if the Commission is satisfied that the complaint is not being withdrawn due to improper pressure, by making withdrawals ineffective after the investigation has been completed or by permitting the Commission to continue the investigation if it determines that it is in

the public interest to do so. A similar procedure is followed in Toronto (Lewis at p 127).

## 17. Dispensations

The Commission may grant a dispensation which releases the RUC from any obligation to investigate a case, whenever it determines that a complaint is anonymous, repetitious or incapable of investigation. This most commonly occurs if the complainant does not co-operate with the investigation.

If the complainant does not reply to the investigation officer's first attempt at an interview, the IO will send a second letter. If the complainant still refuses to reply or attend, the RUC can apply to the Commission for a dispensation from further investigation, unless the complainant has a legitimate reason for not co-operating. Legitimate reasons include a pending criminal trial or civil action.

The Commission granted 676 requests for dispensation in 1988.

## 18. Criminal proceedings and complaints

A complaint is often connected with a criminal matter. For example, the complainant may allege improper interrogation methods which, if proved, could invalidate his or her confession. Or the complaint may arise out of a disputed incident, such as an assault, where the complainant's allegation of police misconduct accompanies a charge of disorderly conduct or assault against the complainant. In such cases, separate officers will investigate the criminal and complaint matters and prepare separate files.

Most solicitors advise complainants not to co-operate with any complaints investigation until the criminal trial is over because the complaint file will go to the DPP, who will then be alerted as to what defence the complainant is preparing. At the close of the trial, a C & D officer will ask the complainant if he or she would like to withdraw or pursue the complaint. Many complainants lose interest and withdraw.

The delay in taking a complainant's statement undermines the effectiveness of the complaints system. Complainants may be more eager and more able to give a coherent statement immediately after the incident than six months later. There is the disturbing possibility that police may stifle a valid complaint by bringing a charge in retaliation, something which most solicitors interviewed for this report said occurs quite frequently. And the presence of the complaint file in the hands of the prosecutor destroys in the complainant's mind any belief that the complaints system is independent from the police.

- The Commission, the RUC and the DPP should therefore **ensure that a complainant's statement made for the purpose of a complaint is not seen by anyone connected with preparing the case against the complainant.**

## 19. Civil suits and complaints

Under the **Police Act 1970**, the Chief Constable is liable for damage caused by the wrongful misconduct of his officers. Because the standard of proof in a civil suit is **the balance of probabilities**, a much lower standard than **beyond reasonable doubt**, many complainants file a civil action after lodging a complaint. Apparently, the Chief Constable pays out a substantial amount in damages each year, often settling before trial.

Most solicitors advise their clients not to co-operate with any complaint investigation until their civil suit is completed, which often takes two or three years. A complainant's statement could probably not be introduced in evidence, and there may be some restrictions on its use in cross-examination (**Hehir v. MPC** [1982] 1 WLR 715). But the Crown Solicitor, who represents the Chief Constable in civil suits, will have access to the complaint file and the complainant's statement is likely to give away key aspects of his or her case.

Since, under the doctrine of public interest immunity, a plaintiff in a civil suit cannot gain access to the complaint file, the Crown Solicitor's access gives the police defendant an unfair advantage (Clayton and Tomlinson at p 55). The Crown Solicitor's access also unnecessarily delays the complaints process, makes it more likely that either valid complaints will not be pursued or valid disciplinary convictions will be quashed, (the high court has indicated that a disciplinary conviction might be declared invalid if the delay in prosecuting it prevents a fair hearing cf **Madden & Rhone**, 1983) and, by linking the complaints procedure to the RUC's conduct of its defence, undermines the Commission's claim to independence.

- The RUC and the Commission should therefore **carefully restrict access to the complainant's statement** so that the complainant has no qualms about co-operating with an investigation before his or her civil suit is completed.

## 20. Complaints received

Appendix 1, Table 1, contains a statistical breakdown of complaints processed in previous years by the Commission and the Police Complaints Board. Some basic trends are clear. Roughly two-thirds of cases are withdrawn or dispensed with as being incapable of investigation. Prosecution is extremely rare, and disciplinary charges, while slightly more frequent - primarily due to the Commission's recommendations - are also quite rare. Informal disciplinary action is most common. In all, roughly 9-10% of fully investigated cases are substantiated, that is, they result in some form of action against the officer. In England and Wales, the figure is slightly higher at 14% (PCA Annual Report for 1988). Because the Commission was only in existence during the last 10 months of 1988, a precise comparison of the performance of the Commission and the Board is not possible. Preliminary results indicate, however, that the new powers of the Commission have not increased the frequency of disciplinary or criminal action against officers. This is not surprising, since most aspects of the investigation process are the same under the new system as they were under the old.

The bulk of completed investigations involve allegations of assault, harassment and incivility. Allegations of assault most commonly allege the excessive use of force during arrest, during interrogation, or in the back of a landrover. Complaints of harassment may allege an unnecessary stop or search, verbal abuse or intimidation, threats, or persistent pressure to become an informer, and often involve a series of incidents over a long period of time. Complaints of incivility - which range from mild verbal abuse to stinging insults of a person's politics, friends or family - are often linked with harassment claims. Complaints of harassment and incivility are probably a by-product of current security policy, which Hillyard has described as one of:

*"systematically [monitoring and surveilling]...those communities which are perceived as being a distinct threat to the existing status quo".*

Approximately 10-11% of complaints involve people arrested under the emergency legislation. The most common complaint is assault during interrogation, taking the form of alleged slaps, punches to the stomach, hairpulling, and being made to stand or sit in an uncomfortable position. Such practices would generally not leave marks or show up on a medical examination. Allegations of more serious assaults are rare, but not unheard of. In 1988, **Amnesty International** reported two cases alleging perforated ear-drums due to assault during interrogation; a medical examination found injuries consistent with the allegations and concluded that the injuries were not self-inflicted (**Northern Ireland: Recent Cases of Alleged Ill-Treatment**, July 1988). Complainants also occasionally allege direct or oblique threats of violence, abandonment in a hostile area, or putting out the word that they are an informer, as well as physical threats of impending violence, such as lurking behind them and suddenly striking the table.

Appendix 1, Table 2, contains comparable figures on complaints issued annually by the Chief Constable of the RUC.

## **21. The disciplinary code**

Most complaints which reach the disciplinary stage will be dealt with under the offence of "abuse of authority", which the code defines as treating a person in an "oppressive manner". This offence includes, but is not limited to: stops, searches, arrests, or harassment "without good and sufficient cause"; "unnecessary violence" or improper threats of violence; and "abusive or uncivil" behaviour. Questionable conduct falling short of abuse of authority could still be dealt with under the offence of "discreditable conduct". This offence is committed "where a member acts in a disorderly manner or any manner prejudicial to discipline or reasonably likely to bring discredit on the reputation of the force".

The code is fairly vague, and a determination that disciplinary charges are not appropriate may include a judgement that the conduct proved was not improper. In such cases, a notice that the evidence was "insufficient" may give the complainant the mistaken impression that no part of his or her complaint was found to be substantiated.

- Therefore, in cases where no disciplinary action has been taken, the Commission should inform the complainant what behaviour was proved and explain why that behaviour was judged appropriate. Such information would educate the public as to standards of police behaviour.

## 22. Problems of evidence

Most complaints fail for lack of evidence. A common situation is that the police officer(s) concerned will either deny the complainant's allegation altogether or offer a markedly different account. If there is no independent witness or evidence, then there will not be reasonable prospects of proving the case beyond a reasonable doubt. Even if the Commission is satisfied that the alleged behaviour occurred, identification of the officers involved may not be possible (See ICPC Annual Report for 1988 at p 13).

Obviously, lowering the standard of proof required, to either balance of probabilities or clear and convincing evidence, an intermediate standard used in at least one police complaints system in the U.S. (Petterson at p 16), would result in more disciplinary charges being brought. The current standard is higher than the standard used in wrongful dismissal claims, where the employer must merely show that he or she had reasonable grounds for believing that misconduct was committed (**Fearodo v. Barnes**, 1976 IRLR 302, cited in Clayton & Tomlinson at p 50). And a strong argument can be made that the standard of proof required in police disciplinary hearings is therefore anomalous. (See **R. v. Hampshire C.C.** [1980] 1 WLR 749; see also **Clayton & Tomlinson** at p 4.) The Police Federation would vigorously oppose any attempt to lower the standard, however, and any change in the standard of proof therefore seems unlikely to materialise.

- Making it a disciplinary offence to refuse to co-operate with an investigation, as SACHR recommended (1984-85 Annual Report at p 74), would be useful in cases where the Commission is satisfied that wrongful conduct occurred, but cannot identify the officers.

The most likely evidential reform is audio- and/or video-taping of interrogations in detention centers. The current system of closed circuit monitors has proven inconclusive. An officer must watch as many as 42 cameras in 21 different detention centres in Castlereagh. In most cases, the assigned officer gives the unhelpful statement that he or she was watching the monitor at the time of the alleged incident and nothing untoward occurred. And there are persistent allegations that the monitors are often unwatched or turned off (see Walsh at p 78; Amnesty International, July 1988).

- Audio and video-taping would prove once and for all whether allegations of ill-treatment in detention centres are well founded or part of a campaign of misinformation.

Lord Colville has argued that video-taping would not be unduly expensive, and could be done in such a way that would not inhibit the suspect from confessing (Colville,

pp 29-30). As for audio-recording, police forces in Britain are moving towards the taperecording of all suspects by 1991, despite initial fears that suspects would be less likely to confide in the interrogator if the interview was taped. In fact, confessions have increased.

### 23. Other powers of the Commission

A major shortcoming in the current system is that it is almost exclusively concerned with determining an officer's guilt or innocence. This is unfortunate, because the Commission, due to its close working contact with the police and its intimate knowledge of public complaints, is in an ideal position to identify unwelcome RUC practices and recommend policy changes.

- The Commission would greatly enhance its service to the public if it were to accompany recommendations for disciplinary charges with policy recommendations aimed at preventing the problem from arising again.
- It could also make these recommendations when it was satisfied that a police abuse had occurred but the officers could not be identified, or when a problem had recurred so often that, irrespective of the decision on individual disciplinary charges, the Commission was satisfied that the problem or abuse was occurring.
- Finally, it could report its concern and recommendations publicly in its annual report or triennial review. Such a practice would be analogous to that of ombudsmen, who identify mal-administration and recommend policy changes (see Petterson at pp 7-8 for an example of this practice in a police complaints procedure).

This power seems implicit in any complaints body, but if the Commission were to have any doubts about its authority it could always use article 17 of the **Police (NI) Order 1977**, which authorizes the Commission, on its own initiative, to report to the Secretary of State and the Police Authority on any matter which is noteworthy because of its "gravity" or "exceptional circumstances".

# Summary of recommendations for changes to the current system.

The following is a summary of recommendations made to improve the current system.

- **1.** Increase staff and funding at the Commission. Make members full time.
- **2.** Give the Commission a role in investigating complaints against the Army and UDR.
- **3.** Make it easier to register complaints at places other than police stations.
- **4.** Use independent mediators in informal resolution.
- **5.** Appoint police investigators from outside Northern Ireland in all serious incidents, particularly those involving death.
- **6.** The Commission member should be present when the investigating officer takes the statement of the accused officer.
- **7.** Eliminate the current consultation and direction procedure. The Commission should make an independent determination of whether or not disciplinary charges are appropriate.
- **8.** Provide the complainant with a copy or summary of the investigation report and the specific reasons for a decision not to bring disciplinary charges.
- **9.** Have an independent tribunal for disciplinary hearings.
- **10.** Provide more information to the complainant and the public regarding the informal and formal discipline given to RUC officers as a result of complaint investigations.
- **11.** The Commission should in certain circumstances continue investigations even after a complaint is withdrawn.
- **12.** Ensure the complainant's statement is completely confidential and is not provided to either the DPP or the Crown Solicitor in any criminal proceedings which may be taken against the complainant.
- **13.** Use audio & video-taping in detention centres.
- **14.** The Commission should make public recommendations for improving police behaviour and avoiding incidents which antagonize members of the public.



# PART THREE

## The case for independent investigations

*"(The police complaints procedure will make) a material contribution to strengthening good relations between the RUC and the whole community in Northern Ireland." NI Secretary of State Tom King, Belfast Telegraph, March 1, 1988.*

The current complaints system will stand or fall according to complainants' perceptions of the RUC. As the preceding discussion has shown, the bulk of the complaints process, whether the investigation is supervised or not, is still run by and dependent on RUC members. If complainants fundamentally distrust the RUC, they will fundamentally distrust the complaints system, and no amount of supervision or oversight will alter this feeling.

This being said, the current system faces severe obstacles to gaining the confidence of complainants in Northern Ireland.

- First, a disproportionate number of Catholics, 53%, think that the RUC is either unfair or very unfair in discharging its duties; among Protestants, the figure is 4%. (**Belfast Telegraph**, February 6, 1986) This phenomenon is likely to continue as long as Catholics comprise only 10% of the force and Catholic communities "bear the brunt of activities against terrorism" (Brewer at p 57 n.4 and 79). Overall, 24% of the people in Northern Ireland distrust the police, a substantially higher number than in Britain, where a 1981 survey found that 90% had "fair" or "great confidence" in the police (Brewer at p 36).
- Second, in some communities people perceive the security forces to be an extreme threat to their lives and safety. Incidents in which the security forces kill civilians in suspicious circumstances, yet no action is taken against the members concerned, convince many that the security forces care nothing about their life, much less about investigating their complaints. To such people, the idea of ever trusting a complaints system run by members of the security forces is laughable. See Amnesty International's Report: **Northern Ireland - Killings by Security Forces and "Supergrass" Trials** (June 1988) and "Shoot to Kill?", a report of an International Lawyers' Inquiry (1985) which express concern about killings of unarmed civilians and criticize procedures for investigating such incidents.
- Third, the small percentage of substantiated complaints leads many complainants and those who work with them to conclude that the system is ineffective. Many solicitors and community workers have heard the same complaints over and over again, yet have never had a complaint upheld. And many complainants have filed similar complaints several times, all with no result. They conclude that the accused officers are lying to and misleading the investigating officer. They also feel that the RUC is well aware of what its officers are doing and, by remaining untroubled by the low detection rate for public complaints, tacitly condones the illegitimate practices. Obviously, lack of evidence is a persistent problem in the

investigation of all crimes. And the fact that substantial internal discipline is taken against RUC members (**Chief Constable's Annual Report 1988**) and that some RUC members have been prosecuted and are serving time in prison (see **Hansard** July 1, 1988) shows that the RUC is willing to discipline and prosecute its own members. It is still possible, however, for people to believe that the main reason for the lack of more discipline and prosecution is an ineffective, lackadaisical or obstructed investigation. The higher rate of disciplinary action in England, the RUC's high detection rate for other crimes, and the obstruction which Stalker encountered all support this suspicion.

- A fourth problem is that complainants believe that all RUC officers, no matter how professional, lack the requisite impartiality to investigate and evaluate a complaint in an objective manner. This view is not implausible. Many lower-ranking officers feel insulted that they must answer to what they regard as petty complaints or complaints they believe are made in bad faith, when they risk their lives daily. Others are appalled at the duplicity of alleged para-militaries, who demand fair treatment for themselves while showing none to their victims. It is hard to believe that such perceptions could not colour the judgements and approach of investigating officers, who were once in the position of the accused officers. It is harder still to believe that a reluctance to undermine force morale will not also influence the Assistant Chief Constable, the Deputy Chief Constable, and the Chief Constable, when they make decisions regarding disciplinary matters.
- Finally, there is the related perception that if the RUC has done something wrong, then letting the RUC investigate it is tantamount to letting criminals police themselves. A survey of complainants in England and Wales found that two-thirds subscribed to this view (Brown at p 20).

The current system is ill-suited to addressing these perceptions because:

- The Commission has no power to investigate.
- The jobs of gathering evidence, interviewing witnesses, pursuing leads and preparing a report still rest with the RUC officer.
- Though the Commission has the power to supervise some investigations, it may not be able to prevent or even know about a fundamental error or omission.
- The Commission has no way to prevent the investigator from preparing a report or taking statements in a biased manner, or to ensure that the investigator conducts an interview in the most effective way possible.
- Almost all aspects of the investigation will be influenced by the judgement of the investigator, who is employed by, assigned to, and ultimately answerable, to the Complaints and Discipline branch of the RUC, not the Commission.

All of these factors make it likely that complainants will see the "new" complaints system as the same old book under a new cover. More scientific research on complainants' views in Northern Ireland is needed before a definite conclusion can be reached, but all the solicitors and complainants' representatives interviewed for this report said that they saw no difference in the new system, that their complainants completely lacked confidence in it, and that only an independent investigation system would alleviate this distrust.

The Commission apparently believes that these views are "irreconcilable entrenched opinion", which no complaints system can be expected to address (**ICPC Annual Report** for 1988 at p. 28), but it is wrong. The whole impetus for the current system, both in England and Wales and in Northern Ireland, was that substantial portions of the population lacked confidence in the then existing complaints system. If lack of confidence still persists, then the current system has failed to fulfil its purpose.

The most effective way to address such entrenched distrust of the RUC and the RUC complaints system is by creating a system in which an independent body receives, processes, investigates and evaluates complaints against the RUC. Such a system could take one of the following forms:

- 1. A system where a police investigator from another force conducts the investigation. This system is used frequently in Britain.
- 2. A system where independent investigators work in tandem with police investigators in an internal police investigation. This system is used in Miami (Petterson at p. 20).
- 3. A system where independent and police investigators are assigned to and report to the independent body, rather than to the police. This system is used in Detroit (Petterson at pp. 4-5).
- 4. A system where an independent investigation takes place if the independent body is dissatisfied with the police investigation. This system is used in Toronto and Dade County (Petterson at pp.8 -9; 13-14).
- 5. A system where independent investigators conduct the investigation in full. This system is used in Chicago, Cincinnati, Oakland, New Orleans, San Francisco, Washington D.C., Berkeley, CA, and Flint, Michigan (Petterson at pp. 3, 6-7, 9-10, 15, 21, 25).
- 6. An additional variation is that the independent system could be used only in statutorily defined serious complaints.

Such a system could offer significant advantages. Not only would it improve public confidence in the complaints system, but also it would signal to many that the RUC and the government take seriously the lack of confidence in the police and are willing to take a bold, fresh new approach to the problem. An independent system would also relieve the RUC Complaints and Discipline branch of a thankless situation in which they are under attack from the public for not doing enough and from their own members for doing too much.

Several arguments have been advanced against an independent system for investigating complaints, but they are all unpersuasive.

- First**, it is argued that only the police have the skills and training necessary to investigate complaints. Investigation is a skill, however, which can be learned and is practised by many civilians, including journalists, ombudsman investigators, solicitors and private investigators.
- A **second** argument is that the cost and practical difficulties of recruiting independent investigators would be prohibitive. In the long term, the cost would not increase much since the police are investigating all complaints now. In the

short term, the transition costs might be high in the 43 police forces of England and Wales, but they would be much less in Northern Ireland. And the independent system would in any case require substantially less personnel than the current Complaints and Discipline branch, since they investigate internal complaints as well.

- ❑ A **third** argument is that an independent system would lower police morale. It is true that RUC officers often resent being investigated, but this occurs whoever is doing the investigation. Morale would only be lowered if the independent system discovered more abuses, which would be in the long-term interest of both the public and the RUC. And the resulting increase in public confidence in the RUC from an independent system would bolster morale.
- ❑ A **fourth** argument is that police officers would be less likely to co-operate with civilian investigators than with a superior police officer. This argument falsely assumes that the police relationship with Investigating officers is without difficulties. In fact, some tension will be inherent in any relationship between an investigator and an accused officer, and an officer will ultimately base a decision whether to co-operate or not on his or her own sense of what is in his or her best interest, both as a police officer and as an individual. As officers become accustomed to dealing with civilian investigators, they will likely make the same assessment of these interests as before. The only reason they might co-operate less is that they do have something to hide which a civilian investigator is more likely to uncover.
- ❑ **Finally**, it is sometimes argued that it is not certain that an independent system would be an improvement. This is an argument made in desperation. Obviously nothing is certain. But the indications are that the current system is severely distrusted precisely because the RUC investigate themselves. Changing this fundamental condition is unlikely to make the situation any worse.

**In summary, the experience in Northern Ireland and elsewhere suggests that vesting the investigation of complaints against the RUC in an independent body would improve public confidence and could be accomplished without undue practical difficulties. There is simply no good reason not to try it.**

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- **Working Party on the Establishment of an Independent Element in the Investigation of Complaints Against the Police; Cmnd 8193; 1981 (The Plowden Report)**

# APPENDIX 1

## Statistics on complaints

Figures are published in the **Annual Reports** of the **Independent Commission for Police Complaints** (formerly the Police Complaints Board) and in the **Annual Reports** of the **RUC Chief Constable**. It is not always easy to see how the two sets of figures tally, so both are included here.

Table 1 gives the Board's/Commission's figures for 1985-88, while Table 2 gives the RUC's figures for the same period. Note that one "case" can involve more than one complaint, one complainant and one police officer. The numbers in brackets refer to the notes at the end of the tables. A brief analysis of the figures is given in section 20 of Part Two of this pamphlet.

**TABLE 1:**

**Figures in the BOARD'S/COMMISSION'S Reports**

	1985	1986	1987	1988
Complaints received	2,261	2,775	2,376	2,055
Complaints withdrawn	894	1,111	1,034	682
Complaints dealt with	1,866	2,164	2,503	1,927
Complaints dealt with under regs. <sup>(1)</sup>	412	521	639	696
Cases fully considered	560	514	830	549
Number of complaints involved	1,261	1,155	1,728	920
Types of allegations involved:				
Incivility	204	226	309	156
Assault	357	329	612	351
Irregularity in procedure	152	129	212	114
Traffic irregularity	10	15	21	4
Neglect of duty	147	83	116	45
Corrupt practice	2	1	2	9
Mishandling of property	18	10	22	18
Irregularity with evidence	23	33	36	14
Oppressive conduct/harassment	294	281	283	184
Other crime	46	41	93	22
Other	8	7	22	10
Complaints informally resolved <sup>(2)</sup>	-	-	-	51
Investigations supervised: <sup>(2)</sup>	-	-	-	111
Mandatory supervisions	-	-	-	55
Discretionary supervisions	-	-	-	56
Cases referred to the DPP <sup>(3)</sup>	469	416	704	452
Prosecutions directed	11	3	9	3
Cases where disciplinary action was taken	46	81	86	48
Under the discipline code	10	10	15	8
Not under the code	36	71	71	40
<b>Cases arising out of EPA/PTA arrests</b>	232	251	286	216
Types of allegations involved:				
Assault during interview	N/A	147	227	164
Made to sit/stand	N/A	28	28	15
Statements falsified	N/A	20	17	8
Verbal abuse/incivility	N/A	13	14	16
Threats	N/A	27	28	17
Access to doctor/solicitor refused	N/A	21	7	3
Assault before arrival at barracks	N/A	18	8	8
Miscellaneous	N/A	36	33	21
Cases fully investigated	N/A	55	68	44
Number substantiated	N/A	3	2	0
Cases of disciplinary hearings	N/A	0	1	0
Prosecutions directed	N/A	0	1	0



**TABLE 2:****Figures in the CHIEF CONSTABLE'S Reports**

	1985	1986	1987	1988
Full-time strength of the RUC	11,014	10,988	11,223	11,220
Cases recorded by the RUC	2,254	2,785	2,396	2,291
Cases completed by the RUC	1,856	1,984	2,458	2,093
Complaints involved in these	3,237	3,415	4,083	2,893
Complainants involved in these	1,781	1,837	2,217	1,967
Complaints withdrawn	1,349	1,474	1,381	1,068
Cases dispensed with under regs. <sup>(1)</sup>	618	821	909	870
Cases informally resolved <sup>(2)</sup>	-	-	-	56
Complaints fully investigated	1,270	1,120	1,793	899
Investigations referred to Board/Commission	962	1,116	880	520
Complaints substantiated	51	40	26	39
<b>Types of substantiated offences:</b>				
Incivility	9	3	7	6
Assault	15	11	4	9
Irregularity in procedure	7	8	5	5
Traffic irregularity	0	0	0	0
Neglect of duty	10	10	7	13
Corrupt practice	0	0	0	0
Mishandling of property	2	1	0	1
Irregularity in court cases	0	0	1	2
Oppressive conduct/harassment	1	7	1	1
Other crime	4	0	1	2
Other	3	0	0	0
Officers against whom disciplinary charges were heard <sup>(4)</sup>	112	93	112	91
Cases referred to the DPP <sup>(3)</sup>	1,026	1,684	1,744	1,278
Prosecutions directed	12	5	9	8
Officers involved	13	8	12	7
Offences involved	13	12	12	9

**Notes:**

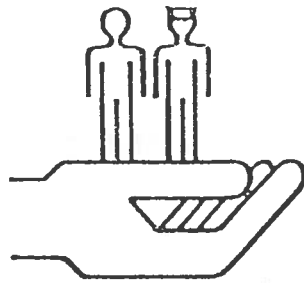
1. The Complaints Regulations provide that the investigation of complaints which are anonymous, repetitious or incapable of investigation may be dispensed with by the Commission at the request of the Chief Constable. The figures given here in Table 1 include cases where the legislation on complaints was deemed not to apply at all.

2. Informal resolutions and supervised investigations became possible only after the creation of the Independent Commission for Police Complaints on 29th February, 1988.

3. The Chief Constable has a statutory duty to refer all cases to the DPP except those where he is satisfied that no criminal offence has been committed. This requirement is strictly interpreted by the Chief Constable.

4. These figures include cases not arising out of complaints from members of the public.

Independent Commission for  
Police Complaints for  
Northern Ireland



Chairman: James Grew, JP, DL

Date 21st April 1989

Your Ref.

Our Ref. .. /88

Mr

BELFAST,

Dear Mr.

I refer to your complaint which was initiated in a letter received at R.U.C. Complaints and Discipline Branch on 5th July 1988 from Mr. Solicitor. It had been alleged that you had been verbally abused and threatened by police at Shipquay Street, Belfast on 13th May 1988.

In accordance with the legislation, your complaint has been investigated by a senior police officer and the Commission has been provided with a copy of this officer's report and related documents.

As you know, the Director of Public Prosecutions has directed 'no prosecution' in consequence of the criminal aspects of your allegations.

It is the Commission's function to satisfy itself as to the adequacy of the investigation and to decide whether a police officer who is the subject of a complaint should be charged with a disciplinary offence if the Deputy Chief Constable has not himself seen fit to prefer a charge.

In this particular case the Deputy Chief Constable does not propose to prefer disciplinary charges against the officers concerned as he takes the view that insufficient evidence exists to support such charges.

The Commission has carefully examined all the documents relating to your complaint. As disciplinary action can only be taken when there is enough evidence to establish a prima facie case, the Commission is of the opinion that the bringing of disciplinary charges against the officers involved would not be justified.

A copy of this letter has been forwarded to Mr Solicitor.

Yours sincerely,

Mr. Secretary.

APPENDIX 2



THE ROYAL ULSTER CONSTABULARY  
Complaints & Discipline Department  
Ormiston House Hawthornden Road Belfast N Ireland BT4 3JW  
Telephone: Belfast 650222 Ext: 25203

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Mr  
Solicitor

Your Ref:

Our Ref:

Date:

23/12/88

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Dear Sir/~~Madam~~

RE:

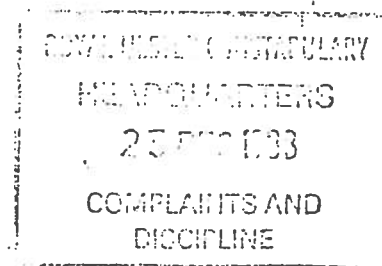
I refer to the complaint made by you / ~~XXXXXXXXXXXX~~ on  
5 July 1988 which was recorded and investigated  
in accordance with Article 5 of the Police (Northern Ireland)  
Order 1987.

At the conclusion of the investigation the papers were sent to  
the Director of Public Prosecutions for Northern Ireland. I now  
wish to advise you that he has directed 'No Prosecution' against  
any police officer.

The investigation report has now been sent to the Independent  
Commission for Police Complaints for Northern Ireland and  
you will be informed of the result in due course.

Yours faithfully

Superintendent  
for Chief Constable



# APPENDIX THREE

## List of CAJ Publications

- No1. **The Administration of Justice in Northern Ireland:** the proceedings of a conference held in Belfast on June 13, 1981 (No longer in print)
- No 2. **Emergency Laws in Northern Ireland:** a conference report, 1982 (No longer in print)
- No 3. **Complaints Against the Police in Northern Ireland, 1982.** (£0.50)
- No 4. **Procedures for handling complaints against the Police, 1983** (shortly to be updated)
- No 5. **Emergency Laws; suggestions for reform in Northern Ireland, 1983.** (photocopy available)
- No 6. **Consultation between the Police and the Public, 1985.** (shortly to be updated)
- No 7. **Ways of Protecting Minority Rights in Northern Ireland, 1985.** (shortly to be updated)
- No 8. **Plastic Bullets and the Law, 1985** (updated by CAJ pamphlet no. 15)
- No 9. **"The Blessings of Liberty": An American Perspective on a Bill of Rights for Northern Ireland, 1986** (£1.50)
- No10. **The Stalker Affair: More questions than answers, 1988** (£1.50)
- No 11. **Police Accountability in Northern Ireland, 1988** (£2.00)
- No 12. **Life Sentence and S.O.S.P. Prisoners in Northern Ireland, 1989** (£1.50)
- No 13. **Debt - An Emergency Situation?** A history of the Payments for Debt act in Northern Ireland and its effects on public employees and people on state benefits. 1989 (£2.00)
- No 14 **Lay Visitors to Police Stations in Northern Ireland, 1990** (£2.00)
- No 15 **Plastic Bullets and the Law, 1990** (£2.00)