

The Patten Commission:

The way forward for policing in Northern Ireland?



*Report of conference proceedings - 8 October 1999,
Wellington Park Hotel, Belfast*

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The Patten Commission: The Way forward for policing in Northern Ireland?

**CAJ conference, 8 October 1999,
held at the Wellington Park Hotel, Belfast**

Preface

As an independent cross-community human rights group interested in policing since its establishment in 1981, the Committee on the Administration of Justice (CAJ) made a number of contributions to the work of the Commission into Policing for Northern Ireland (hereinafter called the Patten Commission after its chairperson, Chris Patten). Throughout the Commission's fifteen months' work programme, CAJ made a variety of written submissions (see appendix) and we organised two conferences.

The first conference, held in February 1999, was successful in bringing together a very mixed audience to listen to an impressive array of international and local experts. We were fortunate to secure the participation of academic experts, senior police officials, and human rights activists from Britain, the USA, and South Africa, as well as the Council of Europe. Locally based participants included officials from statutory organisations, party politicians from across the political spectrum, police, workers from republican and loyalist communities, representatives from minority ethnic organisations, womens' groups, and gay/lesbian and other community and voluntary sector groups. The political, social and international mix was intended to assist ourselves, and those present, to reflect in more depth on the practical challenges facing the Commission. A copy of the conference report (with a series of human rights benchmarks) was sent to the Patten Commission and is available from the CAJ office (***The Agreement and a new beginning to policing in Northern Ireland***).

The second conference, held in October 1999, was held shortly after the launch of the Patten Commission report, and we sought a broad and disparate audience with a view to exchanging first impressions and reactions on the various proposals. Since it would have been impossible to deal with all 175 recommendations, most of the focus of the day's debate was on the twin pillars of "accountability" and "human rights". Again, we were reasonably successful in drawing a varied audience (indeed, many of the same people attended both events), and a list of those registered/attending is included (see appendix).

What follows is a report of that 8 October conference. It consists of the plenary presentations by Dr Maurice Hayes and Peter Smith QC - members of the Policing Commission - short workshop reports, and notes from the final plenary. The report starts with a CAJ summary which seeks to draw together common trends and issues arising at the event which, as part of the formal conference report, will be submitted to the Secretary of State for consideration in the consultation process now underway. CAJ has already submitted its formal response to the Patten Commission (***CAJ commentary on the Patten report - S.91***), and this document is being submitted as an annexe to that earlier submission.

The report of the Patten Commission: The way forward for Northern Ireland?

Conference held 8 October 1999, Belfast

CAJ summary of the common trends/issues/comments/questions arising in plenary and workshop discussions

Police Accountability

1. Policing Board

The general impression across most of the workshops and discussions was that the proposals for a Policing Board were a definite advance on the current system, and that they represented one of the key building blocks proposed for a new beginning to policing in Northern Ireland. No-one seemed to challenge the concept in a very fundamental way. Nevertheless, a number of specific issues/concerns came up in nearly all the workshops. For example:

- There were mixed feelings about the predominance of elected political party representatives on the Policing Board. Patten apparently proposed this as part of a broader agenda to render NI's local politicians responsible for issues of concern to their constituents. Some conference participants thought that this was an essential move to more democratic oversight of policing; others were nervous that this might make policing subject to partisan politics. Practical questions also arose: will Assembly members have enough time to devote to this major task, in addition to representing their constituency interests? Why is it only parties represented on the Executive who can serve on the Policing Board, and why are other political parties excluded from consideration?
- There was also some concern that the Policing Board be given sufficient power to exercise real accountability over the Chief Constable. In this context, it was uncertain whether the move from "operational independence" to "operational responsibility" would be sufficiently clear, and whether it was sufficient to exercise accountability only retrospectively. Would the Policing Board have the authority to sack the Chief Constable should that ever be considered necessary, or at least appeal to the Secretary of State to sack him/her? Could the Policing Board play a role in making senior policing appointments? If it does not have a role in such decisions of hiring and firing, are they going to have the necessary levers to exercise effective influence? In general terms, people thought that the Policing Board should have as much authority as possible.

- Some people expressed the hope that the new Policing Board would make the protection of human rights a major priority. This, together with the fact that they are expected to work closely with the Policing Ombudsoffice to oversee complaints and put those lessons to good use, requires a commitment to (and training in) human rights principles and their relevance to policing.
- Sensitive security-related information must be accessible to the Policing Board if their oversight function is to carry any credibility; and the implications for this should be looked at in the legislation relating to national security, freedom of information, and security force oversight. It will be meaningless to introduce extensive changes to regular policing if army intelligence, MI5 and other such groups engaged in policing are not subject to greater control also.
- Many wondered how the "independent" members of the Board were to be appointed, and whether the process of appointment would be transparent enough to reassure the general public as to their independence.
- What relationship should the Policing Board develop with the Civic Forum and other such bodies?
- It would be crucial that clear operating guidelines are developed for the Policing Board (and indeed for the District Policing Partnership Boards) to ensure that minority interests are safeguarded. Thus, for example, it could be counter-productive if decisions were to be made regularly by simple majority voting and without recognising that vulnerable constituencies of interest might thereby suffer.
- It was thought that it would be unfortunate if the composition of the Board were to be drawn from "the usual suspects". There was some discussion as to whether current Police Authority members could serve on the new Policing Board, and it was thought very important to encourage participation by people who would not be, or be seen to be too defensive of the police, but instead willing to engage in constructive criticism. It would be very important to involve people who will be respected across a range of constituencies and interests, and to ensure a representative composition (with gender representation emphasised by several participants). Though not everyone was sure how best to achieve this, there was a strong shared sense that in its composition and its functioning, the Policing Board should signal a new beginning to policing in Northern Ireland.

2. District Policing Partnership Boards (DPPBs)

While no-one challenged the need for local civic oversight bodies in line with District Council areas, Patten's proposals for District Policing Partnership Boards secured much less consensus than the proposals for an overall Policing Board.

The main reason for this reticence concerned the powers of the DPPBs, which are to be "advisory, explanatory and consultative". Some at the conference expressed the view that this would make these bodies little more effective than the current CPLCs (Community Police Liaison Committees). The CPLCs are frequently disparaged because they appear little more than "talking shops", often are unrepresentative (in class as well as political terms), and they are largely police-led. If local accountability is to be secured, it was thought that we would need to avoid these problems in future, and give the DPPBs some real authority. However, part of the reason that Patten

apparently did not recommend a stronger role for these local bodies was the fear that gridlock would arise if local policing priorities conflicted with the priorities and programmes set by the NI-wide Policing Board. Accordingly, rather than seeking to give these bodies a control function per se, the emphasis had been placed on evolving more of a partnership approach to community safety. It was hoped that effective accountability could be secured by local political representatives calling for reporting from the police and exposing police action or inaction to greater public scrutiny.

Different options were proposed. If the local police are to "take account of" the views of the DPPBs (as Patten recommends), then this should be codified in law. Others proposed that the key lever should be local public opinion, and that the police should be obliged to report regularly and publicly to the DPPBs on their work, and to justify their actions. The DPPBs in their turn would report on their oversight function in their annual reports. Others noted the need for agreed annual targets to ensure clear priority setting and effective accountability to the local community. Yet others emphasised the importance of local discussions being fed back regularly and systematically to the Policing Board so as to influence policy making at that level.

But the issue is not simply one of accountability. Local policing structures are intended to evolve holistic community-level responses to local problems. This requires a dynamic inter-agency approach, and some restorative justice projects were mentioned by way of example. Police-led initiatives may not secure the level of commitment and partnership that is required in any new arrangements. This needs to be borne in mind when looking at the future composition and role of CPLCs, and their relationship with the new DPPBs. Certainly, resources will need to be invested in local capacity building to ensure that the partnership (community/police) is one of relative equals.

The proposed composition of DPPBs raised fears that they might be overly subject to local Council control - how, for example, will the "independents" be selected? How can one be sure that community groups will be involved since they are not referred to explicitly amongst the possible constituencies of interest? Most people however welcomed the emphasis on the need for good gender representation, and the obvious concern to involve under-represented groups in the local community. Would DPPBs be "allowed" to comment on local parading/security problems, and if so, how would one ensure that human rights and equality issues would be to the fore in such contentious discussions? Indeed, if the DPPBs are to contract-out some policing services, will they be obliged to ensure that human rights and equality standards set for the regular local police are similarly met by the contractors? As with the Policing Board, it will be necessary to establish some clear operating guidelines and procedures.

3. Police Complaints

The principle of having an independent office to investigate police complaints was well established by the Hayes' report, and secured very widespread support across the community at that time. However, Patten indicates (if only implicitly on occasion) that some of the Hayes' recommendations did not get translated effectively into legislation, and the Commission also took the opportunity to reinforce and build upon the recommendations made by Hayes. No-one at the conference seemed to raise any objections to Patten's proposals regarding a stronger and more effective police

complaints system. Most of the comments in fact sought to emphasise the importance of a number of Patten's proposals in this regard.

For example:

- Any credible complaints system must deal with issues relating to the collective responsibility for policing shared by senior management and not just focus on individual complaints against individual police officers
- At the same time, individual officers need to be made aware of the disciplinary measures and penalties which will follow from wrongdoing, and there will need to be an overhaul of the internal disciplinary system to reflect the changes proposed (see reference to this under next point on the role of the Ombudsperson).
- The post of the Ombudsperson will be a fundamental lynchpin in the new arrangements and the staff should be pro-active. This post - so key to effective transition - should oversee investigations into past human rights abuses and have a totally independent staff. There was some uncertainty as to whether the concept of independence - that everyone accepted - was compatible with recruiting current or former RUC officers. Particular concerns were raised about the resources available to the Ombudsoffice - and the fear that insufficient resources would undermine its effectiveness at an early stage, by ensuring that it would have to fall back on police investigative resources. Direct access to police reports, and the direct reporting relationship the Ombudsperson will have to the Assembly and the Westminster parliament, will be useful mechanisms by which police behaviour can be subject to external scrutiny. Internally, the Ombudsperson should insist upon an overhaul of the disciplinary system which would of course need to protect the rights of individual officers, as well as complainants.
- Several of Patten's management recommendations were welcomed as it was thought they would complement an improved and strengthened complaints system - better record keeping for example, and the possibility in future of dismissing officers found to be inefficient. There was support for the proposals about a new appraisal system, though concern was expressed about the difficulty of knowing how effectively to measure concepts such as "commitment to human rights". Indeed, in personnel terms, the process of appraisals is normally kept quite distinct from the process of reward and punishment for work well or badly done. Problems may arise if the new system is expected to serve very different - and potentially contradictory - purposes.

Given the consensus around the importance of this pillar in ensuring police accountability, it will be vital to see that this section of the Patten report is implemented in full. Unfortunately, all of the many recommendations are edited into a single 'omnibus' recommendation (no.38). It is vital that this not hide the overall recommendation in Patten that we need to implement "Hayes-plus". Currently, the legislation covering the Ombudsoffice is quite inadequate and will need to be re-visited when new policing legislation is introduced pursuant to Patten.

4. Past human rights abuses

This exercised many people in the workshops - is it possible to attract people to the new structures and engender trust without dealing with the past? While some argued

for drawing a line under the past, others argued that some form of disclosure was needed. The latter felt that some way of dealing with all the different kinds of pain suffered across the community needed to be found and that something akin to the Truth Commissions of other countries needed to be considered.

Many raised the problem of impunity - there is no obvious mechanism for dealing with the "bad apples" that Patten said needed to be dealt with. There is apparently no sanction for senior officers (or indeed any officers) previously involved in past human rights abuses, and yet they have the responsibility for bringing the police into a new dispensation with human rights central to the core of policing. It was welcomed that the Police Ombudsperson had access to police reports and suggested that this might be one mechanism for addressing past human rights abuses. It was also thought that the creation of a rights-based culture and the insistence on a "human rights oath" might put pressure on former abusers to leave. Others felt that this would be insufficient and there needed to be some official acknowledgement of past human rights abuses if one were to be sure of a really new beginning.

Certainly the experience of the public meetings organised by the Patten Commission, where people told their personal stories - however harrowing - showed that there might be a willingness to give testimony to past abuses. Others at the conference were concerned that a focus on the past not become a type of "what aboutery"; if we are to do this, it must be done in such a way that it would really serve a useful forward looking function.

Human Rights

The language of human rights permeates the Patten report, and this fact was very warmly welcomed. Many different issues relating to this rubric were discussed at the conference.

5. Emergency Powers

There was extensive discussion in several workshops about emergency law. Several groups welcomed the recommendation from Patten that the Holding Centres be closed as soon as possible. The timing for the implementation of other Patten recommendations was more controversial, with some at the conference arguing that Patten's recommendations were dependant on improvements in the security situation, and others expressing the concern that emergency powers had become routinised. The latter argued that the retention of emergency powers was fundamentally incompatible with other Patten recommendations about a police service respectful of rights and working closely with the local community.

6. Plastic Bullets

There was no consensus with regard to Patten's proposals on plastic bullets. Some shared the Commission's distaste for the weapon but felt that there was no

alternative; whereas others argued that it was an unacceptable weapon and should have been withdrawn. Much disappointment was expressed with the stance of the Commission which appeared to accept without question that plastic bullets were needed for serious public disorder, while not commenting explicitly on the fact that a majority of those killed were found by inquest juries to have been uninvolved in any such disorder.

7. Training

There was a discussion of training, since it was thought that training would be a useful vehicle for institutional and attitudinal change. Human rights training is only relevant to the extent that it challenges institutional culture, and impacts on policing on the ground. It cannot be an add-on, or a matter of legal know-how, but a way of changing behaviour and attitudes. Disappointment was expressed at the omission of any proposal to introduce "whistle blowing legislation" which would encourage greater allegiance to human rights rather than to any wrong-doing colleagues, and would challenge the "code of silence" common to policing bodies.

There needs to be more community involvement in the design and evaluation of training, and in this regard several thought that the idea of a dedicated Police College was a mistake. The police need to be more not less integrated in the wider community, with community placements etc. It was however noted that the problem with the police using the university system is that universities have a cycle of two semesters while the police need year round training.

8. Sectarianism

It was argued that people often make the mistake of looking at policing in isolation from the wider society, and this is particularly true when talking of sectarianism in policing institutions. Sectarianism and division are not problems peculiar to policing, and isolated changes to policing will not address these fundamental society-wide problems. There seemed to be some general agreement that the Patten report had not really addressed institutionalised sectarianism, either within the police or the wider society, and there was a sense among many that this issue should have been addressed more directly. Several contributors referred to the section 75 provisions of the Northern Ireland Act and the new obligation on public authorities to promote equality of opportunity. Patten could usefully have explored the extent to which making the police subject to this provision could assist in any programme to eradicate or reduce sectarianism (as well as racism and sexism).

9. Representation

Several workshops queried the Patten report's focus on the under-representation of Catholics, largely to the exclusion of other groups. Thus, concerns were expressed at the limited focus directed at issues of gender under-representation in policing. In the plenary discussion, there was some recognition that gender should have perhaps been given greater attention, both because of its intrinsic importance and its potential

relevance to changing the culture of the institution. Targets and timetables were inexplicably not given for increasing the representation of women in the new arrangements, even though this would have required no legislative change. Concerns were also expressed about the scant attention given to the under-representation of ethnic minorities.

Even with regard to the emphasis on Catholic under-representation, it might appear that the focus was on religious rather than political under-representation. Several people stressed that Catholics *qua* Catholics should not so much be seen as the target group; the real issue is how to involve nationalists and republicans.

Others talked of the perceived lack of working class recruits and, amongst other things, it was thought a pity that the introduction of a Service Foundation Course (which would allow for the recruitment of more working class recruits) was not recommended.

Nor are the changes in composition merely a matter of making changes at the recruitment stage. Had Patten done enough to ensure change in senior ranks? Some thought that the ten years' timetable was inadequate, and some surprise was expressed at the failure of Patten to recommend (or even comment upon) the fact that the police should be designated as a public body subject to the statutory duty to promote equality of opportunity (Northern Ireland Act 1998, section 75).

10. Oath/Symbols

The arguments lying behind the Commission's proposals on symbols were persuasively presented in the plenary session (see on). However, given the nature of the audience - drawn from across the political spectrum - it was hardly surprising that the topic of police symbols did not secure a clear consensus. It was noted that there were many strong feelings in both the nationalist and unionist communities around the issue of symbols, but that there was at the same time a lot of ambivalence. It was recognised that symbols have great significance, but that they have different meanings to different people. Furthermore, people expressed frustration at the assumption (in part fed by the language of the Patten report) that there were only two communities in Northern Ireland.

As to the discussion in Patten on policing and Orange Order membership, several noted the perceived anti-Catholic ethos of the Order. Would a register of members be sufficient? Some thought not, since membership of secret societies reflects not only on the individual officer but on a police culture that finds it acceptable to recruit and/or retain staff who are perceived as anti-Catholic. On the other hand, the loyalty of Protestants and unionists needs to be retained by the new arrangements too, and a suggestion that a major long-standing institution of that community was incompatible with police work could undermine community confidence in the new arrangements.

There seemed to be some (albeit reluctant) acceptance on the part of many that policing in Northern Ireland could probably not yet aspire to a pluralist environment, and that the creation of a neutral environment, as a first step in this direction, was a necessary prerequisite.

11. Civilianisation

There was a feeling that Patten could have usefully gone into some more detail about the issue of civilianisation. There were limited recommendations made with regard to the need to challenge the currently militaristic culture of policing (though it is implicitly and explicitly criticised at several points in the report). Very surprisingly, very few references are made at all to the army or the Royal Irish Regiment, though they have in the past been very actively engaged in policing - as opposed to purely military - operations. While welcoming the recommendations aimed at reducing army involvement in police work, it would be important to clarify whether any of the checks and balances introduced for policing should have a knock-on effect on, or be mirrored in, accountability structures governing the military.

Implementation

Everyone concurred that Patten was only the beginning of what was likely to be a long process of change, but that change was inexorable and in many instances urgently needed. Once the consultation period is over, legislation needs to be drafted and the necessary political will - inside and outside police circles - needs to be mobilised to bring about the changes envisaged. Furthermore, Patten cannot be seen to stand alone. The work of the Criminal Justice Review (and the eventual criminal justice institutions), the Equality and Human Rights Commissions, and the various policing institutions (Ombudsperson, Policing Board, Oversight Commissioner etc) are all inter-related, and clear lines of demarcation need to be established.

Many participants seemed to think that the appointment of an external scrutiny mechanism (the Oversight Commissioner) was both innovative and important to ensuring change. While people disagreed as to whether the timescale for change was either realistic or ambitious enough, change was inevitable and, as such, required clear mechanisms for overseeing implementation.

There was some disagreement about the pace of change. While some accepted Patten's concerns about the need to move as and when the security situation allowed it, others felt that many of the changes were already long over-due and urgently needed. Indeed, some argued for immediate implementation of the positive proposals in Patten, and most recognised the practical difficulty of making change dependent on an analysis of the security situation when the latter was carried out by the very institution under scrutiny. At the very least, this made the need for close and pro-active involvement of independent assessors all the more important.

Plenary presentations

Speech by Dr Maurice Hayes

Thank you for inviting me here today to speak to the Patten Commission report. This is the last hurrah, as far as I am concerned, of our work on the Patten Commission. Although Peter and I are described on the programme as members of the Policing Commission, that is not strictly true, since there is no Policing Commission any longer - it finished when we submitted our report.

That leaves us in a slightly awkward position because this is a corporate document. It was produced by the work of eight people, and the report contains our collective and agreed thoughts on policing. I don't want to be involved in re-inventing it or re-explaining it or re-interpreting it to other people. I think that we would prefer that the report be read, and let people make what they will of it. And after this, certainly I am not going to be involved as a continuing representative of the Patten Commission.

The main reason I'm here today is both, on behalf of the Commission and personally, to express thanks to CAJ, and to the voluntary organisations associated with it, who were extremely helpful to us throughout the consultation. The February conference CAJ organised, and which was already mentioned in the opening remarks of the chair, was, we found, extremely helpful...extremely helpful. The speakers who were brought in and the perspectives that they presented were fascinating. But perhaps as interesting were the workshops, and the interaction and the potential it afforded for us to meet people and to clarify our thinking.

I had a practice of about once a month or thereabouts meeting with representatives of the CAJ and the other NGOs and voluntary organisations that were active on these issues. That was extremely helpful to us as well, and so too were the submissions that they all made. So, this is a sort of thank-you for that, and I hope you'll take it in the right spirit if I say that we really don't want to get into what might be a re-examination or a re-interpretation of the report. I think the report of the Patten Commission is a complex document and it's an interactive document. Despite what conspiracy theorists might make of it, none of us brought an agenda to this project in advance. We were asked to do a job, and we came from different parts of the world to do it. What we each brought to it was our experience, our knowledge, our academic or practical know-how.

The great skill of Chris Patten was that he helped the group produce a totally unanimous report. There are 175 recommendations, every one of which was agreed unanimously by the group. The non-NI people who were involved were people who had thought about change within their own fields and who weren't playing to the local audience at all. They, and we, were not turning to political factions or otherwise, since what we wanted to do was to do a fair job and a decent job. I think we did that.

People may disagree with parts of it, but the reason we had suggested that people not cherry-pick, was because we saw the thing as a whole. The different parts of it create a single package and it would be unwise for people to pull out the bits they liked and leave the rest. That is, of course, not to say that we regard it as the last word on policing or that no other words, no other concept could be there. But, we do think that there is a unity in the package, and really we think that it would be a pity if governments, or political parties, or the police, or others, tried to just select the bits they liked.

What we were trying to do was to provide Northern Ireland with the best policing arrangements possible, and you may notice that we use the term "policing" as often as we can. This is an indication that there is more to policing than simply police men or women in uniform. There are all sorts of agencies in society, which hinder or affect the security of the individual, or the quality of life, and we wanted to expand on that concept. Indeed, we found the modern view of policing around the world is that what one might call the core police service is seen almost as the convergence point in a network of arrangements which eventually gives the communities and families and individuals some responsibility - even a great deal of responsibility - for ensuring and protecting the quality of life and the safety and security of the citizen.

There are several themes running through the report and that came up at the February conference also. Those themes were accountability, which seemed to us to be hugely important. A second which was linked to that was transparency: you can't have accountability unless you know what people are doing, unless they say what they are going to do, and unless there is a means of monitoring it. The other theme which runs through again, again, and again, is respect for the individual and the protection of human rights. And even if we hadn't arrived on the scene, that is a requirement which is now being placed on all agencies of government, including the police, by the United Kingdom's accession to, or incorporation of, the European Convention into domestic law. We talked of community policing (and I'll come back to that in a moment), of the police force being representative in its composition, culture and ethos, and we looked at efficiency and effectiveness. It's hard to see now how anybody rationally would reject any of those propositions - why would anyone argue for a police force that wasn't accountable, didn't respect human rights, or wasn't representative of the community?

And if there's a key bit in this - and I think it is the "holy grail" of policing around the world - it is community policing. Of course this can mean lots of things to different people, but it is firmly founded on the principle which underpins policing in Britain and Ireland - that is, policing with the consent of the community policed.

And what is coming out of inquiries like the Stephen Lawrence Inquiry in Britain, is that "policing by consent" can only be done if the police are in some way representative of the community. That doesn't mean in a Northern Ireland context, having Catholic police to arrest Catholics, and Protestant police to arrest Protestants! Rather, it means that the police service as a whole should be as far as possible representative of the community, the different strands of the community, classes, cultures etc. And that was what we were asked to do by the Agreement, after all. One could not have that sort of policing with a police force which draws only eight percent from the community whose adolescents form 50% of that age cohort in society generally - it is after all adolescents who most come into contact with the police. There is an enormous imperative on us to enable the composition of the police to change over time. And there was also a requirement on us to ensure that the mass be changed very quickly.

So that brought us to the question of symbols which we were also asked to examine. I must admit I find it surprising that people who asked us to look at these things were surprised when we did, and surprised with the outcome when we did. The advice that we got from talking to people was that, in order to encourage young Catholics and nationalists to join a new police service, there had to be a new beginning, and the minimum to grant that new beginning was to change the name, the symbols and attitudes in the workplace. And most of the other changes flow from that. We did not make these recommendations without a lot of deep thought. These proposals are

not an add on at the end. Certainly we did not make these recommendations without realising the hurt it could cause to the people whose husbands had died wearing that uniform, whose sons had been killed. Yet we believed that such changes were necessary if we were to create a police service which ensured that no other police officer would ever have to die in those circumstances, or nobody else either. These are our starting points.

We didn't start off with a blank sheet of paper. We were given quite a detailed remit, and we were asked to look at the different points - the policing service should be acceptable to the whole community; a new beginning for policing was required; we should look at composition, symbols, culture and ethos, management, etc. I think any reasonable checklist at the end of the day would show that we have covered these bases, and we addressed the remit that we had been given. We were not working to any sort of political remit. We were working, as required, to provide the best and most efficient policing service. Our conclusion was that if you cannot have efficient community policing without having a police service which is representative of the community that's being policed, and if you can't get that representative police service without changing symbols, or without drawing a line under the past and beginning again, well that is the package that is needed.

We, in the spirit of the Agreement, wanted to look forward rather than back. What we have laid out, I think, is a vision of what policing could and should be like in a society and we'll take some time getting there. It will have to be calibrated to developments on the political and security fronts, but it is capable of being achieved, and I think it is in the spirit of the Agreement. I think the people who object mostly with what we did are people who objected to the Agreement anyway in the first place, and thought that we shouldn't be looking at policing at all.

The document is a very managerial document, I think, and people might be disappointed at times with the tone. But I think that if you read it carefully, you'll see the provisions that are being made for accountability, right from the top down. The reason we suggested that there should be a Policing Board with representatives of parties in the Executive is not to give a seat or a say to any particular party, but to require all political parties in Northern Ireland to take responsibility for the arrangements for the policing of society.

The same is true at the local level. I was talking to a group like this last week, and there was a representative of one of the bodies which we suggested might be superseded, who was appalled at the thought of local Councillors having any say in local policing. I find that a profoundly anti-democratic attitude. Those people are there to provide a sounding board to help to develop local priorities and to help to ensure the form of policing is what local people want it to be. What's happening in England and Wales at the moment is very interesting. They have a rather unfortunately called Crime and Disorder Act. What this Act does is to place a duty on the local Police Commander and on the Chief Executive of the Local Authority to co-operate and to provide security and services for people. And that has led to a recognition that maybe one does not need more police men and police women - maybe one just needs better lighting in some cases, or more youth clubs, or creches, or maybe you want something done in the schools? This integrated approach has not been possible in Northern Ireland, because the services and functions are dissipated or divided over a number of bodies, such as the Housing Executive, the Education and Library Boards and so on. We wanted to provide a focus for that more cooperative effort, and give a role again to local government in determining and securing the quality of policing wanted for the area. They are actually doing

something along these lines in Lisburn under the aegis of the Safer Cities Project, and in Antrim also. That is the way policing is going everywhere, and it does not strike me as very subversive!

So, there it is. I don't want to say too much more about it. We went through a hugely exhaustive process - we had public meetings to which ten or eleven thousand people came, I thought they were a very interesting experiment in participative democracy. I would like to see these being developed in some way. We provided at those meetings a safety valve for people. We were as open as we could be. We listened to as many people as we could. We looked at practice around the world, not with the idea of bringing any ready-made solution to the situation here, but looking at best practice here, there and everywhere. Our proposals, I think, hang together to the extent that they seek to bring together education, recruitment, training, management, and deployment, and to the extent that they try to ensure that policing develops a culture of openness and of co-operation with the public. Just as the best police forces are doing everywhere, we had to recognise that public safety and the quality of life is too big a responsibility to leave to the police alone. The police themselves clearly recognise that too

I go back to the first meeting we had on the Shankill Road - that's my favourite memory of the humanity of all of this. There was a little old lady who came up to me and said, "Son, you can only do your best". I thought, in saying this, she recognised, that, first of all, it was a very complex task. She also had the decency to recognise the honesty of purpose of the people engaged in it, and she suggested that it would be very difficult to find solutions that would please everyone, or indeed anybody, and the likelihood that it was a thankless task. I think she was right on all of those points. Thank you.

Peter Smith QC

Ladies and gentlemen, Maurice has obviously said a great deal that I might have said, and indeed everything he said I would agree with. May I start my brief remarks by echoing what he has already said about the invaluable role of CAJ in our work, and may I say how pleased I am that we have this opportunity to listen to your observations on our report and to clarify, which I think is our role, any aspect of the report that perhaps requires clarification.

When I was asked to make some remarks at the opening of this conference, I discovered, essentially for the reasons that Maurice has given, that in spite of trying to exercise all my ingenuity, I really thought there was nothing I could say. And I was all the more surprised by that actually, since I've spent thirty years at the Bar in circumstances when I really had nothing to say, but still actually managing to say quite a lot! I was also surprised for another reason. Before we reported, I anticipated (because I hadn't really thought the post-report period through), that we would spend perhaps weeks answering questions and accounting for our proposals. I presumed that we would be explaining our proposals to a whole variety of people. And, indeed, I spent quite a lot of time thinking of the kind of questions we might be asked, and formulating answers to some of those questions. And I don't exaggerate when I say that from time to time, particularly during the periods when it appeared that our report was going to be controversial, particularly after what was described as a "leak" (but it was actually a theft of our recommendations) was published, I became particularly anxious that I would have answers to these extremely difficult and interesting

questions that I was going to be asked. And some of the answers that I thought of were as ingenious as the questions. They were actually very honest answers to the questions that I anticipated being asked. But, as I haven't been asked any of the questions, the problem about giving the appropriate answers doesn't actually arise, and until I publish my auto-biography, I don't intend to indicate to anyone what those questions were or what the answers might have been.

The only observation I would make - and in a sense it misses the target today, but I'll make it anyway - because it is something that has been the source of very great surprise to me. I anticipated that political unionism would respond to the - what I call the small 'p' political recommendations in our report quite differently. In other words, after having listened (as I have) to unionist meetings over many years where people complained bitterly about policing being under the control of (as they saw it) unaccountable Westminster ministers, I thought - perhaps naively thought - that our proposals for the remission of policing to democratic institutions in Northern Ireland would have struck a chord among thinking unionists, of which there are many in Northern Ireland. It is a source of immense surprise to me that no one, as far as I'm aware, in that unionist political community has actually addressed - whether negatively or positively - those very important recommendations which to my mind, very much lie at the core of our report (just as Maurice has said). That is to say - democratic accountability. I am amazed that they haven't welcomed those recommendations - above all others. I'm amazed that they would not have balanced their angst about the badge and flag issues, with recognition of the importance to the unionist community of the return of true accountability through democratic mechanisms of policing to the people of Northern Ireland.

And I'm interested to note, looking through the list of participants this morning, that there isn't an Ulster Unionist participant, and I think that that is both significant and indeed very, very sad.¹ I hope that in the fullness of time - because of course we're only at the beginning of a process - that as our recommendations work through the system, unionism will respond in a positive and constructive way. I am not persuaded as I stand here that that will happen, and I think that it would be a grotesque tragedy for the people of Northern Ireland, for the unionist people of Northern Ireland, if their political representatives once more let them down by not having the appropriate level of interest and input into that very important aspect of the future of policing for Northern Ireland. And this applies whether the peace process works or it doesn't work, because, at the end of the day, we're still going to be faced with the problem of how you make policing democratically accountable in Northern Ireland, and indeed on a wider basis as to how you have real accountability, really effective accountability. All police services, wherever in the democratic world you are, are considering this problem.

So, apart from echoing again Maurice's remarks, I don't think I want to say very much more. I very much look forward to whatever observations the participants choose to make. We won't be hurt if you tell us in a very forthright way what you think, because my skin has been thickened over the last six weeks. I would rather have people who have read the report and considered it making criticisms; my experience over the last six weeks or so has involved many people who haven't read the report being extremely anxious to criticise. So, I'm looking forward to a rather refreshing new experience today. Thank you.

¹ A conference organiser clarified at a later stage that a member of the Ulster Unionist Party had registered for the conference, but had been unable to attend at short notice due to another commitment.

Plenary Discussion

The plenary discussion ranged over a broad array of issues. The first contributor (from the Probation Board) raised two distinct concerns. The first was a plea rather than a comment for society in Northern Ireland to be more sensitive to the pain suffered by the police. Though she clarified that she had not intended this as a criticism of the Patten process - but as something which touches society more broadly - both Maurice Hayes and Peter Smith took the opportunity to comment on the issue. Maurice remarked on the fact that the Commission had wanted to listen to police officers as well as anyone else willing to talk to them about policing, and to that end had visited every police station. At a rough count, he thought that he had spoken to more than one thousand police officers in one way or another in the course of the consultation process.

Peter Smith welcomed the opportunity to comment on this difficult issue. While the Commission had been criticised by people with political agendas, there were many others, who had no political agenda, but who had been distressed by the perception that the Commission had been insufficiently sensitive to the pain of the police and police families. He certainly understood the point of view of those who felt that the Commission might have been expected to acknowledge more fulsomely the large number of police deaths and injuries, and the sacrifice made by so many, for the most part in defence of the rule of law. At the same time, the Commission was acutely aware that the genesis of their whole project was caused by the marked controversy about how well or how badly policing in Northern Ireland had been performed. In drawing a line under the past and failing to be judgmental about allegations of police misconduct, it would have been inappropriate to be judgmental in any other way either.

The second issue raised was the proposal to establish a dedicated Police Training College, which could well further institutionalise segregation between the police and other professionals. Why should police recruits not use the existing educational framework or get some of their core training alongside Probation Officers, court officials, lawyers, voluntary workers etc? Maurice Hayes in his response indicated that the major thrust of the Patten report was on the need to open up policing and engage in training with social partners. Accordingly, he expressed the hope that even if the proposal for a College is accepted, the focus should not be on some huge edifice, but on buying in experience and generally opening up the training process to external input.

A representative of the United Campaign Against Plastic Bullets, while emphasising the need for recognising everyone's grief, and not making any hierarchy between different victims of the conflict, concentrated her comments on the issue of plastic bullets. She had been very disappointed that the report had not recommended the withdrawal of plastic bullets. She acknowledged that some attempt was made to address the problem with the proposals about research etc. However, she was particularly disappointed at the failure of the report explicitly to address the fact that the majority of people killed by plastic bullets had been found by the courts to be totally innocent. At the very least, Patten - if the Commission could not urge the abolition of the weapon - should have insisted on the guidelines for plastic bullet use being strictly adhered to. If in fact bullets were not fired at the upper body, at inappropriate distances, or in non-riot situations, people's lives could be saved.

Maurice Hayes felt that the criticism was somewhat unfair since the Commission had recommended precisely that. Most of the Commission members had started off the discussion of the weapon hoping to get rid of plastic bullets, and had looked at the problem very closely. However, they eventually came to the conclusion that, in certain limited circumstances, there was simply no alternative. Indeed, in a defining moment for their deliberations, they learnt of the Dutch police turning on a football crowd and killing someone because they felt they had to resort to live ammunition. The Commission had therefore concluded that there might be circumstances where the firing of plastic bullets was the only alternative - and was a preferable alternative - to the firing of live ammunition. Taking this as an inevitable starting point, however, meant that they felt it all the more vital to ensure that plastic bullets not become an indiscriminate response to crowd control. Accordingly, the Commission had made many recommendations about accountability, training, stricter rules, better reporting procedures etc., all with a view to making the firing of plastic bullets almost as rare as the firing of live ammunition.

A member of the Police Authority expressed concern about the politicisation of policing that she felt was inevitable if Patten's report were implemented as it stood. Despite the fact that she herself was a District Council member (or perhaps because of it) she felt that Council control was not wise. Certainly it is the current experience that the Community Police Liaison Committees (CPLCs) work well, but that there are problems in those where the majority membership consists of local Council members. Another member of the audience was very critical of the current work of the CPLCs. It was her experience that they do not represent the community, and particularly the Catholic working class community. She believed, personally speaking, that it was better to be on such bodies, and at the meetings, than to be talked about in one's absence. At the same time, it was her experience that the dramatically different experiences of policing, depending on the area where one lived, were simply not appreciated. When complaints were made about the policing of working class areas, middle class members often gave the impression that they believed the complaints were exaggerated, untrue or politically motivated.

In later discussions on the same question of local accountability and local civic oversight bodies, a representative from the Royal Ulster Constabulary expressed the belief that the work of the CPLCs had been unfairly criticised. Their history in Northern Ireland is relatively recent, and there are of course many deficiencies, but the problems have been recognised and are being addressed. The number of smaller CPLCs had increased dramatically. He felt that it was important that we retain the smaller, and more local CPLCs, alongside any proposals to establish District Policing Partnership Boards. A representative from Community Dialogue expressed surprise at the fact that the Commission had required that trade union and business representatives be included in the composition of District Policing Partnership Boards (DPPBs) but had overlooked the value of having community and voluntary representatives at the table also.

Peter Smith addressed initially the issue of politicisation of policing. He, and other Commission members, were of the opinion that it was of fundamental importance that party politicians be involved in issues of policing. At the level of the Policing Board, it was thought vital that the majority of Board members be democratically elected, and that NI party politicians begin to take responsibility before the electorate for the policing of Northern Ireland. At the local level, some of the same considerations apply.

The Commission had looked at the work of the current CPLCs and found it to be extremely patchy. There was a lot of evidence to suggest that it would be difficult to make the CPLCs work without giving them a lot more clout and a lot more power and control over policing - otherwise the police can simply ignore them. At the same time, one cannot create 26 different local bodies with real power over the police - it would be unworkable, and would bring DPPBs into conflict with the Policing Board, and indeed the senior police command in their attempts to set NI-wide strategic objectives. So, the issue is how could one accept the need for a NI-wide strategic policing plan and accountability mechanisms while also counteracting the tendency in policing - or any similar hierarchical organisation - for power to be sucked upwards. The Commission concluded that it is in evolving complementary rather than competitive remits for the Policing Board and the DPPBs that one would most effectively ensure that power is pushed back down to the local level. So, the DPPBs are not given formal powers which might bring them into conflict with the local police or the NI-wide structures. However, it was thought that police commanders would think it necessary to listen to local democratically elected people, and that Councillors would give local civic oversight structures more credibility and authority than they can currently aspire to. Indeed, local police commanders will want in future to make a success of community policing, will want to emphasise a community safety approach, and will be eager to develop effective partnerships with local agencies and groups, since their career in policing will depend on it. They will, therefore, clearly have a strong personal and professional interest in working with the DPPB.

As to the composition of local DPPBs, both Peter Smith and Maurice Hayes concurred that there had been no intention to exclude community and voluntary sector representation from these bodies - they had in fact taken it as a given that such bodies would want to contribute actively. Certainly the logic of the focus on community policing, partnerships with the community, and local knowledgeable input would suggest that such people would be invaluable as members of the DPPBs. They had not wanted, however, to be too prescriptive about who should/should not be on the DPPBs, and felt that it would be up to each District Council to match its DPPB to the perceived needs of the local community, and ensure that it reflect the broader community.

A quite different issue around the politicisation of policing also surfaced in the debate. Peter Smith drew a clear distinction between the Commission's positive insistence on involving politicians in the decision-making process, and their equally insistent demand that policing in future be disentangled from "the constitutional question". It had seemed to the Commission that it would be absurd in a community that is deeply divided about the competing constitutional claims of Britain and Ireland, to have a police service with symbols which reflect only one of those constitutional objectives. The nature of the criticism at times led one to wonder if some were not using the argument to exclude all "fenians" from the new policing arrangements. This led Maurice Hayes to comment on the fact that some of the more strident critics of the report seemed to be people who were quite happy to have more Catholics join the police, but who drew the line at nationalists or republicans. However, the Commission had seen its role as one of not ensuring more Catholics *qua* Catholics joined the new police service, but that a service be created which was truly representative of the whole community. It was their responsibility to try and bring about a situation in the future where a young person could stand up in their youth centre in Ballymurphy or, indeed, Ballybeen, and be proud to say that they were going to get a job with the police.

Some members of the audience commented positively on the fact that the Patten report addressed directly the fact of the serious under-representation of women in the police. However, a representative of the Equality Commission went on to express surprise and disappointment that the Commission had failed to propose clear targets and timetables for increased female representation. Without such clear goals, it was difficult to measure the extent to which women are or are not joining the service, achieving more senior ranks, and to determine what additional steps are necessary, if any.

Maurice Hayes took up this point, emphasising that the goal of recruiting more women to the police service had a twofold value. Firstly, it would of course meet the demands of equity; but it would also have an important influence in changing the culture of policing. More women would soften the 'macho' image of policing and would assist in the transformation of the institution to one more in keeping with a move away from conflict. The Commission had taken legal advice on this matter about setting 50/50 recruitment targets for women as well as Catholics. In response to a clarification from the audience that it would have been quite legal for the Commission to set targets and timetables for change in gender composition, Peter Smith wondered aloud if the Commission might not have done more in the area of gender under-representation.

A representative of the Women's Coalition raised a number of different concerns and questions. One related to the importance of protecting workers' rights in any contracting-out system. Another related to the Commission's intentions regarding the appointment of Catholics/nationalists to more senior positions. It was one thing to ensure that more members of the Catholic community are recruited, but how would one ensure that - in a reasonable timeframe - this under-represented group is to be found at all policing ranks. Given the Commission's proposals about slimming down senior ranks, how did they envisage under-represented groups getting into the top echelons? Peter Smith agreed that this problem had taxed the Commission considerably, since clearly it was not simply a matter of the right training for new people, but of finding experienced police officers who were already trained and ready to take over senior jobs. This was the thinking behind several of their recommendations - such as a dramatically increased programme of civilianisation at the heart of the service (including at senior levels), more secondments, incentives for police officers originally from Northern Ireland, now serving in other police forces, to return to senior posts here, etc.

The last question from this contributor related to the position the Commission had taken with regard to the membership of police officers in secret organisations. The Commission had asserted quite confidently that the oath a police officer takes to carry out his/her task as a constable impartially would take precedence over any oath of loyalty taken to, say, the Orange Order - why were they so confident in this regard? Peter Smith started his remarks by expressing astonishment at the position taken by many people regarding the incompatibility between policing and membership in the Loyal Orders. The whole thrust of the Good Friday Agreement was to end the process of exclusion that had characterised relationships in the past. Whereas previously 17% of the population (republican voters) had suffered exclusion, it now seemed that some people wanted to include that formerly excluded group, but now replace them with the 15% of the population who were members of the Orange Order.

To answer the question more directly, however, the Commission had considered any potential conflict between the two oaths.² They had been assisted in this reflection by Anita Hazenberg, a senior Dutch police officer, now heading up the Council of Europe's programme on policing and human rights. She was said to be of the opinion that it would be wrong to exclude police officers from service because of their political views or because of their membership of particular organisations, and that one's private views were just that - private views. Of course, any police service should have clear procedures and operating guidelines and should an officer depart from those rules and regulations, or permit his/her conduct to be influenced by external factors, then the officer would need to be disciplined. The Commission had found this persuasive, and moreover felt that preventing certain people even coming forward for consideration on grounds of their organisational affiliations was both unnecessary and highly dangerous in a divided society.

The last question of the session came from a representative of the NI Committee of the Irish Congress of Trade Unions who asked the Commission if they thought that the new Northern Ireland Police Service should be designated as a public body for the purposes of section 75 of the Northern Ireland Act? The value of such a designation lies in the fact that the police would then, like other public bodies, be legally obliged to promote equality of opportunity. Neither of the speakers felt competent to deal with this specific question, though Maurice Hayes again drew the audience's attention to the fact that human rights and equality considerations suffused the report.

² Peter Smith also took this opportunity to note that the Commission (and others) should in fact talk of the "Declaration" that is taken by someone in order to be conferred with the powers of a constable; it is not accurate in fact to refer to this as an oath.

Workshop reports

Every workshop discussed "Accountability" in the morning session and "Human Rights" in the afternoon, and there is clearly an overlap in the debates. The composition of each group was deliberately mixed to ensure a wide array of experiences and approaches.

Workshop one -

In a discussion of the Policing Board, the debate essentially focused around the practicalities of change. Firstly, to what extent could the proposed new Policing Board come into operation if there was no agreement on devolved political structures for Northern Ireland. Were Patten's proposals in this regard intrinsically dependent upon the formation of an executive and local political change? Secondly, who and how would the "independent" members be appointed, either under the old or the new political arrangements? Thirdly, would the new Policing Board have access to the kind of sensitive security-related information that the Police Authority for Northern Ireland had been denied? There seemed to be a sense in the working party that the Board would have to have access to such information if it was to play an effective oversight role. It was also thought important that whatever institutional and organisational arrangements are made, the creation of the Policing Board needs to mark an entirely new beginning. Only then will it attract the right calibre of people, and be in a position to meet the expectations likely to be vested in it.

The working group then turned to a discussion of the District Partnership Policing Boards (DPPBs). Some within the working group queried whether the new local oversight bodies - the DPPBs - would be very much different from the current CPLCs (Community Police Liaison Committees) which have not secured the confidence of the general public. While community policing is emphasised, there are some areas of ambiguity or uncertainty regarding the extent of real community involvement. This is most obvious in the provisions made for police accountability.

For example, accountability is couched almost entirely in retrospective rather than prospective terms. Civic oversight bodies can complain after the event, rather than seek to influence policing in advance of important initiatives. Indeed, some concern was expressed even about the extent to which Patten's proposals would ensure retrospective accountability. Attention was drawn to the fact that Patten referred to the need to deal with "bad apples", but did not propose any specific mechanism by which this could be done. Will the new complaints system detect patterns in complaints and will it address collective police responsibility or only focus on holding individual officers to account for their failings.

More generally, some concern was expressed about whether Patten had adequately addressed the problems of under-representation. On the one hand, there was little reference to the under-representation of women and ethnic minority officers; on the other there was insufficient urgency expressed with regard to getting all under-represented groups quickly into **senior** positions. Representation requires more officers from under-represented groups, but also more officers at senior positions within the institution. The ten year timetable for change was thought by several to be inadequate.

In the second session of the workshop which focused more specifically on human rights, some within the group emphasised the importance of the appraisal systems

proposed. How, specifically, would one measure an officer's commitment to human rights and who would carry out the appraisal system? The taking of the oath was clearly envisaged by Patten as a mechanism for weeding out new recruits or current officers who had little or no commitment to the protection of human rights. How in reality is it intended to ensure that this does not become a tokenistic exercise but acts as a genuine dedication to the goal of human rights? What disciplinary measures are to be introduced to penalise those who fail to conform to the newly agreed standards of behaviour?

These questions also beg the question of the extent to which policing becomes civilianised - both with civilian staff as part of the workforce, and with community and civilian involvement in the management of policing. Some in the group emphasised that Patten only provides a starting point, and that the real test will lie in the practical implementation of the various proposals. Moreover, policing change requires an integrated approach across law, procedures and the working of many related agencies. There will be a need to clarify the respective roles of all the various actors - the Police Ombudsperson, the Director of Public Prosecutions, the Equality and Human Rights Commissions. Perhaps most important of all will be the Criminal Justice Review.

Changing the concept of policing and human rights requires change in a whole variety of realms - changes at the institutional as well as individual level; changes in the law to bring existing laws in line with international human rights standards and obligations; changes in human rights training across all the professions involved in the criminal justice system; inquest changes and other checks and balances to guarantee the minimum use of force etc. Specific to policing change, several emphasised the value of the proposed Policing Board which, if it is effective, democratic and inclusive, is vital to ensuring real police commitment to human rights. It might, however, some thought, need more than a single human rights lawyer to act as a check within the institution itself.

Workshop two

The workshop discussed the Patten proposals about a Policing Board. It was felt that pro-active policing with a focus on community safety would require a number of building blocks - community responsibility, equality, transparency, a re-thinking of the power relationships, clear legislation, and resources for capacity building. Mechanisms for operating such a major transition would need to be evolved. The Policing Board would definitely be an advance on what we have currently, but some within the group wondered how independent would the "independent" representatives in fact be? What role should other institutions, such as the Civic Forum, play in policing? Future policing legislation should set this out clearly.

There also needs to be clearer guidelines generally to avoid the Board membership consisting of just the "usual suspects" There was a query as to whether current members of the Police Authority could apply, and whereas some thought that being on the successor body would be unwise, others felt that applicants could not be excluded on such grounds. Certainly people were unclear as to why only political parties on the executive should have a role, and felt that the net should be cast wide when using party politicians as a sounding board. At the same time, concern was expressed as to whether Patten had gone far enough in simplifying the tri-partite

relationship (ie the lines of responsibility between the Secretary of State, Chief Constable and (in future) the Policing Board).

Participants in the group wondered what the implications of Patten's proposals for a strong and effective civic oversight body were in terms of current legislation - most specifically the legislation governing national security and freedom of information.

In the debate about local District Partnership Policing Boards, people emphasised the crucial importance of training for the new bodies, and wondered what role was envisaged for lay people or third party involvement in those training efforts. On past experience, people stressed the risk that the monthly DPPB meetings could degenerate into social chit-chat meetings. At the same time, an opportunity to create improved personal relations between the various actors involved was not entirely a bad thing. Nevertheless, there was a feeling that it would be important to beef up Patten's reference to the police having "to take account" of the DPPBs. Obviously, however, one does not want to create local gridlock. Perhaps the way to do this, would be to oblige the police locally to justify the extent to which they have or have not taken account of DPPB advice. It was not clear, however, what penalties local DPPBs could impose. Would they for example be able to dismiss - or ask for the dismissal - of unresponsive local police commanders? At the very least, it was thought that local people should be made privy to the record of any such disagreements over policing through the DPPB's annual report.

One obvious way in which Patten sought to give local DPPBs some power in negotiations with local police was the financial clout they would have by being allowed to buy in services. Some in the workshop said that such a facility could only be welcomed to the extent that it met the same equality principles the new police arrangements would have to meet. It was felt strongly that we would want to avoid any form of Compulsory Competitive Tendering. It was also thought important to lay down clear operating rules for the DPPBs in this regard, perhaps along the same lines as the European Peace and Reconciliation Partnerships have had to follow. A system of simple majority voting, for example, would not be an ideal system when taking highly contentious decisions. Some of these relationships need to be clearly defined in law.

However, most legal principles require interpretation, and changes in policing will need to be complemented by changes in the judiciary and the wider criminal justice system. It is not only the police who are not trusted in some communities; it is also the judges and the prosecution service. We need to develop that trust and build healthier relationships - the Criminal Justice Review will have a key role to play here.

Moreover, policing should not be seen as a matter for the police and legal experts. Effective policing requires effective partnerships and relationships of trust. Initiatives in the field of restorative justice try to address these issues in a more holistic way. But if we are to develop a broader view of policing which would involve youth club workers etc., such a vision will require a re-think about the resources which are available. Public order currently seems to be responded to in terms of more land rovers, but perhaps we would be better advised to put resources into measures such as the training of stewards? Investing in trying to "prevent fires" rather than in responding to them (with plastic bullets and the like) seems more worthwhile. Such a vision also requires putting resources into empowering communities so that they engage effectively and actively.

Community participation is however dependant on trust and there was a concern expressed by the group in the fact that Patten had said little about accountability for past abuses. How could one engender a new culture without recognising that moving forward requires learning from the past? This is all the more true in that other agencies are expected to assist in the changing of attitudes and in the reaching out to, say, young people.

There was discussion about the request to community leaders to take the lead in encouraging under-represented groups to join the new police. It was agreed that if we were to leave behind the past, especially in working class areas, this kind of leadership would be necessary. The indirect benefits of creating DPPBs in an attempt to encourage a leap of faith were highlighted. But then some people expressed concern about the sequence: does one need to see change to encourage trust, or does trust have to precede change? Doubts were expressed as to whether legislation could deliver real change. Some thought that perhaps a few high profile recruits would be a way of encouraging the necessary leap of faith. Others thought that greater civilianisation of the force, and major changes in the gender composition of policing, would be important components in changing the culture and image of policing. Most agreed that educational and training opportunities for young people offered great potential. But there was uncertainty as to whether the timescale for change was both realistic and ambitious enough.

The working group discussed the distinctions the Patten report sought to draw between "operational independence" and "operational responsibility". It seemed that regardless of what term was used, the crucial questions remained the same. Thus, who decides what is in the remit of the Chief Constable and what is not? How could the community be more effectively involved in policing, and how in particular can the community effectively scrutinise operational decision making? Most people agreed that the new Policing Ombudsperson's office was fundamental - on condition of course that it develops a pro-active approach, appoints its own staff, and brings about a more effective disciplinary process. With regard to the staffing of the Ombudsperson's office, few queried the importance of its independence. Is this concept synonymous with having any current serving, seconded, or former police officers? It should not however be overlooked that any credible complaints system must treat everyone involved fairly, and this includes police officers as well as complainants.

In the afternoon discussion of human rights, there were different opinions expressed about the pace of change. While the speed of change may be largely determined by the level of violence in society as a whole, and on political developments in general, there was also a sense that many changes could be implemented without delay. Some felt strongly that delays in introducing policing change could be counter-productive. In this context, there was some discussion of the arguments for and against moving from emergency to normal powers. The advice of international bodies about such issues had been disregarded in the past, and many people saw a definite value in having an international "engine driver" for policing change in the form of the Oversight Commissioner proposed by Patten.

There was quite a bit of discussion in the group about the proposals to change the oath and symbols. It was felt that there are strong feelings in both communities, but there is also a lot of ambivalence. Several participants concurred with Patten that current symbols alienate some within the community, and that therefore there needs to be a focus in any future arrangements on symbols reflecting more cultural diversity. Comparisons were drawn with the changes implemented around the "flags

and emblems" legislation in other workplaces a number of years ago - perhaps there are lessons to be drawn here?

This difficult debate could be facilitated in a few different ways. Firstly, we should not lose sight of the fact that there are more than two communities, so that the symbols debate should try to reflect that reality and not see it as a solely nationalist/unionist question. Secondly, society needs to recognise that policing is not the only institution which needs to develop greater awareness of human rights and greater cultural diversity. Communities, schools, the judiciary etc. all need to develop a human rights culture and no one element can "go it alone". Will policing change be reciprocated elsewhere? An obvious example is the army - little reference was made to them by Patten - how will they be effected by the many changes proposed to policing in the human rights domain. The Criminal Justice Review is very important in ensuring that change occurs right across the system including, very importantly, the office of the Director of Public Prosecutions.

Workshop three

There was some general discussion initially and several people said that it was difficult to know how to react in general to the Patten report. Although there had been many criticisms voiced, there were also many silences, and it was clear that there were very mixed reactions (whether spoken or unspoken) to the different recommendations. There was also a recognition that the argument about dead and injured RUC officers was a very emotional one for some people, and that therefore the debate could not always be conducted entirely rationally. The key question was however would Patten's proposals give us the "new beginning" promised in the Agreement.

The discussion focused first on the proposals for a new Policing Board. It was felt that currently the Attorney General, the Director of Public Prosecutions, and the Chief Constable are accountable to no-one. So the real test for the new body would be its ability or inability to make institutions like this more accountable. Would the Policing Board for example be able to sack the Chief Constable? Would they have the power make senior police appointments? Concern was expressed by some about the proposed political make-up of the new Board.

It was felt by several that the key issue was that of the transition from current to future policing arrangements. In this regard, the new Police Ombudsperson post was seen as a lynchpin. The police should initiate some investigation of human rights abuses by the police; the Ombudsperson should oversee the process; while the Policing Board should review overall performance. The Ombudsperson should have the power to make the Director of Public Prosecutions accountable for his/her actions. But there is also the problem of covert operations and the role of Special Branch. There is a risk that the Attorney General and/or Secretary of State could block effective accountability, particularly in those operations where secrecy ensures that the operations are even more protected from scrutiny than usual.

The three key points emerging from this debate could be summarised as follows:

- a.. There needs to be an accountability test applied to past abuses - some form of disclosure or a truth commission

- b. The Ombudsperson is the lynchpin of the whole structure and needs expanded power
- c. There needs to be legal accountability at all levels.

In the afternoon discussion, which focused more on human rights issues, there was an interesting exchange around the idea of a Public Service Foundation Course. This might create a more level playing field which would help in the recruitment of more working class recruits to the new police service. There was also a belief on the part of some that the creation of the right context for change was dependent on dealing with the past. There was some debate, for example, about the value of introducing some kind of Truth Commission. However it is done, the question of the past must be addressed, if we are to ensure effective implementation of change and start a real process of transition. In that context, the ending of emergency powers is not dependent upon a recommendation being made by Patten; we should be seeking a commitment to such change within the new police themselves.

Workshop four

There was some disagreement in the group about the general response to the Patten report. Some felt that Patten offered a real chance for a fresh start, while others felt strongly that the proposals did not go far enough to bring about real change. In defence of the latter position, the argument was made that it is not so much plastic bullets which are the problem as it is the behaviour of the individuals who fire them. If the make up of the force remains the same, the same problems will continue to arise. Surprise was also expressed at the fact that no reference was made in the report to the RIR which is involved in policing. How can one talk about a new beginning without addressing the policing issues raised by the existence of the paramilitary part time locally recruited armed force that is the RIR?

As to the specific institutions proposed, there was some concern expressed about the DPPBs. If they are set up by Councils, can they be truly independent, or are they in fact expected to submit their decisions back to the Council for approval? Moreover, who appoints the "independent" candidates to the various bodies - who selects them and how? Who proposes them? How independent can they be expected to be? Will the independents be marginalised? It was also felt that there needed to be some clarification in the linkages between the remaining CPLCs and the new DPPBs. There also needs to be clarification around the vertical relationships: there needs, for example, to be a mechanism to ensure that local concerns are brought to the attention effectively to the Policing Board.

Little is said about women in the Patten report, or indeed the expected impact of section 75 of the Northern Ireland Act (which imposes a duty on public bodies to promote equality of opportunity). It was dispiriting that section 75 wasn't alluded to specifically, and it wasn't clear why this was the case since it wasn't easy to think of a reason (apart from the supposed workload involved) as to why the police would not want to be designated a public body obliged to promote equality of opportunity.

There was a long discussion of the past: a lot of concerns were expressed for example about the need to make people accountable for the past. Without this, how would one be assured that the misbehaviour of the past had been addressed and that all the necessary lessons had been learnt? Some felt that if Patten was

implemented in full then such accountability would be assured. But others thought that more rigorous vetting procedures were necessary. While some argued that we needed to put the past behind us, others argued that it was difficult to open up to, and work alongside, people who are seen to have abused you with impunity. The issue was not so much one of "bad" individuals per se (since one would always have some bad apples) but about securing accountability.

The group discussed the fact that any new beginning would require an examination of society's responsibility for policing and not only changes in the institutions of policing themselves. The Patten report did not really address institutionalised sectarianism either within the police or the wider society, and yet many thought it necessary to address sectarianism more directly: a managerial approach to this kind of issue may appear pragmatic but may be very problematic. Society as a whole has to exercise responsibility to confront sectarianism, and not see this as a problem of and for policing alone.

There was a discussion of training, since it was thought that training would be a useful vehicle for institutional and attitudinal change. There needs to be more community involvement in the design and evaluation of training, and in this regard several thought that the idea of the Police College was a mistake. The police need to be more not less integrated into the wider community. It was however noted that the problem with the police using the university system as a primary training venue is that universities have a cycle of two semesters, while the police need year round training.

It was felt that one important way to build up greater community/police trust will, of course, be the new complaints system. However, some in the group expressed surprise that Patten made no reference to the importance of the RIR also being made subject to some such control mechanism.

In the afternoon session, the group concentrated more explicitly on the issue of human rights. There was extensive discussion of the difference between emergency law and the ordinary criminal law. While some expressed the hope that the Patten report would be implemented in a political situation where emergency law was no longer needed, others were fearful that emergency law would be merely normalised and that this trend was incompatible with other aspects of the report. The responses to the consultative process should be used to highlight the contradictions within the report in this regard.

Some of the limitations on the emergency powers recommended by Patten were welcomed - eg the immediate closing of the Holding Centres. However, it was unclear how the stop-and-search measures could be better recorded. There is of course no visible difference allowing the police to record the numbers of Catholics/Protestants or nationalists/unionists stopped and searched. However, the example was given of a project in Tottenham (England) run jointly by the Police Authority and a voluntary group, where the subjects of stop and search are given forms and are encouraged to identify their own community background. Perhaps similar ideas could be explored in monitoring policing behaviour post Patten?

Concern was also expressed at the current abuse of emergency powers with them being used to deal with drug, alcohol and other non-conflict related problems. Perhaps training would help encourage officers to stop automatically using emergency powers but start to use normal powers and therefore have to justify their actions more systematically?

There were clearly two strands of thinking emerging - with some people in the group emphasising a decrease in resort to emergency powers and the importance of monitoring the overlap between normal and emergency powers. Others within the group were much more critical of emergency powers and stressed how they had contributed to the violence by fuelling the reality and the perception of injustice. Emergency law is seen as hanging over the heads of young nationalists/ republicans like a "sword of Damocles" - and this is not purely of historical concern, but a very contemporary experience for many. The effects of emergency law have caused great pain for many and they see the fact of their remaining on the statute book as being very negative. Many thought that Patten should have pushed for emergency law and plastic bullets to be removed without delay.

There was a very extensive discussion in the group about dealing with past human rights abuses. Patten didn't deal with this, and said it wasn't the role of their Commission, but then suggests that another body might want to look at this. Avenues exist for "truth telling" at an unofficial level - but surely something is needed at the official level? There are in fact two different levels for truth telling - the political level (where it is necessary for moving on) and the grass roots level (where it is necessary for healing). There were mixed feelings about the value of any such official initiative at this time, but there was a recognition that people need both to talk about their experiences and to hear the experiences of others.

There was a sense that people needed to be pro active in encouraging young people to join any new police service, and that it would be inappropriate to adopt a 'wait and see' approach. But, is there enough in Patten to attract young people? Emergency law was felt by many to remain a barrier, since what was needed was a new service and a new mindset, not just a change of name. The group was reminded that the police are often perceived as the ones who are responsible for creating bad community relations, but in fact they are often blamed for actions requested of them by communities themselves. The example was given of the CPLCs and other such groups asking the police to move on groups of young men. So real policing change, and positive relationships in the community, will only come about when communities as a whole become more responsible for their own order. Communities cannot abdicate responsibility for their safety to either the police or paramilitaries; they need to take responsibility for working on social problems in the area and for developing good community relations. Several thought it disappointing that Patten had not dealt more with issues of community safety and with the importance of putting resources into community level responses. The police cannot, and should not, be asked to deliver everything.

It was good that Patten referred to the police as possible brokers of inter-community work and partnerships, but the concept was not very much explained nor explored. Who else can act alongside them as brokers - appropriate community/voluntary organisations or groups of agencies? Certainly, people thought it useful to recruit local people to work on policing in local areas, since they would have a vested interest in improving things. There was some criticism voiced about the fact that Patten had not prioritised outreach to young people. In effect, young people are excluded from decision making on policing when it was very important for them to be actively involved in the discussions.

In a discussion of symbols, it was thought important in any move to greater community policing to set aside symbols that are antithetical to new beginning. While recognising that symbols have great meaning, it must also be recognised that they have different meanings for different people. More important than the badge should

be questions of service delivery, ethos, culture etc., and a rush of new people to the new policing arrangements would be a much more important symbol than anything that exists currently. Some queried whether a change of name or badge would persuade anyone from a nationalist background to join the new police. Some indeed argued that changing the name and symbols would be completely irrelevant if those who had misused powers remained in the police, or if emergency legislation was to be retained. Symbolic changes would in this situation amount to little more than papering over the cracks.

There was much recognition that there had been pain on all sides. Many are concerned about proposed changes to the flags, the name etc; others are concerned about the failure to remove emergency powers or plastic bullets; others will be fearful about change and the loss of jobs. The challenge is to be clear if all the pain is going to give us a final product which will work? We have to make sure it is. There also needs to be a balance struck between a desire for punishment or retribution for past behaviour, and a need to look ahead by establishing effective accountability structures.

Many emphasised the problems created by the military culture of police (being both heavily armed and militarily trained), and the need to change this symbolism by emphasising civilianisation. Others talked of the proposals regarding Orange Order membership. It is clear that any limitation on the privacy rights of officers could be seen as problematic, and it was therefore presumably for this reason that the Commission decided to judge officers on the basis of how they act or don't act, rather than on the basis of their affiliations. Some within the group, however, wondered if there was no incompatibility between police officers taking an oath to the Orange Order and also an oath to police in an impartial and objective manner? There was also a feeling that Orange Order membership by police officers was more than a matter of individual choice since it reflected on the culture and image of the organisation overall in its dealings with the public.

The group discussed plastic bullets at length. Some were not convinced by Maurice Hayes' explanation in the plenary and even felt that his remarks did not tally with the findings of the report. The deaths for the most part have been due to a misuse of weapons, and it is crucial that whatever accountability mechanisms are introduced for the future must address this problem. To control the use of plastic bullets, Patten suggests specialised officers; better record keeping; use of miniature cameras etc., but this all suggests a managerial approach. Some within the group emphasised the fact that the use of baton rounds had already been reduced and that the problems arising from their use were due essentially to the situation in which they are used. Some felt that there were no viable alternatives.

Workshop Five

The first issue discussed by the working group was the question of the proposed new Policing Board, and it was felt important that the Board not be too defensive of the police if it is to be credible. Moreover, the emphasis should be on creating a climate and structures whereby constructive criticism is possible. Some concern was expressed about the fact that the Policing Board might be tempted to regularly support the Chief Constable in the interests of good management, but this problem was likely to be off-set by the proposal to have greater political representation. Of course, there is a danger that party political involvement could politicise the Northern

Ireland Police Service and Policing Boards, but the broad political spread of people, and the appointment of independent members, may lessen that risk.

One of the participants noted that change occurs at four levels: (i) structural; (ii) personal - within the individual police mentality; (iii) interpersonal - how police relate to each other; (iv) and systemic - the community formed within an organisation. It was felt that Patten had been most successful in addressing the first (structural) level, but that it was much less easy to bring about change, or establish if change had occurred, at the other three levels.

Regarding even more localised accountability, members of the group discussed the fact that CPLCs were seen as ineffective, and did not involve certain key groups within society. In certain areas, CPLCs have assumed the role of a community forum, but not everywhere. One participant talked of her personal frustration from sitting on a CPLC. Her experience has been that people involved at a grass-roots level are not involved, and those who are involved are not representative of communities like Ardoyne. They are in fact out of touch with the real world, and certainly the world which has much of the direct interface with policing. The CPLC is dominated by middle class people, who tend to disbelieve the stories told by people like her about police harassment, considering them merely as propagandists. In any future local oversight arrangements there is a very great need to acknowledge the experience and reality of people at community level.

The issue of 'class' sparked off a series of different considerations. One person noted that policing has become a "middle-class job" leading to alienation of working class Protestants and Catholics. Unfortunately, it was thought that Patten to some extent increased this problem by proposing increased links with universities, and focusing on academic qualifications. Another participant challenged this latter point, however, saying that it assumed (wrongly - if the experience at Magee is indicative) that working class people do not go to universities. On the other hand, maybe Protestant working class people, because of past working patterns, are not in universities in any large numbers, and this would need to be borne in mind if they are not to be disenfranchised. It was certainly thought important to avoid creating any barriers for working class recruits, and therefore if access to education proves to be problematic, it would have an alienating effect. Perhaps a university training could be offered later to recruits, and not be seen as a prerequisite.

A quite separate concern related to the Council role on the District Policing Partnership Boards. What will happen in areas that are entirely nationalist- or unionist-dominated? What will happen in Belfast with four different boards - how will this be different from the unrepresentative CPLCs we have currently? Most people felt that the DPPBs could not work in isolation, but one would need to look at the complete package. There is on the one hand, at least among nationalists, according to one participant, a more positive attitude and a will to make the new arrangements work. After all, a major difference for nationalists with the future arrangements will be the involvement of Sinn Fein and the SDLP, whereas these parties do not recognise the current CPLCs. This in turn is likely to reflect increased engagement at community and voluntary level and if the forum is right, people are ready to engage. Indeed, part of the problem now, with people refusing to be involved - is that there is no accountability. Hopefully, increased accountability may lead to increased community involvement. One participant argued the need for agreed targets for a year allowing for a district commander to set out his/her priorities in close cooperation with the local community.

Accountability is not simply about holding the police to account. There is a need to promote a culture of accountability that the community also takes on board. It is necessary for accountability structures to mean something. Elected representatives are going to have to be able to rise above pressures from local constituents, and there is a need for procedures to ensure that all minority interests are protected.

But these structures are also about holding the police to account, and some participants wanted to know where does the sanction kick in, if the commander does not do what he/she is asked to do in discussions with local communities? At a NI-wide level, what happens if the Chief Constable did something the Board didn't like, what happens then? Patten clearly highlights the tension between directing and holding people to account and there is a problem that the police might not want to talk about certain issues (e.g. parades) to DPPBs and are very likely to remain sensitive about paramilitary activity in the area. The Ombudsperson will play a key role in holding the police to account, but there is a real problem in that he/she is being asked to do more than is currently done with few resources. It would be very important for the Ombudsperson to have access to police reports, and for people to see that sanctions exist and are applied as and when necessary.

One of the omissions in Patten's report is that of past human rights abuses. No attempt is made to sanction senior officers who may have been involved in abuses, though it was noted that the creation of a positive human rights culture in the police might lead to abusers/offenders leaving. Some thought that the focus needed to be forward looking - attention should be on the commanders of the basic command units and the lower senior rank police officers. Changing behaviour is crucial in the changing of attitudes, and the example of the positive policing advances in the handling of domestic violence was cited as a positive example of where changes in procedure have led to a change in police attitudes. (This issue was returned to later in the discussion with regard to impunity - see on).

As to the compatibility of being a police officer and a member of the Orange Order and other secret societies, one of the participants thought it problematic to imagine how someone could be relied on to carry out their duties impartially and simultaneously belong to an institution perceived as anti-Catholic. This raises questions of public confidence in the institution as a whole. It was argued, however, that every police officer must obey the command of senior officers, and that a register of membership has been proposed. Would this be enough? One person argued that the register was useless, but someone else emphasised the importance of agreeing new arrangements that would prove acceptable to the Protestant community also.

In concluding the morning session, the group summed up by expressing their concerns as to:

- a) how the new institutions would work in practice and take fair decisions;
- b) the importance of the local board delivering on its agenda in holding the police to account;
- c) the tension which exists between operational independence and responsibility;
- d) and the importance of ensuring effective implementation of the whole package.

The afternoon session turned more directly to a discussion of human rights and whether Patten's proposals can be effectively translated into a culture of human rights. There was some discussion as to whether the new oath would make any difference. It was argued that the oath is emblematic of other changes being proposed for the new policing arrangements, and that changes in this area make

other more tangible changes possible. It was certainly thought important that international human rights standards are reflected in police guidelines.

In a discussion around plastic bullets, disappointment was expressed at the fact that the Patten report talks about human rights standards a lot, but does not draw on those very standards when discussing the use of plastic bullets, arguing that in certain situations, there is no alternative. The report also ignores the fact that plastic bullets are mostly used illegally, in violation of the guidelines, and yet the DPP does not intervene and no one has ever been successfully convicted for illegal use. This situation leads to a culture of acceptance of wrongdoing. If people were to be prosecuted or dismissed from the force for misuse of the weapon, one might expect a decline in abuses. At the same time, even if they were used strictly according to the guidelines, there is still a danger that someone will be badly injured. Although Patten suggests increased resources for research into alternatives, it was not clear who would carry out the research

As to emergency laws, Patten recommends some improvements - eg closure of holding centres - but they are limited. Moreover, with the exception of urging immediate closure of the holding centres, much is made dependent on the creation of a more peaceful climate first. There was no recognition that the continuation of emergency powers might itself be contributing to political instability, nor how this situation will be at all helped by the superseding of the PTA and EPA by permanent anti-terrorist legislation and possibly even additional powers for Northern Ireland.

On the issue of impunity, it was felt that the Patten Commission had essentially not dealt with the past. It is impossible to sell the package as a whole to the disenfranchised community if the past is not addressed - otherwise, we will be condemned to continually re-write history. It is not necessary to achieve convictions, but there is a need for honesty about past human rights violations. It was argued that there is a tacit acknowledgement in Patten, but they clearly had a problem of needing to build a bridge from that into proposals about the future and new human rights policing. Some thought that the report should have included an explicit recognition of suffering on all sides in the past. It is amazing how many people are now coming forward, as a result of the peace process, to report on human rights abuses committed 2-3 decades ago, Patten largely fails to address this except by insisting that the person has the right to access police reports. However, in many cases there will be no papers to access. Where court proceedings are not viable (perhaps because of the long intervening period) there is a need for official acknowledgement. There will be limits to what can be done since if people start to go through the court system, and get prison sentences, the whole conflict will be opened up afresh. There is however a demand from the families for truth.

The Patten public meetings revealed a willingness by many people to tell their stories. There is a strong sense that there is a need to address the problem of how bad things have been in the past, before you can turn your mind creatively to building a new future. There needs to be some acceptance of responsibility. As to mechanisms for doing this, it was explained that the NI Human Rights Commission has some scope for investigative work, but has no power to subpoena witnesses or reveal documents. Public hearings of some kind are being considered, but this will be a problem if there are no support mechanisms. Moreover, there are many complicated legal questions. Once people are all released from prison next year, under the terms of the Good Friday Agreement, some people who have not been charged will come back to Northern Ireland. What should happen to them, given that a prosecution will lead to a short sentence, and someone might well plead guilty

knowing this. This approach would not constitute the acknowledgement of the past and of the legacy of the past that was being discussed.

As to the question of symbols, some thought that this was related to the problem of past abuses, since the current symbols are associated with the past. While the argument was made that a pluralist society should be able to accept the legitimacy and symbolism of different groups and communities, it was argued that a period of neutrality is perhaps necessary over such a contentious issue.

In concluding, the group said that:

- a) There is a need for mechanisms to deal with the past, in part (but not only) to show why the extensive changes recommended in Patten are so necessary
- b) The report should have recommended the abolition of plastic bullets.

Workshop Six

The working party began by discussing the religious imbalance in the RUC, and Patten's proposals to attract Northern-Ireland born Garda into the new policing service to develop a more representative workforce. Whilst the notion of representative police service was fully endorsed by all present, it was suggested that there may be some contradiction regarding methods proposed to achieve this objective. Recommendation 127, for example, calls for the identification of Northern Ireland Catholic officers in other police services with a view to encouraging them apply for jobs in the NIPS. Recommendation 159, however, focuses on long-term secondments, but restricts the exchange of personnel to 'specialist fields'. The Patten Commission member in attendance explained that the proactive encouragement of secondments (i.e. fixed term posts) in specialist areas would in no way impede officers from other police services, particularly the Garda, from applying for full time positions in senior ranks. Rather, the two proposals should be seen as complementary. The discussion continued with the suggestion that any efforts to restructure composition in terms of Catholics and Protestants should not simply focus on religious denominations, but should ensure that nationalists and republicans and, indeed, all political constituencies feel encouraged to join the new Northern Ireland Police Service.

One of the workshop members, speaking from a unionist perspective, challenged remarks made in the plenary which suggested that unionist concerns stemmed only, or largely, from 'no' voters. It was argued that many within the 'yes'-camp have strong reservations about some of the proposed reforms, particularly in relation to changing police symbols. Indeed, whilst there are those who would be prepared to accept some of the changes, there are others for whom the complete package, which proposes changing the name, the badge and the flying of the Union flag, is fundamentally unacceptable.

On the issue of operational responsibility, it was noted that no public official in fact has 'operational independence', despite the regular use of this term when talking of the Chief Constable's authority. At the same time, though, under the Annesley leadership the Police Authority was only allowed to request a review of issues over which it had no responsibility. The Commission member in attendance argued that this was unsatisfactory. The change recommended in the Patten Report is therefore toward the notion of 'operational responsibility'. The Policing Board will have greater

powers and flexibility than its predecessor, the Police Authority, to ask questions on a range of policing practices. The Commission believes that, although the new formulation might not impair the powers of the Chief Constable in theory, in practice it will ensure that he/she remains aware of the possibility of being publicly called to account. This will be an important mechanism for influencing his/her decision making. In future, the Chief Constable will be expected to respond to any issues raised by a Policing Board enquiry. His/her actions will be open to public scrutiny and he/she will be expected to respond to these issues, with the ultimate sanction of being asked to retire.

One workshop member suggested that a major problem in Northern Ireland is that there is no specialised or individual Minister with accountability to the local Assembly, and there is little interest in Northern Ireland policing at Westminster. In the Republic, by contrast, the most senior police officer is directly accountable to the Minister for Justice, the latter of whom may be questioned in the Dail regarding issues of concern. Some of the delegates wondered if the Policing Board will have similar power and authority. It was explained that, under Patten, week to week issues will be addressed by the Policing Board. Bigger issues can then presumably be raised in the Assembly (given the party political membership on the Policing Board), although executive power for the present will remain in the hands of the Policing Board, the Chief Constable and the Secretary of State. It was accepted that the Ombudsperson will help to increase accountability to Parliament and the Assembly, but it was stressed that the Ombudsperson needs to be adequately funded to gain credibility and public confidence.

In a broader debate around the new institutions being proposed, some concerns were expressed about the size of the Policing Board, the DPPBs, and the range of people involved. It was agreed that there is a need for gender representation to be ensured in any of these new structures. Questions were raised about how much power the 'advisory, explanatory and consultative' DPPBs will really have. However, as with the authority the Policing Board has in relation to the Chief Constable (see above), the Policing Commission envisages the real power of the DPPBs stemming from procedural transparency, and the accountability of local commanders to their communities. Whilst the Commission felt it was not practical to give DPPBs more formal powers, in case this conflicted with prioritising and decision making at the Northern Ireland level, public accountability should be assured.

In relation to CPLCs, the attending Commission member explained that the proposals in Patten were not designed to diminish their role. In fact, it was argued that the role of CPLCs should continue to develop. The creation of DPPBs would introduce an additional, rather than alternative, level of accountability. At this point, there was some concern expressed that community groups should receive greater encouragement to work closely with CPLCs since, at present, there is little motivation to participate. Moreover, it was thought unfortunate that the Patten Commission had not explicitly mentioned the important role community and voluntary sector groups could play on the new DPPBs -alongside the trade union and business interests which are explicitly mentioned.

After general agreement that the approach to change needs to be holistic, the delegates broke for lunch. The first issue raised in the afternoon session addressed the need to satisfactorily deal with the past. One of the workshop members, speaking from a republican perspective, recalled that legal action has seldom been taken against RUC officers. It was argued that there is no due process, no court action and, subsequently, no judgements acknowledging past abuses. Whilst some delegates

suggested that future abuses might be reduced by developing greater disciplinary measures within the police service, there was significant concern expressed about the lack of accountability in the past.

It was then proposed that, whilst it is critical to accept that there may have been some 'bad apples' and that bad things have happened, the greatest need now is to move forward. In order to progress, we cannot become distracted by dwelling on 'what aboutery'. Indeed, some noted that unless clear evidence can be brought against individual officers, it is difficult to see what could be done about past abuses. It is important to acknowledge that police officers have the same human rights as anyone else, and these must also be protected

Yet it was also suggested that 'bad apples' are too often used as an excuse for bad management. In terms of overall accountability, the Ombudsperson system should help to reassure the public of the fairness of the Northern Ireland Police Service, particularly given that it will now be possible to dismiss officers on the grounds of inefficiency. More specifically, the Police Ombudsperson can also look at situations where individual officers are attracting high numbers of complaints and this will focus attention on the working behaviour and practice of officers.

The Commission does not make specific recommendations for past abuses to be addressed as part of their changes. It was proposed, however, that the active engagement of communities with new policing structures should help to ensure that human rights are respected in the future. The Policing Board will have the responsibility of ensuring that human rights standards are adhered to, and that any abuses which come to their attention are effectively addressed.

The next major topic concerned human rights training. It was stressed that there is a crucial need to consolidate a human rights culture within the police to ensure that officers place their allegiances with human rights, rather than other officers. It was felt that there is a need to have rapid and wide ranging introduction of human rights training to police officers. However, it is difficult to ensure that this training is sustained in practice. It is therefore important for the Chief Constable to him/herself place an emphasis both on a human rights culture within the police service, and on the constant appraisal of officers' behaviour.

It was argued that it will be vital for police training to be incorporated into the wider educational system, and integrated into standard third level education. Indeed, there is a need for a specialist college only in addition to integrated training. All officers require general training, but some will need to receive more specific or task focused training. Attention must therefore be targeted at curriculum design and development. Again the question of resources was raised, this time in relation to ensuring adequate human rights training.

Some stressed that training in colleges must be supplemented with placements on the ground within communities. It will be important to directly involve communities in localised training, to challenge abuses of human rights, and to proactively build relationships between the police and communities on a day to day basis. It was noted that some young people within loyalist communities have no respect for the police due to their past experiences. In Protestant working class areas there is the beginning of dialogue with the police, although this is viewed with scepticism by some in those communities. But this dialogue is beginning to successfully break down some of the barriers deriving from feelings of suspicion and mistrust. It was stressed that the flag is seen as an extremely important symbol in loyalist

communities. But it was pointed out that symbols are kept out of the workplace throughout wider society: why then would they be incorporated into the most sensitive of working environments?

From a nationalist perspective, it was argued that, at present, the police do not respect nationalist communities and do not react to local problems fairly or evenly. There was some concern expressed as to whether Patten does enough to convince republicans to engage with the police at any level; whether to join the service, or even to engage in dialogue. Yet it was argued that, if policing change is to be effective, Sinn Fein will have to engage constructively in dialogue and push for change. Regardless of social, cultural or political background, standing back and observing, or simply waiting for change to happen, will achieve little. Engagement must be proactive.

After this important exchange about loyalist and republican attitudes to policing, it was agreed that, if there is to be effective change, there must be a leap of faith by all communities. There is no doubt, however, that will be a very difficult and demanding challenge for all concerned.

Final Plenary - Summing Up

By Mary O'Rawe - vice-chair of CAJ

I am not going to try to give an exhaustive overview of the workshops because so many issues were discussed that I could not even begin to do it all justice. But, what I am going to try to do is to summarise some of the key principles that seemed to arise from what people have told me after the workshops.

1. Firstly, I think there is general support for the idea that policing is bigger than the police, and that we need to move increasingly to this idea of community safety.

2. There seems to be general agreement that Patten doesn't contain all the answers, but that it is useful in terms of establishing principles that we can work from, and bringing together some very common sense recommendations around which there is a lot of consensus. This consensus came through both in the public meetings organised by the Commission, and in the workshops themselves.

3. There are, nevertheless, some issues of concern. I can simply highlight a few of them here, though without necessarily giving them priority over others. One very strong message was the importance, in a context of change, of determining how one deals with the past. No-one argued for a process of picking scabs or getting bogged down and failing to move forward. Equally, however, there has to be some kind of context setting and recognition of what happened in the past, if we want real change to occur.

4. There were also concerns about emergency legislation. How can we create a police service that is respectful of human rights, if it has to police against a background of emergency legislation? International bodies concerned about human rights, like the UN Human Rights Committee, have long called for the ending of emergency legislation.

5. I think that there is a general feeling that maybe there was a failure to seriously engage, or to sufficiently engage, with the issues posed by the under-representation of women and ethnic minorities.

6. In terms of creating new structures, there were concerns about how the appraisal scheme would work and how would one ensure commitment to the new arrangements? Indeed, how does one measure commitment to human rights, and what does that entail?

7. There seemed to be general support for the idea that the post of Ombudsperson is a very key one, particularly in the transition period, since this could give people faith in the process. But if this is to work, the appointment is key, as are the requisite staff and resources to do the job effectively.

8. There needs also to be integrated approach. Policing is not just about the police and the community, but it is involving other agencies; it is about how the Human Rights Commission can encourage human rights education in schools, and so on. We need to build a culture of rights which places policing in the context of this wider debate, and we need that wider vision in order to really get effective policing.

9. Even though people have their reservations, and have particular recommendations that they want to push, or recommendations that they want to see

more fleshed out, there is in general an atmosphere of enormous goodwill in terms of securing the necessary change. At the same time, there was a recognition that it is not only the police who need to change - it's about the community changing too. Northern Ireland needs to move to a broader culture of rights, and to the idea of equal partnerships. The questions about power relationships between all the various policing institutions need to be clarified against this context of a human rights culture and a partnership approach.

So, those are just some of the issues. Absolutely key to the success of the project is how it is implemented: much depends on what happens next, what happens between now and the drafting of legislation, and how we can all feed into the process. Today has thrown up some issues that we can go back with to our various constituencies to consult about. We can make submissions that will flesh out some of the details, that will "dot the i's and cross the t's". Clearly, there are many details still to be worked out, and we should take every opportunity to try and ensure that that happens. However, the overall sense appears to be that the report holds great potential.

List of registered conference participants

Attwood, Alex	SDLP
Barboriak, Eric	US Consulate General
Bell, Christine	QUB
Bell, Eileen	Alliance Party
Blake, Helen	DFA (Dublin)
Boyle, Michael	Secretariat of Policing Commission
Brady, Miriam	Conference of Religious in Ireland (CORI)
Brown, Marie	Foyle Womens Aid
Bryan, Dominic	Democratic Dialogue
Burns, Elaine	Ardoyne Association/Ardoyne Women's Forum
Campbell, Annie	NICVA
Campbell, Joe	Mediation Network
Clancy, Julitta	Meath Peace Group
Collins, Evelyn	Equality Commission
Cunningham, Tim	CAJ
De Brun, Bairbre	Sinn Fein
Dickson, Brice	Human Rights Commission
Dillon, Eilish	Amnesty International - Irish section
Downs, Brenda	United Campaign Against Plastic Bullets
Drummond, William	Shankill Alternatives Project
Fearon, Kate	NI Women's Coalition
Fennell, Dee	Ardoyne Youth Club
Finucane, Martin	Pat Finucane Centre
Fleming, Roy	RUC
Foley, Nadette	Multi-Cultural Resource Centre
Gadd, Breidge	Probation Board NI
Gillen, Tom	ICTU
Glackin, Jim	Equality Commission
Goldring, Judena	Office of Law Reform
Gowan, Halya	Amnesty International - International Secretariat
Greer, Chris	QUB/CAJ
Groves, Emma	United Campaign Against Plastic Bullets
Hamilton, Michael	University of Ulster
Haughey, Eilis	SDLP
Hayes, Maurice	Speaker, Policing Commission member
Heasley, Allan	NIPSA
Hollywood, Brian	Rainbow Project
Hunt, Finola	Ulster People's College

Jarman, Neil	Community Development Centre
Kane, Marian	Ardoyne Associaton/Ardoyne Women's Forum
Kearney, Ciaran	Falls Community Council
Kelly, Ethna	CORI
Kelly, Paddy	Childrens Law Centre
Kerr, Will	RUC
Leathen, Chris	Old Warren Partnership
Lennon, Brian	Community Dialogue
Livingstone, Stephen	QUB
Lowry, John	Workers Party
Lynch, Sean	Fermanagh ex-prisoners' group
Madden, Peter	Madden & Finucane solicitors
Mageean, Paul	CAJ
Magill, Denise	Human Rights Commission
Maginness, Alban	SDLP
Marsden, John	
McAllister, Brendan	Mediation Network
McCabe, Barbara	Ulster People's College
McCann, May	Women into Politics
McClellan, Paddy Joe	Democratic Left
McCreavy, Gail	DFA
McDonald, Jim	Police Authority (PANI)
McGrath, Gerry	West Belfast Partnership Board
McIlveen, Jim	Independent Commission for Police Complaints (ICPC)
McNally, GERALYN	ICPC
McVeigh, Robbie	West Belfast Economic Forum (WBEF)
McWilliams, Monica	NI Womens Coalition
Mitchell, Jennifer	ICPC
Moore, Linda	NIACRO
Morrice, Jane	NI Women's Coalition
Mullan, Greg	ICPC
Murphy, Donal	CAJ
Murphy, Pauline	University of Ulster
Ni Choigligh, Alma	DFA
Nolan, Bill	Anglo-Irish Secretariat
Norris, Dr Bill	Office of Independent Commissioner for the Holding Centres
O'Brien, Martin	CAJ
O'Brien, Max	ICTU (Disability group)
O'Connor, Paul	Pat Finucane Cente
O'Donnell, Val	Anglo-Irish Secretariat
O'Kelly, Brian	Brownlow Integrated College

Paisley, Denis	Old Warren Partnership
Reilly, Clara	United Campaign Against Plastic Bullets
Rice, Geraldine	PANI
Rodgers, Brid	SDLP
Rodgers, Simon	Northern Ireland Office (Policing Division)
Ross, Stewart	Pat Finucane Centre
Rowan, John	Human Rights Unit - DFA
Shanks, Fiona	US Consulate General
Smith, Peter	Speaker, Policing Commission member
Stewart, Conor	Ardoyne Youth Club
Stone, Francis	Falls Community Council
Thompson, Mark	Relatives for Justice
Vance, Joanne	Women Into Politics
Watters, Deborah	Shankill Alternatives Project
Weir, Catherine	
White, Stephen	RUC
Wilkinson, Oliver	Victim Support NI
Wilson, Robin	Democratic Dialogue
Winstone, Tom	Shankill Alternatives Project
Yu, Patrick	NICEM
Zahi, Karima	NICEM

Formal apologies received from:

Brenda Callaghan (SIPTU)
Kathleen Cavanaugh (Amnesty, USA)
Ralph Crawshaw (Council of Europe)
Stephen King (UUP)
Fiona McCausland (Old Warren Partnership)
Jim McCusker (NIPSA)
David Nicholl (Shared City Project/UDP)
Fr Gerry Reynolds (Clonard Monastery)

Conference Structure and Timetable

The report of the Patten Commission: The way forward for policing in Northern Ireland?

Wellington Park Hotel, Malone Road, Belfast
Friday 8 October 1999

- 9.30 **Registration** and coffee/tea
- 10.00 **Welcome and introduction to the day.** The plenary session will be chaired by Linda Moore, convenor of CAJ's policing sub-group
- 10.15 **Setting the context:** Presentations by Dr Maurice Hayes & Peter Smith QC on the findings of the Policing Commission
- 10.45 **Questions and plenary discussion**
- 11.30 **Coffee/tea** and biscuits break
- 11.45 **Workshops on Police Accountability.** Participants have been pre-assigned to workshops to ensure a diverse composition in each group (the colour coding on your name badge indicates your workshop). All of the workshops will discuss the same topic simultaneously. A possible agenda of topics for discussion is attached.
- 13.00 **Lunch**
- 14.15 **Workshops on Human rights and Policing.** Participants will remain in the same workshops (and the same rooms) as in the morning session. Again, a possible agenda of topics for discussion is attached.
- 15.30 **Coffee/tea break**
- 15.45 **Final plenary session:** brief report backs and exchange of information regarding next steps
- 16.30 **Close of session**

Selected bibliography of CAJ policing material made available to the Commission on Policing for Northern Ireland

*This listing of material relates to general policing policy and public order policing.
Additional materials are available on request, as is a full publications list from CAJ's
office (45-47 Donegall Street, Belfast BT1 2FG)*

- *CAJ submission to the Commission on Policing for Northern Ireland, August 1998*
- *Plastic Bullets: A briefing paper, June 1998*
- *Policing Bibliography: material gathered in connection with international policing report Human Rights on Duty, March 1998*
- *Submission to the Police (NI) Bill, February 1998*
- *Human Rights on Duty: Principles for better policing - international lessons for NI, December 1997*
- *Policing the Police, 1997*
- *Commentary by CAJ on the 1996 Primary Inspection Report by Her Majesty's Inspectorate of Constabulary, 1997*
- *The Misrule of Law, October 1996*
- *Submission to the Police Authority Consultation on the future of policing in NI, August 1995*
- *Fresh Look at Complaints Against the Police, 1993*
- *Plastic Bullets and the Law, 1990*
- *Cause for Complaint, 1990*
- *Police Accountability in NI, 1988*
- *Consultation between the police and the public, 1985*

Pursuant to the material submitted to the Patten Commission, CAJ produced its detailed response to the report itself - "CAJ's commentary on the Patten report - A new beginning : Policing in Northern Ireland" (November 1999). This conference report should be read as an annexe to that fuller commentary.