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Winner of the Council of Europe Human Rights Prize

CAJ's submission to the
Commission on Policing for Northern Ireland
August 1998

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Introduction

The Committee on the Administration of Justice is a cross community group which has worked since its inception in 1981 on a wide array of human rights concerns. The organisation takes no position on the constitutional status of Northern Ireland but monitors the extent to which the jurisdiction is administered in accordance with international human rights norms. Alongside its work on equality, gender, disability, racism, and juvenile justice, the organisation works on more directly conflict-related issues such as emergency legislation, prisoners and policing. It is this latter interest and expertise that is the subject of this submission.

The following submission will be divided into three parts. Following this introduction, we will examine the problems with policing to date in Northern Ireland; we will then address the specific issues which you have specifically sought comment on; finally, we will comment on a small number of other matters which we believe it important for the Commission to consider.

CAJ warmly welcomes the establishment of an independent Commission on Policing, having argued for such a mechanism since at least 1995 (in a submission to a public consultation exercise carried out by the Police Authority for Northern Ireland). The issue of policing and human rights abuses committed by the police have been at the heart of the conflict in Northern Ireland, and the creation of an accountable, impartial and representative police service must be the cornerstone of a new peaceful democratic society. The importance of your work cannot therefore be overestimated.

We recognise that the issue of policing is a highly contentious one, not least because of the high price paid by members of the RUC killed and injured during the course of the conflict. However, we also believe that there is more possibility for consensus than might appear to be the case. Thus, for example, we believe that the Commission will find agreement, among unionists and nationalists, police and civilians, that:

- policing in NI has operated in a very abnormal situation in the last 30 years with the threat of violence against police officers and many others within society an ever-present reality;
- policing in NI has never faced a "normal" policing task, since emergency legislation has existed since the establishment of the state, and policing has always been carried out within the context of emergency powers;
- NI is a deeply divided society - both residentially segregated and with a high level of communal tensions - and these divisions affect policing policies and operations in a fundamental way;

- for whatever reason (and the reasons are, we accept, contested) the current police force is highly unrepresentative of the society it seeks to serve;
- the political arrangements in NI have not allowed for any degree of democratic accountability over the police by the communities served.

Most importantly, in the wake of the Agreement, there is a widespread assumption that change of all kinds is to be expected. Inevitably, in the context of the current peace process, the nature of policing will radically change. We start by emphasising this point because it is important for the Commission to recognise that many people and organisations will testify to entirely different experiences of policing but, despite these differences, they might nevertheless be persuaded to agree on the principles that should pervade any new policing arrangements.

1. Background to policing problems in Northern Ireland

Inevitably, there will be a lot of disagreement about the nature of the Royal Ulster Constabulary (RUC), its potential for change, and the desirability or otherwise of fundamental change. Some within the community believe that the RUC has performed sterling work in the face of a sustained paramilitary threat and that criticism, of whatever kind, only serves to undermine and denigrate officers who have placed their lives on the line for society. Others within the community believe that the RUC has acted as the strong-arm of the state, maintaining and defending an illegitimate state, by illegitimate means including the widespread abuse of human rights and the treatment of the minority community as a "suspect" community.

CAJ's concern as a human rights organisation is that the police in Northern Ireland have violated human rights and this behaviour has in turn helped to perpetuate the conflict. Policing is neither peripheral nor incidental to the conflict, and we believe that fundamental change is therefore required to avoid future violations by the police.

The human rights abuses carried out by the RUC have been the subject of a number of external investigations by international inter-governmental bodies, international human rights non-governmental organisations, and official government studies and reports. We have categorised the human rights violations committed by the police into five: public order, ill-treatment of detainees, collusion, extra-judicial killings and intimidation of defence lawyers. The following account illustrates that many of the problems identified in the late 1960s and early 1970s continue to arise today and are as yet unresolved. We believe that the reports cited below will provide the Commission with a good insight into the range of policing problems which have to be addressed if confidence in policing is to be secured.

a. Public Order

CAMERON "Disturbances in Northern Ireland: Report of the Commission appointed by the Governor of Northern Ireland" (1969)

- "We have to record with regret that our investigations have led us to the unhesitating conclusion that on the night of the 4th/5th January a number of policemen were guilty of misconduct which involved assault and battery, malicious damage to property in streets in the predominantly Catholic Bogside area giving reasonable cause for apprehension of personal injury among other

innocent inhabitants, and the use of provocative sectarian and political slogans ... For such conduct among members of a disciplined and well-led force there can be no acceptable justification or excuse" (page 73).

HER MAJESTY'S INSPECTOR OF CONSTABULARY (HMIC) (1996)

- HMIC made a careful analysis of the public order problems of 1996 and indicated a number of important changes that were required. One of his key recommendations (to limit the use of plastic bullets to situations where life was at risk) has still to be implemented, and some 3,500 bullets have been fired in the interim.

HUMAN RIGHTS WATCH/HELSINKI "To Serve Without Favor: Policing, Human Rights, and Accountability in Northern Ireland" (1997)

- "Although the HMIC report [1996] fails to address a number of important policing issues related to the summer's events, it offers a picture of the RUC as a force in need of considerable reform if it is to respond adequately, that is, with the minimum amount of force necessary, to major incidents of public disorder" (p. 83)
- "Human Rights Watch calls once again for an immediate total ban on the use of plastic bullets in NI. The RUC's disproportionate response to the events of the 1996 marching season confirms that plastic bullets were fired indiscriminately, in contravention of the force's internal guidelines, and with an apparently sectarian bias" (page 84).

b. *III treatment*

AMNESTY INTERNATIONAL "Report of an Enquiry into Allegations of Ill-Treatment in Northern Ireland" (1972)

- "the Commission concluded that persons arrested under the Special Powers Act had been subject to brutal treatment by the security forces during arrest and transport. It also concluded that there were cases where suffering had been inflicted on those arrested to obtain from them confessions or information" (pages 26-27).

EUROPEAN COMMISSION OF HUMAN RIGHTS; EUROPEAN COURT OF HUMAN RIGHTS

- The Commission found that the powers of arrest, detention and internment, and the ill-treatment of persons thereby deprived of their liberty in Northern Ireland in the early 1970s constituted torture. The Court found that the "five techniques" used by the security forces in interrogating suspects constituted "inhuman and degrading treatment". (1978)

BENNETT "Report of the Committee of Inquiry into Police Interrogation Procedures in Northern Ireland" (1979)

- "The forensic medical officers, early in 1977, examining prisoners at the stage when they were being charged at police stations throughout the Province, noted in some police stations and police offices a large increase of significant bruising, contusions and abrasions of the body and of evidence of hyper-extension and hyper-flexion of joints (especially of the wrist), of tenderness associated with hair-

pulling and persistent jabbing, of rupture of the eardrums and of increased mental agitation and excessive anxiety states" (page 53).

- "Our own examination of medical evidence reveals cases in which injuries, whatever their precise cause, were not self-inflicted and were sustained in police custody" (page 136)

AMNESTY INTERNATIONAL "Allegations of Ill-Treatment in Northern Ireland" (1991)

- "Although there have been many cases with prima facie evidence of ill-treatment, few have resulted in action against interrogating officers" (page 5).

UN COMMITTEE AGAINST TORTURE

- "...enormous reservations remained with regard to the policing and interrogation systems in effect in Northern Ireland where two generations of policemen in the Royal Ulster Constabulary knew only the emergency rule which had been in place for 20 years. Grave concern was also expressed over the absence of video control over interrogations in Northern Ireland as well as not allowing a person suspected of being a terrorist to have access to a solicitor during interrogation. These were rather basic protections in every other branch of the civilised world and for the United Kingdom authorities to try to institutionalise the system in effect, let alone try to rationalise it, was seen to be extraordinary." (1991)
- "In Northern Ireland the maintenance of the emergency legislation and of separate detention or holding centres will inevitably continue to create conditions leading to breach of the Convention [against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment]." (1995)

EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

- "In light of all the information at its disposal, the CPT has been led to conclude that persons arrested in Northern Ireland under the PTA run a significant risk of psychological forms of ill-treatment during their detention at holding centres and that, on occasion, resort may be had by detective officers to forms of physical ill-treatment ... " (1994)

UN HUMAN RIGHTS COMMITTEE

- "It is also recommended that specific efforts be made to enhance in Northern Ireland confidence in the administration of justice by resolving outstanding cases and by putting in place transparently fair procedures for independent investigation of [police] complaints. The Committee further recommends that the Castlereagh detention centre be closed as a matter of urgency." (1995)

c. Collusion

STEVENS "Summary of the Report of the Deputy Chief Constable of Cambridgeshire John Stevens, into allegations of collusion between members of the Security Forces and Loyalist Paramilitaries" (1990)

- "It is clear that official information, originally produced by the RUC, the Army and the Prison Service, has passed, illicitly, into the hands of the loyalist paramilitary groups. Documents and information from documents have been traced to the possession of these paramilitaries. They have been used by them to enhance their own intelligence systems and as an aid to the targeting of persons suspected of being Republican terrorists" (page 12).

AMNESTY INTERNATIONAL "Political Killings in Northern Ireland" (1994)

- "Amnesty International has not been convinced that the government has taken adequate steps to halt collusion, to investigate thoroughly and make known the full truth about political killings of suspected government opponents, to bring to justice the perpetrators and dismantle 'pro-state' organisations dedicated to political violence, or otherwise to deter such killings" (pages 29-30).

HUMAN RIGHTS WATCH/HELSINKI "To Serve Without Favor: Policing, Human Rights, and Accountability in Northern Ireland" (1997)

- "RUC management told Human Rights Watch that there have been 'remarkably few' cases of police officers passing info on to loyalist paramilitaries, but in those cases which have been spotted over the last 25 years, those individuals have been 'dealt with'. In fact, there has never been an acknowledged criminal or disciplinary charge levelled against an RUC officer for collusion; thus it remains unclear when, how, and under what circumstances officers involved in collusion have been 'dealt with'" (page 141).

d. Extra-judicial killings

STALKER / SAMPSON (1986)

- The inquiry into three different incidents of disputed killings in 1982 revealed evidence that RUC officers had attempted or conspired to pervert the course of justice or had obstructed a constable in the execution of his duty (the Department of Public Prosecutions decided against prosecuting any officers because of "national security" and "public interest" considerations) (source: Amnesty 1988).
- Stalker reportedly stated, "I never did find evidence of a shoot-to-kill policy as such. There was no written instruction, nothing pinned up on the notice board. But there was a clear understanding on the part of the men whose job it was to pull the trigger that that was what was expected of them" (source: The Times 9 February 1988, quoted in Amnesty 1988).
- "We had expected a particularly high level of enquiry in view of the nature of the deaths, but this was shamefully absent" ... "a shockingly low standard of basic techniques" ... "A few key officers took a decision, individually or collectively I know not, to obstruct the progress of our investigations" ... "I believed I could present a great deal of extra evidence that the five men shot dead in their cars were unlawfully killed by members of the Royal Ulster Constabulary" (source: Amnesty 1988).

AMNESTY INTERNATIONAL "Northern Ireland: Killings by Security Forces and 'Supergrass' Trials" (1988) -

- "Amnesty International finds disturbing the evidence that police investigations into killings by the security forces may have been deliberately superficial in order to protect police personnel. The organisation is also concerned that the police investigations into the 1982 incidents were deliberately obstructed by senior police officers" (page 33).
- "AI believes that police investigations have not uncovered all relevant facts. It has been established that cover-ups were pre-arranged within the RUC" (page 59).
- "AI is concerned that some of the killings by the security forces may have resulted from a deliberate policy at some official level to eliminate, or permit elimination of, rather than to arrest individuals whom they identified as members of armed opposition groups" (page 59).

e. *Intimidation of defence lawyers*

LAWYERS COMMITTEE FOR HUMAN RIGHTS:

"Human Rights and Legal Defense in Northern Ireland" (1993)

- "The Lawyers Committee found credible evidence that [solicitor Pat] Finucane's effective legal advocacy in politically sensitive cases resulted in his harassment and ultimately led to his killing. We also found credible evidence suggesting collusion between elements within the security forces and loyalist paramilitaries in Finucane's murder" (pages 2-3).
- "There is evidence pointing to the involvement of the RUC in the form of knowing acquiescence or perhaps even instigation" (page 3).

"At the Crossroads: Human Rights and the Northern Ireland Peace Process" (1996)

- "The RUC's own investigation into Finucane's death remains both incomplete and a total failure" (page 111).

UN SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS (1998)

- "The Special Rapporteur is concerned that the RUC has in fact identified lawyers who represent those accused of terrorist related offences with their clients or their clients' causes and further, that they have interfered in the attorney/client relationship by questioning during the course of interrogations the integrity and professionalism of solicitors."
- "The Special Rapporteur is satisfied that there have been harassment and intimidation of defence lawyers by RUC officers as described. He is also satisfied that these harassments and intimidation were consistent and systematic."

CAJ has itself published extensively in the area of policing (accountability, lay visitors schemes, harassment, complaints, public order), as well as emergency legislation, lethal force including plastic bullets, and miscarriages of justice (for the full listing see publications catalogue enclosed).

This extensive catalogue of findings of serious human rights abuses cannot be dismissed lightly as the fault of a few "rotten apples". On the contrary it is clear that the

culture of human rights abuse has developed unchecked within the RUC to such an extent that only fundamental and thoroughgoing change can remedy it.

It is this analysis which led CAJ to undertake a major piece of comparative research which approached policing in a holistic way - Human Rights on Duty: Principles for Better Policing - International Lessons for Northern Ireland (published in 1997). We concluded that there is no single model for an ideal policing service in every society but political will is a key factor in preventing or facilitating successful change. The establishment of your Commission is the first step in such a process. It will be your difficult task both to define what change is required, convince those initially opposed to change to see that the process itself can be beneficial, and determine how to maintain the momentum beyond the life of the Commission.

2. Issues on which the Commission sought reactions

This submission follows the list of issues which the Commission specifically sought comments on. To facilitate your work, we have tried to highlight the key recommendations of our own 300 page report (Human Rights on Duty) which covers all of the issues the Commission is asked to explore. For greater detail, however, on all of the points covered, we would direct your attention to the full report.

Composition & Recruitment

Most people would agree that - particularly in a divided society like Northern Ireland - a police force with only 7% of its staff from the minority community, which constitutes approximately 40% of the population, is unacceptable. It is in the interests of everyone that, as far as possible, the police reflect the society it serves. Achieving this will be complex and difficult going by the experience of other societies. Some obvious measures include:

- undertaking serious research into the reasons for women, Catholics, nationalists, and ethnic minorities not joining the police.
- carrying out a study of the reasons why, when more Catholic candidates came forward (as in the wake of the first 1994 cease-fires), the number selected did not reflect the level of applications.
- the setting of official targets and timetables for greater representation by under-represented groups and the introduction of a whole series of recruitment and promotion strategies being used effectively by the police in other parts of the world (outreach measures, bridging schemes, lateral entry schemes etc., all of which are explored in CAJ's report)
- a public commitment to review regularly the selection criteria and training practices to ensure that no barriers are unwittingly ensuring the continued exclusion of people of different gender, ethnicity, religious denomination etc.

Training

Although the Commission combines composition, recruitment and training under one rubric, our report Human Rights on Duty, tackles training separately. Obviously all of the topics are inter-related; however, it was our experience that the issue of training could prove a very major tool for change and is therefore worth exploring in its own right. CAJ recommends that:

- the design and delivery of police training should involve people other than police officers. Ideally there should be a civilian training institute administered by non-police personnel, or civilian instructors working in a police academy, and the course should be designed to maximise community involvement.
- training should be delivered by a variety of people so that the diversity of the community is reflected in the training process itself. It is particularly important to civilianise the training process as much as possible.
- police officers need to be trained to use their discretion, and their skills of problem-solving, mediation, and team-building. A quasi-military and hierarchical training model will not achieve this. However, in turn training of this kind is useless if the institution itself is run along quasi-military and hierarchical lines - so training, to be effective, must be only one step in a fundamental programme to bring about an organisational cultural change.
- training can only feed into organisational change if it is provided to serving officers as well as new recruits and continues throughout their careers, and if it is given support by management.
- human rights and cultural awareness education must be central to training and must be integrated across the curriculum; otherwise it will become peripheral and tokenistic. It is vital that the police learn the importance of political neutrality and their responsibility to uphold the rule of law in a non-partisan manner, and this may well involve challenging the biases of new and existing officers. The training programme must be routinely evaluated.

Culture, Ethos and Symbols

In its report Human Rights on Duty, CAJ dealt with the issue of culture, ethos and symbols, as part of the concern about achieving a more representative police service. It seems to us that the primary feature of a police force in Northern Ireland should be its public commitment to a neutral working environment. Indeed the importance of this was recognised by the Northern Ireland Affairs Committee in their recent report on the RUC when they recommended that the practice of flying the Union flag on RUC stations on 12th July should stop.

The securing of a neutral working environment requires the following:

- examining the current use of symbols throughout the force, and see which contradict the commitment to a neutral working environment. The widespread display of flags, pictures of the sovereign, and other such symbols is clearly not reflective of a neutral working environment.

- there should be positive promotion of an environment in which under-represented groups feel comfortable and, in particular, there must be clear management guidance to deal effectively with sexual, racial or sectarian harassment. The Commission may want to specifically explore what changes have taken place since the internal consultants report revealed extensive sectarianism within the force.
- a willingness either to neutralise the issue of symbols, or to adopt new symbols which can command the confidence of different communities, would be a very potent signal of change, as would genuine recognition of the Irish language.
- given the potential conflict of interest between the need for police officers to be seen to be impartial, and membership in certain organisations, there should be a public register of outside interests.

The scale of the task facing your Commission in securing such a neutral environment within the RUC is illustrated by an internal RUC report that became public in 1997. In the report, "Survey of Religious and Political Harassment and Discrimination in the Royal Ulster Constabulary", 63% of Catholic respondents and 10% of Protestant respondents claimed to have been subjected to religious harassment within the RUC during their career. Only 16% of the respondents who said they had been harassed formally reported their harassment within the RUC.

Re-training, Job Placement etc.

There is no question that there is a need for significant downsizing of the RUC, even on the Chief Constable's admission. This is without taking account of the need to increase the number of Catholic and female officers. In this context there is an obvious need for re-training of RUC officers in order to allow them to successfully integrate into civilian society. In addition there is a need for redundancy packages and CAJ's report explores in more detail how such transition has been managed in other jurisdictions.

A key issue in this debate is the need to break up units and groups of officers who may have been involved in systematic human rights abuses. This was one of the lessons in the restructuring of the Salvadorean police where the CID unit was left intact and continued to operate in much the same way as before the end of the conflict. Therefore those RUC officers involved in the interrogation of detainees in the holding centres should not be left in their current positions. In addition it may be that identifying officers who have been responsible for human rights abuses could assist in the selection of those officers who will not be retained in the new police service.

Structure and Management

As you will have seen from Human Rights on Duty, CAJ hesitated to propose specific structural options prior to a more widescale political debate about the nature of policing. The only model put forward in the NI discussions so far with any enthusiasm has been a two-tier system and the civil liberty implications of any such model are discussed in some detail in our report. Our own conclusion, based on good international practice, is that whatever proposals for re-structuring emerge, they must be tested for their ability to:

- put respect for human rights at the heart of the policing process
- provide accountability
- provide a police service which is civilian rather than military in philosophy, training and practice
- ensure that any different forces which are created (eg. along regional or functional lines) co-operate effectively
- secure a diverse and representative composition. People from both major traditions (and indeed all traditions) in Northern Ireland must be able to participate both in policing institutions and, just as importantly, in the structures of accountability.
- provide an effective, responsive and efficient police service, adapted to the needs of the community served
- undermine rather than reinforce the institutionalisation of existing social divisions and residential segregation patterns
- implement a legal system which is itself framed according to international human rights standards
- avoid either excessive centralisation and hierarchisation of authority, or a splintering and fragmenting that can lend itself to narrow "cronyism" or corruption
- effectively harness the commitment of local people to providing safe, crime-free environments
- keep decision making as close as possible to those being policed.

Partnerships with the community

CAJ welcomed the frequent references to the value of close police/community relations in the Agreement's terms of reference for your Commission. However, we deplored how these references were interpreted by some in the ensuing referendum debate to mean that "IRA men will soon be wearing RUC uniforms". If the possibility of partnerships with the community are to be effectively explored, the Commission will need to recognise that the term "community policing" in NI is sometimes understood to be synonymous with a policing vacuum and paramilitary policing, with its often appalling consequences. Community policing in its sense of better and closer co-operative relations between the police and the community served will need to be carefully unpacked and positively interpreted. International experience clearly endorses wider community responsibility for policing, and moves to bring decision making closer to those policed, so the benefits of this approach will need to be actively promoted in any public debate you engender. CAJ believe that the current Community Police Liaison Committees have not been effective in delivering the necessary level of police engagement with communities at grass roots level.

CAJ has tried to contribute to a more informed debate about community policing by drawing comparisons with efforts in other parts of the world. We are in no doubt that greater co-ordination of efforts at the local level would be an important advance in ensuring "a police service capable of attracting and sustaining support from the community as a whole". In NI, we have already one institution which may be worth mirroring - the European District Partnerships. These bodies bring together elected and representative officials, trade unions and business, the community and voluntary sector and statutory bodies, with the mix of gender, political parties, communal affiliations etc. that reflects the local community. With a clear remit, and agreed principles of fairness and impartiality to guide their work, these cross-sectoral and cross-community bodies provide an interesting model for possible use elsewhere.

Accountability to the law

The issue of police accountability, or lack thereof, has been a steady concern of CAJ since its inception in 1981. The Commission will need to address all of the following issues:

- the lack of any clear (still less narrow) legal definition of the term "operational independence" when applied to the Chief Constable. The lack of accountability that this terminology can give rise to, and indeed has given rise to, was unfortunately not addressed in the most recent policing legislation (the Police (NI) Bill).
- the abuse of rights which is constituted by a permanent series of emergency powers. This legislation allows the police to stop and search without reasonable suspicion, initially hold detainees for 48 hours and then, with political authorisation, for up to a total of seven days, and to deny access to a solicitor for the first 48 hours and for periods thereafter. Combined with the removal of the right to silence, the removal of the right to jury trial, the weight which can be placed on confession evidence alone, the absence until very recently of video taping (and still of audio taping) of police interrogations, such powers lead to serious human rights abuses including serious ill-treatment of detainees and abuse and intimidation of their solicitors. Nothing short of an end to emergency powers, and a complete overhaul of the criminal justice system, and a retraining of the police accordingly, will be sufficient to render the legal framework within which the police operate a healthy one. While the Commission is not explicitly asked to examine these questions of the criminal justice system in any detail, we would urge you to emphasise the damage emergency powers do to the institution of policing. If emergency powers are retained, it is difficult to see how anyone could expect the police to "win public confidence and acceptance". In this context it is worthwhile to note that the RUC were able to adapt to the new legislative framework brought in under the Police and Criminal Evidence (NI) Order with little apparent difficulty.
- assuming the legal framework is "normalised" the question still remains as to how best ensure that the police are properly accountable. CAJ would argue that the police (and judiciary) need training in their responsibilities for human rights protection and will need to study the impact on them of the incorporation of the European Convention on Human Rights and, in due course, a specific Bill of Rights for Northern Ireland.
- an independent complaints system (along the lines of that proposed in the Policing NI Bill, though with some additional safeguards) needs to be introduced.
- legislation governing policing should make specific reference to human rights and consideration should be given to incorporating into domestic law relevant international standards such as the UN Code of Conduct for Law Enforcement Officials (adopted 1979) and the UN Basic Principles on Use of Force (adopted 1990); additionally legislation should clarify the standard of proof needed in different types of complaints; and should encourage police officers to report on misconduct by colleagues. None of these basic safeguards are included in the current Police (NI) Bill.
- the reasons why there has been no successful prosecution of a police officer for murder despite the number of deaths for which they have been responsible. The security forces (police and army) have been responsible for approximately 360 deaths, 11% of the total during the conflict.

Accountability to the community

In this submission, we are separating the treatment of these two different types of accountability since each requires major discussion. The discussion of accountability to the community is linked to our earlier remarks on 'partnerships'. In particular, CAJ would argue for:

- strengthening (not weakening as in the current Police (NI) Bill) the role of civic oversight bodies;
- local systems of communication, consultation and decision making with an enforceable contract between the police and the community served. Local systems must be in a position to discuss issues of relevance to the community; the composition of the group must be inclusive and representative; resources need to be sufficient; and the police must be under a legal obligation to listen to and respond to community concern;
- local mechanisms must feed into regional or NI-wide institutions as well so that local issues can be pursued at senior levels within policing and police oversight, and so that policy issues of broader concern can be influenced from the local level;
- the intelligence services must be included in any move to greater democratic control and accountability. Good practice elsewhere indicates that this can be done without undermining the effectiveness of such services.

Structured co-operation with the Garda Síochána and other police forces

This is not an area to which the CAJ has given much consideration. However, a few issues are worth highlighting under this rubric:

- the creation of Human Rights Commissions (north and south, with a joint body consisting of members of both) will have some significance for policing arrangements in both jurisdictions. The commitment on the part of the Irish government to ensure for its jurisdiction "at least an equivalent level of protection of human rights as will pertain in Northern Ireland" would suggest that human rights advances in policing in Northern Ireland should be replicated in the Republic and vice-versa.
- If cross border co-operation is to be pursued, it will be necessary to develop parallel accountability structures.
- CAJ's experience of researching problems of representation, training, accountability, structures and management of change, in other jurisdictions led us to the conclusion that the differences are ones of degree rather than of nature. It seems to us that there are very good principles of good practice to be drawn upon from other jurisdictions, and that regular communication and exchanges between the police of different countries is in principle useful.
- As to structured co-operation, we believe that the RUC is still considering affiliation to the European Network of Policewomen. As a useful support system for an under-represented group, such affiliation would seem like an obvious measure to undertake without delay.

Management of Public Order events

We have re-titled this segment since "exceptional demands" may be somewhat misleading. If we restrict our comments to the issue of exceptional demands being made upon the police, CAJ can only confirm that the most benign interpretation of the policing of Drumcree in 1996 was that the RUC were unable to maintain the rule of law because of insufficient resources. HMIC addressed this issue and recommended that the RUC should feel in a position to call on additional police resources from Britain. As long as such reserves that are drawn upon are properly trained and accountable, and that any decision to call upon such reserves is taken in conjunction with the civic oversight body, we see no problems with the police being able to draw upon police reserves from other jurisdictions just as one would at a time of natural disaster. This may also be an issue to be addressed in the context of structured co-operation with the Garda Siochana.

On the issue of managing public order events, we do however have a number of concerns to raise. We will enclose as part of the background to this submission our reports on the policing of events in 1996 and 1997. Our major concerns can be listed as follows:

- the use of plastic bullets - Despite HMIC's concerns about possibly too ready a resort to this weapon, and the value of restricting the circumstances which can be said to give rise to their use, CAJ again witnessed the police firing large numbers of such bullets in 1998. We believe that this lethal weapon risks exacerbating as well as defusing public order situations and we have eye-witnessed many instances where this proved to be the case. CAJ also contend that the guidelines are regularly flouted and yet disciplinary or criminal charges are rarely pursued.
- response to peaceful (though illegal) protests - in the past CAJ has reported police brutality in the removal of protestors from the street when better communication and mediation skills might have proved much more effective. In July of this year, there seemed to be more flexibility in this regard and we will be monitoring the extent to which this more sensitive policing is maintained.
- the lack of appropriate identification - police officers were seen in 1996 and 1997 to be in confrontations with civilians without displaying badge numbers or insignia which would enable complaints to be made against them if that proved necessary. Some, rare, occurrences of this problem recurred again this year and we are pursuing this with the authorities concerned.
- communication skills - a common attribute of good and bad policing seems to be either the existence or lack of effective communication skills. On the Lower Ormeau this year the effective curfew which the police imposed seemed completely disproportionate to need, and after some discussion was dramatically scaled down; the following day the nature and frequency of police/community communications seemed of a high standard, and what might have been a very difficult policing operation went off well. We are not clear why effective communication had not proved possible before sealing the area off and risking serious police/community tensions.

3. Other Important Issues

Above, we have tried to respond briefly to the various questions and issues the Commission raised, but looking at your terms of reference we felt that there were two other issues which are equally important to address.

Human Rights

The term "human rights" is specifically used in the terms of reference of the Commission. Reference is also made to the importance of concepts such as impartiality, which is clearly a function of a police service respectful of human rights. CAJ would like the Commission to:

- make recommendations about the human rights training of police (and indeed of those to whom they will need to render account - civic oversight bodies, local community groups, and the judiciary);
- make recommendations about the need for policing legislation to specifically refer to international human rights standards;
- call for a commitment to human rights to be included in the oath of all police officers;
- argue that it is only in having a commitment to protecting and promoting human rights that a new police service can hope to become and remain acceptable to all within society.

Disarming the police

CAJ did not explore in our international study the arguments of other police forces for and against the carrying of weapons, and have relatively little expertise therefore to offer on this point. We welcome, however, the commitment of the two governments, of the political parties that negotiated the Agreement, and of Northern Ireland's general public (which endorsed the Agreement by referendum), to the concept of a police service which "should be routinely unarmed". A major step in this direction would be to overhaul the training, composition, powers, and structure of policing which currently prevails. As noted earlier, we need to move from a hierarchical, militaristic model of policing. Moving from a heavily armed to an unarmed force will both be a consequence of other changes recommended in this submission, and will also be a major factor in bringing such changes about.

4. Concluding Remarks

In Human Rights on Duty, CAJ repeatedly stress that fundamental change is required on a number of different fronts and that, on the basis of international experience, there are no "quick-fix" solutions. Policing problems, and therefore solutions, are inter-related and must therefore be addressed in a holistic fashion. Piecemeal, reactive or tokenistic measures can be counter-productive. At the same time, we would counsel against a mechanistic or essentially managerial approach to the problems of policing: the

problems are much more fundamental than merely scaling down the size of the police force to respond to what we all hope will be a more peaceful era.

The Commission has a plenitude of useful data to draw upon and should commission specific research on those few crucial areas where data may still be lacking (see earlier comments). The challenge facing you therefore is essentially twofold:

a. To encourage a broad public debate about the issue of policing. CAJ has been critical of bodies like the Police Authority in the past for its failure to engage in full and frank discussions with the communities it and the police are intended to serve. Your Commission must do that. Moreover, it would be insufficient to allow people merely to air grievances, though that is clearly an important function you can assist in. A process needs to be developed which will ensure continuous public involvement in the changes which are required to make the police more representative and more accountable. We believe it is vital that the Commission establish a process which is open to all and visible within the community. For instance, the Commission should hold public meetings to hear the views of people at the grassroots. These meetings should be held in places which are accessible to the communities which the RUC polices, and particularly those which have had problems with the police. It is in holding such debates that gradually one can move beyond purely polarised positions to a discussion of the model of policing which is acceptable to all because it enhances and helps to underpin peace.

b. To develop a series of concrete recommendations which are laid out in a clear action plan and with a specific timetable for implementation. It is vital that the Commission establish a system by which its recommendations can be monitored over time and against which the activities of the relevant authorities can be measured. However radical and important are your eventual recommendations, they will have no relevance if there is no system put in place for their monitoring and adaptation. Change, especially change of the order required, will be complex and multi-layered and your Commission can only be the start of the process. It cannot and must not be the end. Many studies and committees have made recommendations about policing change over the years; however, as an examination of the reports we allude to at the beginning of this submission will show, few of the most important changes have been put into practice. Your findings, if they are not to suffer the same fate, must be placed in the context of a specific programme and timetable for action and continuous evaluation.

CAJ has had a long experience of researching and publishing on policing in Northern Ireland. In carrying out this work, we have worked with those that experience policing as well as the different authorities responsible for policing. We are more than happy to place this experience and expertise at the disposal of the Commission. We have already sought to assist the Commission by inviting a leading Council of Europe expert to Northern Ireland. The speech made by Ms Hazenberg (Director of Policing and Human Rights, Council of Europe) to an expert seminar has been sent to Commission members, and Ms Hazenberg had the opportunity of meeting directly with Dr Hayes and Mr Smith QC. In addition it is our intention to bring a number of international policing experts to Northern Ireland in the coming months and to engage in a series of activities with local community activists from across the religious and political divide. This work will undoubtedly provide useful insights for the work of the Commission. The CAJ will be following the work of the Commission with a keen interest and, in this context, we hope that this submission will be seen as the starting point rather than the conclusion of our relationship with you.

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