

**The Committee on the Administration of Justice (CAJ)**  
**45/47 Donegall Street, Belfast BT1 2FG**  
**Tel: (01232) 232394 Fax: (01232) 246706**



*Winner of the 1998 Council of Europe Human Rights Prize*

**US Committee on International Relations**  
**Hearings on**  
**"New and Acceptable Policing for Northern Ireland"**

*Testimony from*  
**Maggie Beirne**

**April 1999**

**Submission No. S.86**  
**Price: £1.50**

**Submission No. S.86**  
**Price: £1.50**



## **Statement of Maggie Beirne**

### **Committee on the Administration of Justice, Belfast**

#### **Before the US Committee on International Relations Hearings on "New and Acceptable Policing for Northern Ireland"**

**Thursday, April 22 1999**

Thank you for the invitation to testify today. The Committee on the Administration of Justice (CAJ) is an independent human rights organisation which draws its membership from across the different communities in Northern Ireland. CAJ works for a just and peaceful society where the human rights of all are fully protected. CAJ was awarded the 1998 Council of Europe Human Rights Prize in recognition of its efforts to place human rights at the heart of the peace process. We have a broad remit which covers many conflict-related issues such as prisoners, emergency law, and miscarriages of justice, and also concerns such as fair employment, the rights of women and children, disabled people and the need for effective government action to prevent racial discrimination. Since our foundation in 1981, we have worked consistently on issues of policing, and the rest of this submission relates to that topic.

Our testimony must start with a reference to Rosemary Nelson. Rosemary was a member of CAJ's executive committee, and will be a significant professional and personal loss to us. Her murder, at the hands of loyalist paramilitaries, will have, and is already having, a major impact on the policing debate in Northern Ireland. What stage have we reached when the police themselves recognise that their investigation will not have sufficient credibility to sustain public confidence, and seek some albeit minimal external oversight? What does it say about policing that the United Nations Special Rapporteur talks of the Chief Constable's "complete indifference" to complaints from NGOs about RUC intimidation and death threats against defence lawyers? Rosemary was not killed because of her political beliefs. She, like Pat Finucane ten years ago, was killed because she defended "unpopular" clients, and she

was killed because the police (whose primary task should be to protect people) contributed to the climate of hostility that brought about her death. If we do not learn lessons from this tragic death, we will do her, and the cause of justice and the rule of law that she and Pat Finucane gave their lives for, a further dis-service.

Amnesty International has just testified about the legacy of the past, and the importance of addressing this legacy if we are to ensure that the “new beginning” for policing in Northern Ireland, promised in the Good Friday Agreement, becomes a reality. In CAJ's own submission to the Commission on Policing, chaired by Chris Patten, reference is made to key findings made by the United Nations, the European Court of Human Rights, major governmental inquiries, as well as the steady work of international human rights groups such as those represented on this panel today. These dealt with the policing of public order situations, ill-treatment of detainees, collusion with loyalist paramilitaries, extra-judicial killings and the intimidation of defence lawyers. We would request that this submission be entered as part of the formal record.

Our submission to Patten went on to discuss in detail practical ways in which policing should be changed. We drew extensively on our major report entitled "Human Rights on Duty: Principles for better policing - international lessons for Northern Ireland" which concluded that policing problems in Northern Ireland are different in degree rather than nature from those confronted in many other countries. The report concluded that what is needed primarily is the political will to change, and a holistic approach, across a range of issues including composition, training, structures, management and organisational culture. I would request that this report be placed on the record.

The main focus of this testimony, however, is the fundamentally important issue of police accountability since this goes to the heart of the debate about the rule of law, and the need for a "new beginning" to policing in Northern Ireland. Whatever new arrangements are made, they must ensure that the people appointed to uphold and enforce the law are themselves subject to it, and accountable in that way to the community that they serve. While Northern Ireland appears on paper to have many of

the formal accountability mechanisms one might expect, these mechanisms have utterly failed to secure effective accountability.

- For example some 360 deaths have been caused by members of the security forces. Only three of these have resulted in murder convictions.
- In 1997, approximately 5500 complaints were lodged against the RUC. Out of that number only one complaint from a member of the public was upheld.
- Since 1985 not one complaint, out of 16,000 made by those detained under Northern Ireland's emergency legislation has been upheld despite significant amounts of money being paid out in compensation cases taken by those who have been detained. Such cases have included cases of ill-treatment.

Most recently of all, the murder of Rosemary Nelson revealed starkly the lack of accountability within the RUC, and it is worth exploring this briefly as a case-study of the weaknesses in current accountability systems.

Allegations of intimidation and death threats against defence lawyers had been brought to the attention over a number of years to the United Nations' Special Rapporteur on the Independence of Judges and Lawyers, Param Cumaraswamy and his predecessor. Ms. Nelson was one of the defence lawyers alleging police wrongdoing. When threats against Ms. Nelson came to be investigated, the Independent Commission for Police Complaints (ICPC) found "observable general hostility, evasiveness and disinterest on the part of the police officers involved" and cited a number of other specific reasons which rendered the nature of the RUC investigation "unsatisfactory". Accordingly, in an unprecedented move, a police officer from the London Metropolitan Police was brought in to re-investigate the complaints of RUC threats. But this level of scrutiny has now meant that the member of the ICPC who pursued this case has become the subject of a "whispering campaign" questioning her professional ability and integrity, and I would like to put into the formal record a recent article from the Irish Times on this topic.

It was therefore not surprising that, in the immediate aftermath of Rosemary Nelson's murder, there was a call for a totally independent inquiry into her death. Many believe that, if the RUC is accused of making death threats against Rosemary Nelson, and of having carried out an unsatisfactory investigation of those threats, they are not the appropriate body to investigate her murder. The Chief Constable himself

recognised that confidence in the police was so low that some form of (albeit very minimal) external oversight might prove necessary to assuage people's genuine fears. The current oversight mechanisms are clearly not working, and there must be fundamental change. As a minimum CAJ would urge that the following steps be taken.

Firstly, emergency law must go. Northern Ireland has never operated without such powers. Mechanisms for accountability will be useless unless the powers of the police themselves are greatly limited. It would be helpful if this committee could urge the Patten commission and the Criminal Justice Review, established by the Good Friday Agreement, to address this major problem and recommend the immediate removal of emergency laws.

Secondly, the Chief Constable's operational independence needs to be clearly and narrowly defined in law so that the virtual "carte blanche" exercised to date is ended. The current system allows for the Chief Constable to act as an effective law unto himself.

Thirdly, international human rights principles need to be explicitly referred to in domestic legislation on policing. Such principles need, moreover, to be made an integral part of police training, incorporated into the oath of office of all new recruits, and endorsed as part of the new policing mission statement. Loyalty to international human rights principles should be encouraged by ensuring legal protection for officers who "whistleblow" about colleagues who abuse human rights.

Fourthly, the complaints system needs to be greatly strengthened. A major government inquiry into the complaints system, carried out by Dr Maurice Hayes, was published in January 1997, and yet its primary recommendation – the appointment of a Police Ombudsman - still awaits implementation. This appointment is urgently needed if we are to move to a credible and effective complaints system. But a good and speedy appointment of the Ombudsman will not be enough. The Ombudsman must be given sufficient resources to do the job properly. There is some suggestion in the budgetary figures being discussed, that the financial resources available in future will be less than in the past. It would be unfortunate if an initiative which is of crucial

importance in establishing confidence in the rule of law were hamstrung by penny-pinching at this vital stage of the policing debate.

There are, furthermore, two key lacunae in the legislation altering the police complaints system, which were brought to the attention of government at the time but not legislated for. The Ombudsman will not have authority to investigate patterns of abuse. He/she will be restricted to individualised complaints against specific police officers. Complaints about public order policing, the use of plastic bullets, the behaviour of particular police units, or indeed a history of complaints against a particular officer, will not be amenable to effective investigation under the new system. Yet it is these kinds of complaints that are frequently the most serious, and certainly the ones which might well hold lessons for policing policy. In addition, the civil law standard of proof to pursue complaints must be introduced. Currently, any move to discipline an officer on any charge requires the same standard of proof as if one were pursuing a criminal charge. In this context it is hardly surprising that disciplinary charges are rarely successful.

Fifthly, there is a need for a major overhaul of the inquest system in Northern Ireland in order that controversial deaths caused by members of the security forces are fully investigated. The standard for the use of lethal force should also be brought into line with international human rights standards.

In addition to the legal changes that will be needed if we are to hold the new policing arrangements more effectively to account than in the past, there are institutional changes which are integral to the process of fundamental change.

The Police Authority for Northern Ireland (PANI) is not an effective civic oversight body. It is not representative of the broader community (neither nationalist political parties nor the trade union movement serve on the Authority). It has limited powers, and has chosen not to exercise the powers it does have to the full. Obviously, it is important that civic oversight bodies should not reflect partisan political interests, and therefore any future model should be devised with care. In Northern Ireland, already, we have evolved an interesting model for community involvement called "Partnerships". This could well be an interesting model for any future civic police

oversight body as long as there are clear objectives and agreed criteria for fair decision making processes. A strong, more representative, body with sufficient powers, would provide an important check on the power of the Chief Constable on the one hand, and the Secretary of State (or eventually the Assembly) on the other hand.

But, whatever systems of accountability are evolved, there needs to be regular monitoring of how things are working and whether further change is required. Systems of accountability cannot be static, or they will be quickly out grown and then by passed. This begs the question more generally about what happens after the Patten Commission has reported? Any of the organisations here present can cite report after report that has been allowed to gather dust. It would be totally unacceptable if anything like that were to happen to Patten's report. Nor indeed can it be a nine-day wonder, with a lot of public interest and debate initially, but then consigned to the history books. If we are to avoid this, two things must happen. Firstly the Commission must prepare the ground and seek, to the extent possible, to secure support for a wide range of changes well in advance of finalising its report. While inordinately difficult, this will ensure the necessary political will is mobilised so that the recommendations get a fair wind and a healthy debate when they are eventually published. Secondly, once published, the Commission should indicate how they envisage their recommendations being put into place. They should include in their report clear timetables for change, and the steps needed, and indicate how those changes will be monitored, and who should be responsible. Should, for example, the Commission propose a life for itself or for an implementation body which would oversee the implementation of the report's recommendations.

We have concentrated in this submission on the issue of accountability but obviously we are also deeply concerned about the range of issues raised by our colleagues and indeed we have developed a broad range of recommendations on these issues. While time does not allow us to fully ventilate these matters today, what is clear from the evidence given to the Committee is the scale of the problem presented by policing in Northern Ireland and the scale of change that is consequently required.

Thank you.





**Committee on the Administration of Justice  
45-47 Donegall Street  
Belfast BT1 2FG**

*Extra copies of this document can be obtained from the above address  
A publications catalogue and details of CAJ membership  
are also available on request from the above address*