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*Winner of the Council of Europe Human Rights Prize*

*CAJ's commentary on the  
draft Code of Practice for  
District Policing Partnerships*

May 2005

**Submission No. S.163  
Price £1.00**

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## **What is the CAJ?**

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community.

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, the Lawyers Committee for Human Rights and Human Rights Watch and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include prisons, policing, emergency laws, the criminal justice system, the use of lethal force, children's rights, gender equality, racism, religious discrimination and advocacy for a Bill of Rights.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

## **Comments by the Committee on the Administration of Justice (CAJ) on the Draft Code of Practice on the Exercise of Functions and Responsibilities by District Policing Partnerships (2005)**

### **Introduction**

The Committee on the Administration of Justice (CAJ) has long been interested in policing and has published and been active on human rights aspects of policing change since our inception in 1981. We have been particularly active in commenting on policing reform arising since the Agreement, the Patten Commission, and subsequent legislation, and we have followed with special interest the establishment and work of the District Policing Partnerships.

Accordingly, we recognise the importance of a Code of Practice governing the work of such Partnerships. CAJ organised a conference in June 2004 on the topic of District Policing Partnerships, and a report of that event, including the conference proceedings, is attached. The report notes many concerns raised by DPP members and brings together a lot of practical guidance and Programme of Action that might usefully be drawn upon in developing this Code of Practice. CAJ has also learnt that the Policing Board has carried out a Review of the Working Arrangements for DPPs so we presume that the findings of that review will be feeding into the Code of Practice? Given our limited knowledge of the Review, we are unable to comment on the extent to which its findings will be relevant or not. One concern we do have, however, is that the Review was limited in its membership and engagement with the wider community, and this will obviously have an impact upon its findings.

CAJ sent you some preliminary comments in conformity with the original deadline, but the extension to the deadline has allowed us to submit this more comprehensive response (incorporating our earlier comments). The following submission makes some general comments on the draft Code of Practice before engaging with specific concerns. Rather than reiterate entire sections of our DPP commentary, it is attached herewith and should be read in conjunction with this submission.

### **General comments**

It is our understanding that this draft updates a September 2002 Code of Practice on the Exercise of Functions by District Policing Partnerships. However, while para 1.1 of both texts specifies that the Policing Board can revise the Code of Practice, the 2005 Draft does not mention that it is an amended version of an earlier text. An explanation of why the text was updated, on the basis of what input, whether these updates will happen regularly etc would be helpful.

### *Consultation*

CAJ welcomed the extension of the deadline for consultation on this Draft Code of Practice, as it reflected our concern that any period of consultation should at least follow the Equality Commission guidelines of eight weeks. We hope that this has allowed more groups to make submissions. However, we are slightly concerned at the circulation list of the consultation document as outlined in para 1.2. Specifically,

this list does not include anyone beyond the DPPs, District Councils and policing institutions themselves. CAJ received a copy via e-mail and the only other consultee on that list was the Office of the Police Ombudsman. We very much hope that this document was circulated among NGOs, community and voluntary groups and other stakeholders in the policing debate. We note, for example, the reference in para 1.8 that the DPPs (like the NI Policing Board) are designated as public authorities and are therefore subject to section 75 of the Northern Ireland Act 1998. This requires a much deeper and more meaningful consultation than that highlighted in para 1.2. CAJ is aware that many other groups have an interest in the operation of DPPs and as such would have very useful feedback to give on how DPPs can be made more effective in engaging with the wider community, and particularly “hard to reach” groups.

#### *Structure and purpose of Code*

The latter part of Para 1.3 of the introduction gives a list of expectations for the DPPs, which is more or less replicated in the structure of the body of the document. These expectations are not organised or presented in such a way as to help clarify the existing uncertainties regarding the DPPs’ work. For example, point (h), “notifying the District Commander of the date and purpose of a meeting of the DPP” is presented on a par with point (d), “the DPP gains the co-operation of the public with the police in preventing crime.” The former is a procedural obligation and the latter an overarching and multifaceted goal. However, both elements are given their own section in the body of the text as though they were of equal weight and are thus misleading. The most straightforward way of organising the text would be to break the information into two sections, one on the functions of the DPP (as laid out in section 16 of the Police Act) and the other on the mechanisms to be used in carrying out those functions.

One danger, however, is that the Code be seen as a “bible” for how DPPs should operate. While it is important (and indeed is frequently referred to in our report) that DPPs receive guidance and support from the Board, equal space needs to be allowed for DPPs to tailor their *modus operandi* to respond to the needs and expectations of their local community. Linked to this, one concern we have in reading the draft Code is the overly formalistic methods of operation that are suggested. If DPPs are meant to help foster community engagement with the police, they need to be a dynamic and responsive forum in which community’s views on local policing issues can be aired, discussed and fed back to the wider community - submitting meeting reports and an annual report, as described in section 10, is hardly an inspiring way of doing this. CAJ is aware (from our conference) that DPPs have already adopted different methods of working which need to be accommodated. Some of the good practice developed in DPPs which are very open to the public in terms of wide dissemination of invites, open questioning and discussion etc needs to be promoted rather than restrained. For example, in Appendix 1, para 1.1, there does not seem to be scope for oral questions only and not written. This format for public questions is very formal and indeed we are aware that some DPPs have allowed for oral questions, which is surely a more open and constructive way of holding dialogue between the public and the police.

### *Operational Guidelines*

Para 1.3 also indicates that the Policing Board will produce “Operational Guidelines for District Policing Partnerships” to complement the Code of Practice. A general indication of the difference in scope of the two texts would be helpful – CAJ and others may have identified as missing in the Draft Code of Practice certain points which the Policing Board intends to cover under the Operational Guidelines. For example, at the CAJ conference on DPPs, many DPP members were unsure about the extent of their remit and the nature of their intended communications with police - are they allowed to question? To request information? To criticise? CAJ can see no guidance in this Code of Practice on this particular aspect of DPPs, and are left to presume it will be dealt with in the Operational Guidelines. Likewise, on the issue of engagement with the community (as outlined above) we can think of many suggestions that could be made to enhance the role of the work of DPPs, but we are unclear as to whether this is the appropriate place to make these suggestions or whether they would be best addressed in the Guidelines? To avoid confusion and ensure a more holistic approach, there may be merit in delaying the finalisation of this update, until input has been sought and given on Operational Guidelines. This would ensure that all the points that need to be addressed are covered in one or the other document.

### *Monitoring*

While the Code discusses some of the main roles laid out for the DPPs by the Patten Report – such as public consultation, input to police planning and cooperation for community safety and crime prevention – there is no text dedicated to the monitoring role of DPPs. CAJ noted with concern that DPP members who participated in the June 2004 conference were very unsure about the parameters of this aspect of their work. While the forthcoming Operational Guidelines may address this issue, monitoring - as a key function of the DPPs - should be covered in the Code of Practice as well. With their more localised focus, the DPPs are in a strong position to complement, for example, the work of the Policing Board in monitoring the compliance by the PSNI with the Human Rights Act. Unfortunately, at no point in this Code of Practice is there more than a passing reference made to ‘monitoring,’ with no attempt anywhere to define or give guidance for such work. Questioning the District Commander on his monthly report to the DPP could at a stretch be considered a limited form of monitoring, but is obviously insufficient on its own to fulfil the DPPs’ obligations in this area.

Nonetheless, the text as a whole (see for instance para 6.5) would indicate that this is all the monitoring that is foreseen. The public perception of DPP effectiveness and independence, as well as of police commitment to transparency, will be greatly influenced by the extent to which bona fide monitoring is, or is not, carried out. If the Code of Practice is not amended to give greater scope to this crucial area of work, the credibility of DPPs and, by extension, of the police service and the Policing Board, will be undermined. Direction on monitoring activities must be given, preferably in a separate, dedicated section on monitoring, and DPP reports on the findings of its monitoring must become an important element of its overall reporting duties as laid out in Section 10. (See CAJ Commentary on DPPs and their role in assisting the Board monitor the human rights performance of local policing efforts).

### *Expectations placed on the DPP*

The role of the DPPs in ‘obtaining the co-operation of the public with the police in preventing crime’ is a far more sensitive and demanding role than is currently recognised in the Code of Practice. For the public to co-operate with the DPP in crime prevention would imply a high level of trust, not just in the DPP, but in the police service and the Policing Board. The DPP can only hope to carry out this task once it has established itself firmly in the public trust; and to achieve that, it must first prove itself in the consultation, monitoring and advisory roles. This means that the police service and the Policing Board have to co-operate fully with the DPP, enabling it to carry out these three roles to the fullest possible extent so that it comes to be seen as a highly effective and trustworthy body. In effect, the police service and the Policing Board bear joint responsibility with the DPP for its credibility and this needs to be recognised throughout the text.

### *Role of the Policing Board*

Linked to the above point, CAJ feels that this Code of Practice should contain at least a short section on areas in which the DPPs can expect support from the Policing Board. Nowhere in the text is there any coherent exploration of the relationship between the NI Policing Board and the DPPs. This is an unfortunate omission. The fairly full listing of Board responsibilities in the “Financial Guidelines for DPPs” is positive and could provide a good practice model to adapt in the revised Code of Practice.

Here it is worth reiterating the recommendations made in our Commentary on the DPPs that the Board implement the suggestions for increased support of the DPPs that members voiced at CAJ’s conference, including:

- Increasing public awareness of the DPPs, the fact that they are independent of the police and the Policing Board;
  - Holding regular meetings with DPP members in order to discuss issues of concern, discuss best practice, identify training needs and share information;
  - Providing guidance to the DPPs on their roles, duties, powers and the relationship between DPPs and other policing institutions, including the CSPs;
  - Giving unequivocal guidance when serious problems arise which need to be handled consistently across all of the DPPs;
  - Consulting and sharing information with the DPPs regarding policing in general, policing in Northern Ireland, and the activities and decisions of the Policing Board (see below); and
  - Facilitating meetings of DPP members and managers in order to discuss issues of concern to the DPPs and how the different DPPs are handling them.
- Creating a network which allows interested DPP members to get together to discuss issues and strategies which will assist them in becoming more productive members of the DPP;
- Maintaining a ‘watching brief’ on the internal relationships in DPPs so as to assist the effective cooperation of political and independent members as envisaged by Patten;

Providing specific guidance as to how DPPs can feed in local information, insights and experience to assist the Board in monitoring overall PSNI compliance with the Human Rights Act.

### *Gender-neutral language*

Throughout the text, the term “chairman” or “chairmen” is used. At a public road-show in Belfast some years ago, the Policing Board was taken to task for its use of gender-specific language and Board members assured the audience that – apart from direct citations from the legislation which could not be altered – the Board would avoid this practice in its own materials in future. In accordance with this commitment, CAJ urges that gender-neutral language be used throughout the Code of Practice.

### **Specific comments**

#### *Section 1*

As mentioned above, the list of expectations in para 1.3 needs to be restructured. A more in-depth presentation of roles and responsibilities follows in section 2, but the initial mention of these issues in the introduction needs to be clear, particularly as it gives an overview of the structure of the document as a whole. One option would be to restructure based on the provisions of section 16 of the Police (Northern Ireland) Act 2000, as described above. At the minimum, a distinction needs to be made between the overall aims of the DPP (e.g., gathering public input on policing to help advise the police; monitoring the police; and gaining co-operation in crime prevention) and the specific outputs that it is responsible for producing (presenting priority public concerns for inclusion in the Local Policing Plan; holding a specific number of different meetings each year; reporting to the council and Policing Board on how it is performing its duties; and demonstrating financial accountability).

Para 1.3 lists the overall duties the DPP is expected to fulfil. They are similar in this draft to the 2002 version, although para 1.3(f) - “the District Commander reports on police performance to the DPP” - seems to be a watering down of the original para 1.3 (f) - “the arrangements by which the DPP can question the police District Commander as to how the police are fulfilling their duties”. Given that during the CAJ conference on DPPs, DPP members expressed confusion as to the extent to which they could challenge or press the police, this paraphrasing is unfortunate. Both the District Commander’s obligation to report and the DPP’s obligation to review and if necessary question should be spelled out.

#### *Section 2*

In para 2.1, on what legal authority is the Board relying when determining that “the council has overall responsibility for ensuring the effective operation of the DPP”? This is not apparent in Section 14 of the Police (Northern Ireland) Act 2000 or in any of the other sections of that Act relating to the DPPs.

In para 2.2, on what authority is the Board relying in saying that the “DPP is a partnership between the local council and the community”? This formulation – especially since it is immediately followed by a description of the make up of the DPP – might suggest that the DPP in itself is the nexus between the Council (the elected DPP members) and the community (the independent DPP members), and CAJ sees no justification in the legislation or Patten for such a characterisation.

With regard to the issue of representativeness in para 2.2, CAJ in its Commentary on DPPs recommends that the Policing Board keep under review the composition of DPPs and make proposals for legislative and procedural changes as and when necessary to ensure that the bodies are broadly representative of the local community. CAJ welcomed proposals to amend the policing legislation in line with Patten – to allow independent members to serve as vice-chairs of DPPs.

As the text stands, the bullet points in para 2.5 (“consult – analyse – monitor – engage”) are confusing. How do they correspond with the functions outlined in para 2.4, and the different list of expectations in para 1.3? CAJ feels that these inconsistencies need to be addressed and the text restructured logically, with due attention to the problems identified above.

Will the strategic plan mentioned in para 2.6 be covered in the Operational Guidelines? At the very least, will DPPs be provided with a suggested format to follow in developing such a plan, or will elected DPP members provide orientation based on District Council strategic planning? It might be helpful to give more information either here or in the Operational Guidelines.

Similarly, will guidance be given regarding the form the Annual Plans mentioned in para 2.7 should take? All of this would help to provide much-needed guidance to the DPPs. It is interesting that a “Monitoring Annual Plan” is required, when monitoring as a separate area of work is noticeably absent from this Code of Practice. As mentioned elsewhere, both monitoring and advisory work are key roles for the DPP and both deserve to be the focus of substantive guidance in dedicated sections of this Code of Practice. If Annual Plans are to be required for all key areas of work then there should be one for advisory work as well, to ensure that DPPs have given specific thought to passing on their findings to the police service and, for example, have planned for and will adhere to the various timelines and deadlines of the police planning process.

Reference is made in para 2.9 and repeatedly throughout the text to the possibility of DPPs meeting the needs of “those whose first language is not English”. While welcome that the needs of migrant workers and ethnic minority communities are recognised in this way, is the Policing Board suggesting that DPPs are prohibited from spending public money on translating material into Irish, on the grounds that many Irish speakers are not mother-tongue? Some District Councils have a language policy that might conflict with such an approach, and certainly, if restrictively applied by the DPP or the Board, this formulation would inhibit outreach to particular sectors of the community.



### *Section 3*

The heading of section 3 needs to be amended to “Public Consultation” - informing the local policing plan will be one of the reasons for public consultation, but not the only one, so the heading as it stands is misleading.

Para 3.2 states that “the DPP should invite the District Commander to use the information contained in the Consultation Annual Plan when developing the local policing plan.” The same formulation is used below in para 4.24 regarding the Community Engagement Annual Plan. Rather, the text should make it clear that the District Commander has an obligation to show how the local policing plan responds to the community concerns raised by the DPP. Should the DPP not therefore “encourage” or “ensure” that the District Commander use rather than “consider” information that has been secured at public expense?

With regard to para 3.3, is the Consultation Annual Plan to be the only means by which DPPs can influence the Policing Board’s Annual Policing Plan or indeed, any of its other work? At the CAJ conference, participants pointed out that the Policing Board had taken decisions (for example on CS spray) without either involving or informing DPPs. Is this to be the standard practice? If so, how meaningful or dynamic are DPPs’ relationships with the Policing Board? These issues are of crucial importance to the credibility and effectiveness of DPPs. For DPPs to be able to consult the public in good faith, they must feel that the message that they pass on carries some weight with the police service and with the Policing Board. If the public’s input is not taken regularly and openly taken into consideration, and seen to be taken into consideration, the ‘consultation’ process will quickly lose credibility, and by extension so will the DPPs.

In para 3.6, the Code reminds the DPPs of their obligations under section 75 of the Northern Ireland Act. As noted above, these obligations also need to be observed by the Board in preparing documents such as this. In addition, this and other references to section 75 throughout the document do not sufficiently explain these obligations.

Para 3.7 mentions in passing that DPP members could present information gathered in community meetings to the District Commander at a subsequent public DPP meeting. This is one possible channel of communication in addition to the written report; but others need to be identified to ensure open, free and confidence-inspiring communications between the public, the DPP and the police. Indeed, one of the recommendations from our Commentary on DPPs was that the DPPs should review their working relations with the public, and that good practice in outreach and communications with the community should be routinely and actively disseminated around DPPs. As mentioned earlier, CAJ is unclear as to whether suggestions on how to do this would be best included here or in the Operational Guidelines.

### *Section 4*

It is not clear to us why the function of “engaging with the community” is limited to gaining cooperation with the police to prevent crime, and not on matters concerning the policing of the district as s.16(c)(i) of the Police Act provides (indeed this occurs

throughout the document). CAJ believes this is a misinterpretation of the legislation that should be addressed. In general, this section of the Code is unclear, ambiguous and needs to be re-thought. In addition, this whole section needs to engage more explicitly with the respective functions of the DPP and the CSP and as currently drafted provides inadequate guidance as to the respective roles of the two bodies. Participants in the CAJ conference on DPPs urgently requested guidance on how DPPs are meant to relate to these groups, and the problems with CSPs were singled out for further discussion at the recent launch of this Commentary.

Para 4.1 as written conveys a deficient understanding of the level of public trust needed to carry out the task at hand, and an unrealistic expectation of the capacity of the DPPs. Public co-operation in crime prevention is a highly sensitive and complex area of work, and it requires a serious degree of public trust in the DPP. That trust can only be gained by a proven track record in the DPP's consultation, monitoring and advisory roles. Clear advice and guidance as to how to carry out such work is needed..

CAJ is not clear why the specific function of “obtaining cooperation in preventing crime” merits delegation to a specialist DPP committee as stated in para 4.7. Is this considered a more onerous or more expert task than any of the others laid down in legislation? Whilst there could be no objection in principle to a DPP determining to set up sub-committees, and this is provided for in the legislation, the Board would need to clarify why this option is explored only with regard to this part of the DPP's work.

Para 4.13: suggests that it is a matter for each local DPP and CSP to work out their relationship between them – surely that is inappropriate and the parameters of the relationship need to be established generally at least by the Policing Board and/or community safety authorities?

Para 4.17 is a prime example of the problem mentioned earlier in that it refers to the DPP's advisory and monitoring responsibilities but only gives them a sentence each, and the text then returns to community involvement in crime prevention. This is insufficient – the DPP clearly needs just as much guidance in these areas as in community crime prevention.

Para 4.24 states that “the DPP should invite the District Commander to use the information contained in the Community Engagement Annual Plan when developing the local policing plan.” As outlined above, the text should make it clear that the District Commander has an obligation to show how the local policing plan responds to the community concerns raised by the DPP. The DPP should not be put in a position of carrying out work with the community, raising expectations along the way, only to be limited to ‘inviting’ the District Commander to take notice.

## *Section 5*

In line with the structural problems already highlighted, CAJ believes that Chapters 5-12 should be placed under a “Mechanisms for achieving the aims of the DPP” heading (or something similar) to distinguish this from the overall functions of the DPP as laid down by law.

Paras 5.1 and 5.2 charge the DPPs with setting up their own Standing Orders. Is this a good use of limited time and resources? Surely the Board should help with the basic format, which local DPPs can then adapt if they choose?

Para 5.5 gives information on the Strategic Plan each DPP is required to produce. According to this paragraph, the strategic plan should include among its key areas the DPPs' plans for "monitoring police performance." While it is absolutely correct that the strategic plan should include this topic, why then is it not covered by this Code of Practice? As already noted, DPPs need at least as much direction in this field of work as in the others under their remit. Similarly, there appears to be no requirement to plan for the DPPs' advisory work – this needs to be addressed.

#### *Section 6*

CAJ believes that this section is helpful for DPPs and that there is much advice about meetings in public that would be usefully followed by the Board also (see CAJ Commentary on Policing Board, November 2003). However, we think it would be helpful for DPPs to know which aspects of this Code of Practice are obligatory (laid down by law) and which are discretionary. For example the legislation lays down the quora to be met, and the voting arrangements, but otherwise leaves it to DPPs "to regulate their own procedures". Accordingly, while CAJ would agree that it would be good practice for a DPP to hold a minimum of six meetings a year (para 6.3), this is not a statutory obligation, and we believe that the text should clarify this at appropriate places throughout.

If the results of the public meetings are meant to be reflected in police planning, then para 6.3 should be amended to read "the DPP should discuss the timing of the meetings with the District Commander to establish if it is possible to align the DPP's meetings with the PSNI's reporting *and planning* cycles."

According to para 6.5, public meetings in which the District Commander presents a report to the DPP and the DPP discusses it with him constitute 'monitoring.' As discussed elsewhere, this is insufficient as monitoring, especially if it alone is the sum total of all attempts at oversight of police activities. Other types of monitoring must be carried out if the DPP is to be seen as a credible body and if the police service and Policing Board are to be seen as truly open to being held accountable. Obviously, the Code of Practice would be the place to provide at least the initial direction on this, to be followed up in Operational Guidelines as needed.

#### *Section 7*

Advice on participation by the public in a DPP meeting in public is the kind of helpful advice that DPPs were seeking from the Board, and is in principle to be welcomed.

Para 7.4 outlines the circumstances in which the District Commander would not be able to answer a question put by DPP members or the public. The elaboration of a long list of reasons not to give out information does not convey the right impression. No reference for example is made to Patten's recommendation about the need for police transparency. It certainly would be unhelpful to have a DPP Chair start every

meeting with a long list of reasons which may be cited for not answering questions, particularly when the situation may not even need to arise - yet that is what is being required of the chair at the outset of the meeting. To that end, the paragraph could be amended to something more positive (e.g., “The District Commander will make every effort to answer the questions raised as fully and openly as possible. The only instances in which this may not be possible would be ...”)

#### *Section 9*

Para 9.4 discusses police briefings to the DPP and indicates that they should be held in public “unless there is a reason not to”, which sounds unnecessarily arbitrary. If what is meant here is “unless it is in the public interest not to,” that should be defined, as it was in para 7.4.

#### *Section 10*

In para 10.7 the DPP is again being asked, in its Annual Report, to describe how it has monitored the police in carrying out the local policing plan and the Annual Policing Plan: meanwhile no guidance has been given in this Code of Practice on how to do this in a meaningful and credible way.

In para 10.8(c), the DPP is asked to report on expenditure in relation to “how it has responded to its duties under Section 75 of the Northern Ireland Act 1998”. Why was it thought necessary to ask the DPP to report separately on expenditures relating to the Section 75 duty? It is far from clear how this could possibly be done, without causing more problems than the request may appear to address. Does the production and dissemination of a document in English, advertising in the mainstream press, the cost of meeting room hire fall under items (f) and (h), but the production of material in Chinese, advertising in a rural community newsletter, and a visit to a woman’s group to discuss policing all fall into expenditures in relation to section 75? Any differentiation according to these criteria could be very counter-productive, encouraging DPP finance people to distinguish between “normal” DPP activities, and section 75 outreach activities, which could come to be seen somehow as “exceptional”.