

**Comments by the  
Committee on the Administration of Justice (CAJ)  
on Police Service Policy Directive:  
Police Response to Hate Incidents  
(July 2005)**

## **Introduction**

The Committee on the Administration of Justice (CAJ) welcomes the issuing of a draft Policy Directive on the police response to hate incidents. CAJ commented extensively on the appropriate response of the authorities to hate crime and on the eventual legislation (see enclosed). This legislation, which allows for increased sentences in cases where an offence has been aggravated by the perpetrator's bias, needs to be underpinned with detailed policy directives and we hope that the comments made below will help make the eventual directives more robust.

In particular, the PSNI should be commended for the positive step of beginning to record and monitor all hate *incidents* brought to their attention, rather than limiting itself only to those incidents judged to potentially constitute *crimes*. Hate incidents can be strong indicators of high-risk areas and tensions affecting particular groups, and may be the precursor to criminal acts. A recording of same may also assist the police, or more likely others, to develop preventive or problem-solving measures that could reduce the risk of crimes taking place.

The following suggestions seek to ensure greater clarity, particularly with regard to the definition of terms. In addition, CAJ argues in several places that it is important, for the sake of transparency and confidence-building, to include the rationale for certain key changes. Finally, there are some suggested additions to the policy that draw upon on 'best practices' identified by other organisations working in this field.

## **Commentary**

There are a number of punctuation and spelling errors that will presumably be edited out in the final version; these are not listed here. In addition, we note that the numbering / indexing of the text is not always consistent, and does not match the table of contents.

### **Page 3 – Para 2(1)**

In this first listing of categories covered in the determination of hate incidents there are several terms that need attention.

- **With regard to 'racial'** - CAJ proposes that reference be routinely made to people's racial and ethnic origin, to avoid any ambiguity about the extent of the coverage. In Northern Ireland, there have already been a number of attacks on people of Portuguese or East European origin, and there should be

no ambiguity about the fact that they (though often white) are to be afforded the same protections as those of, say, Afro-Caribbean origin.

- Regarding the **'faith or religion'** category - CAJ did raise in earlier commentaries the need for the police to record separately attacks that might be motivated by anti-semitic sentiments, Islamophobia, and anti-Catholic/Protestant attitudes. It would be very unhelpful in Northern Ireland if these quite different issues were all amalgamated into a single category. It is not clear to us what approach the police are intending to take in this regard (see also below, comments on page 4 of the policy guidance)?
- Regarding the **'political'** category, the same potential for ambiguity prevails. See on for discussion of page 4.
- With regard to **'disability'**: later the text specifies that both mental and physical disability are covered, perhaps this would be a useful clarification to include in this initial listing as well.

#### **Page 4 – Para 2(3) Stephen Lawrence Inquiry Report**

As mentioned above, in the listing of categories given on page 4, two categories seem for obvious reasons to overlap, but give little assistance to the police in recording and responding appropriately. There is a 'Faith / Religion (sectarian and non-sectarian)' category and a 'Political (sectarian incidents only)' category. It is particularly important that the policy guidance be clear in this regard. What for example is a "non-sectarian" faith/religion incident/crime? Does it mean any incident/crime that does not involve Catholics and Protestants? Is this 'sub-category' meant for example to deal with the issue raised above of anti-semitic or Islamophobic incidents/crimes? Alternatively, does it mean incidents / crimes that take place within the "same" community (whether Catholic or Protestant) as well as, or indeed instead of attacks on non-Christians? What would a police officer record if someone were attacked for wearing a Celtic or Rangers top – is this 'religious sectarian' or 'political sectarian'? if they are attacked en route to a church service is it religious-sectarian, but en route to a mosque religious-non sectarian? It is vital that there be clarity around these different options, since otherwise people will record and respond differently, and little real learning will be gained about trends and appropriate remedies.

To complicate matters further – it appears that it is being proposed that 'political' can only be applied to sectarian incidents/crimes. While the unionist/nationalist divide, or other intra community political divisions, are the most obvious political divisions to date, how would a police officer be expected to record an attack on anti-war demonstrators, or on a pro-life rally. The latter examples might fall outside of the "hate incident/crime" category but this would need to be made explicit if so.

CAJ would normally try to propose specific amendments rather than merely asks lots of questions at this late stage in the drafting process. However, as will be seen from our correspondence with the PSNI in January 2004, we had raised a series of questions about the ambiguity of definitions around 'sectarian' crime and incidents, and we are still unsure of the extent to which, if at all, these ambiguities have been

thoroughly addressed by policy-makers. We certainly do not find this section at all clear, and would be very concerned if police officers were not given much greater definitional clarity, since without this it is difficult to see how they will be able to effectively record, monitor and consequently tackle hate crime.

A separate but related issue that might best be raised at this point in our commentary relates to the issue of hate incidents being experienced or perpetrated within or by the police itself. CAJ had earlier welcomed the agreement of the PSNI to use the “Stephen Lawrence” definition when determining hate crimes, and it is worth noting that a key finding of the investigation into Stephen Lawrence’s death related to institutionalised racism. We think that it would be very strange if a document seeking to advise police officers about how to respond sensitively to hate crimes and hate incidents committed in the public arena, were not advised about the handling of any problems experienced in their workplaces also. It is vital that training, disciplinary codes, management efforts etc. all address the need to create a neutral work environment within which there is no space for institutionalised racism, sectarianism, sexism or homophobia. Conveying a clear message about acceptable behaviour within the service is an important contribution to the improved handling of prejudice and bigotry, and its consequences, in the larger society. We note elsewhere that some of these issues have been inadequately addressed in the past, so this policy directive provides an opportunity to remedy that oversight.

#### **Page 5 – first para at outset**

CAJ welcomes the clarification given that evidence is not the test for initially recording or reporting an incident or crime. This may need to be clarified more fully elsewhere (see below).

#### **Page 5 – Para 3 (Summary)**

In the listing of the forms hate incidents can take, it would be best to list ‘assault’ rather than ‘serious assault’, to highlight that any form of hate incident is to be taken seriously.

The fourth paragraph of this section ends with a reference to under-reporting of membership in minority ethnic groups in Northern Ireland. It may be helpful to mention some of the reasons why census numbers are so unreliable (eg failure to participate in the census because of language barriers or fear of contact with ‘officials’, increase in immigration in recent years, etc).

It would be helpful in the fifth paragraph not simply to mention that the Police Service has not previously recorded sectarian incidents, but to indicate the different timescales at which different kinds of recording were introduced. For example, it is CAJ’s understanding that the police began to record racist incidents, then homophobic incidents, and only with the passage of the most recent legislation, incidents relating to disability and sectarianism. Given the long-standing nature, in particular, of sectarianism, this phasing in of recording may beg the question of ‘why are you only

starting now’? Reference to the different timeframes will, at the very least, ensure that people do not make unreliable comparisons across different data-sets.

### **Page 6 - “Aims and Objectives” section**

The first paragraph includes a reference to ‘hate-related incidents.’ The term is used later in the text as well, but mainly in relation to ‘internal’ PSNI experiences. There is no definition anywhere of ‘hate-related,’ and the use of such a term indicates different degrees – for the sake of clarity, it would be simpler to refer only to ‘hate incidents’ and ‘hate crimes’.

With regard to point (b), how will the Minority Liaison Officers be appointed? Will they specialise solely in this work or take this role on in addition to other tasks? Will they receive additional training? Is this the appropriate terminology to use when such officers are dealing with sectarian and disability incidents – given that “minority liaison” might be thought to apply only to working with people from ethnic minorities or, at a stretch, to working with members of the LBG community?

CAJ would propose that “training” be specifically included amongst the aims and objectives. Although this is arguably an issue of methodology, and training is mentioned in section 4 (under “Implications of the policy”), its inclusion amongst the objectives would underline its great importance. Given that law enforcement officials are on the front line of identifying and responding to hate incidents, training is crucial if the practice on the ground is to actually change and improvements made. Moreover, training is vital to helping officers recognize their own prejudices and, in providing officers with key skills (eg specialised interviewing techniques, networking with appropriate community agencies etc) allows them to actively contribute to the creation of a society that rejects any form of hate crime or incident.

### **Page 6 – Para 4 - Implications of the Policy**

As noted earlier, the issue of training is a particularly important one. The PSNI were rightly criticised for early weaknesses in their training programmes where issues of sectarianism were explicitly avoided. CAJ is unaware as to the extent to which these problems have been adequately addressed, but believes that if officers are to deal with sectarianism, racism and other hate crimes in their daily work, they must also be helped to recognise it and address it in their workplaces. Obviously the liaison officers will need particular, and presumably more specialised, training but this is not alluded to in the text. Amongst other reference material, you may find it useful to draw on training programmes that have been evolved elsewhere to deal with hate crime – eg the Law Enforcement Officer Training Programme for Combating Hate Crimes issued by the OSCE Office for Democratic Institutions and Human Rights.

### **Page 7 – Partnerships**

It will clearly be very difficult, if not impossible, for the police to work effectively on hate incidents and crimes without highly developed outreach policies enabling

effective contact and exchanges with faith groups, local businesses, community groups etc. The reference here to the need for partnership work is very brief. At the very least there should be a cross-referencing to other policy guidance to highlight the need for a multi-disciplinary approach to the work. This is all the more important given that the guidance refers to “hate incidents” as well as “hate crimes”; the police, apart from recording and monitoring the former, will have little to offer to combating the phenomenon. You may want to draw on materials produced by HMIC in England, or the 1998 Hate Crime in America Summit organised by the International Association of Chiefs of Police (IACP), for some good practice models. At the very least, reference should be made to the role to be performed locally by CSPs and DPPs (there appears to be no mention of the DPPs at all throughout the document?). Hate incidents and, indeed, crime cannot be tackled by the police alone, but they are often the first port of call in serious situations, so police officers need to be reminded in this guidance of the importance of developing coordinated approaches.

### **Page 7 - Human rights and equality**

It would be useful to mention explicitly here the police duty of impartiality - particularly given the often sensitive nature of relations between the police and different communities potentially affected by hate crime.

It may also be useful to refer to articles 10 (freedom of expression) and 11 (freedom of assembly and association), because they are often the site of disputes (eg gay pride marches, church attendance, trade union meeting etc). Article 14 deals directly with non-discrimination, but presumably in the more detailed training around this guidance, there will also be some exploration of the Price v. UK disability case which made it clear that treating everyone “the same” did not amount to treating them “equally”.

### **Page 8 – Para 6 - Review**

For the purposes of openness and transparency, it would be useful to indicate who will be involved in the annual review of the policy. For example, will input from groups affected by hate incidents, either directly, or through community organisations, or other representatives, be sought? Is any kind of audit or evaluation planned of target groups’ experience of the PSNI’s implantation of this policy?

### **Page 9 – Section 7 – Procedures**

Para 1: it would be important to spell out how police are meant to “*encourage ... victims and witnesses ... to come forward.*” See our earlier remarks on ‘partnerships’ – local police officers will need some guidance (here or in a cross-referenced document) to the ways in which they can effectively reach out to targeted or vulnerable groups and individuals.

The second part of this paragraph is confusing. It has previously been stated (correctly, in our view) that evidence is not required when reporting incidents. At the

same time, no police officer should be left uncertain as to the value of gathering evidence where such exists. Police officers need clear and explicit guidance regarding “perceptions” and “evidence”. If incidents are later to be determined as crimes, a failure to gather evidence, where it exists, could prove very detrimental.

Para 3 : deals with confidentiality of personal information. It would perhaps be helpful here to emphasise the importance of relying on the voluntary self-identification of victims as a member of a particular group in monitoring and statistics. It would also be appropriate to mention here that data collection (as well as disclosure) must be carried out with attention to data protection and privacy guarantees. Victims’ dignity must be fully respected, as must the principle of full consent.

### **Page 10 – Para 7(1) Defining hate crime**

The above comment about reliance on the victim’s voluntary self-identification applies to this section as well.

With regard to ‘faith/religious incidents’: the definition may need to be amended along the following lines - “any incident which is based upon prejudice towards or hatred of the faith or perceived faith of the victim, or so perceived by the victim or any other person.” This clarification is important, given the number of post-9/11 ‘backlash incidents’ in the UK and the USA - for example, men wearing turbans have been attacked by people wrongly assuming they were Muslim.

With regard to ‘sectarian incidents’: again, the demarcations are far from clear, see all the discussions and questions raised earlier.

Under the ‘general’ section, again it would be helpful to explain the decision to begin recording these incidents and the rationale behind it. More discussion would be helpful here, as well, regarding the sensitivity of addressing these issues among different communities with different perceptions of the PSNI itself.

In relation to all the various hate crimes and hate incidents, more information is needed on data classification than has been provided here. The June 2005 OSCE Conference on Anti-Semitism and Other Forms of Intolerance, “Combating Hate Crimes in the OSCE Region” (sponsored by the OSCE Office for Democratic Institutions and Human Rights, ODIHR) recommended that data classification should not just be retrievable by the victim’s group, but also by bias motivation and type of offence. Will guidelines on data classification be developed further, or be the subject of additional training?

### **Page 15 – Para 7(2)- reports of hate crime**

Paragraphs 5, 9 and 17 of this section make reference to cases which will be recorded but no further police action taken: it would be helpful to emphasise that officers should explain the reasons for this to the victim, so that police inaction is not

interpreted as disinterest or bias. All of these issues should be covered in hate incidents' training for all officers.

Finally, it would be useful to clarify here what is the ultimate purpose of recording reports of hate crime. For example, the PSNI normally make public the findings, in line with recognised best practice in this area, and it is helpful to make this known to the officers involved. This in turn allows officers to answer questions on the matter. The gathering of such data can assist in combating hate incidents by increasing public awareness, is in line with the PSNI's stated commitment to respect for human rights and to its overall commitment to accountability. More generally, such data can contribute to wider social efforts to combat racism and other forms of discrimination. Very importantly, victims may hesitate to provide highly sensitive information of a personal nature unless they understand that there is a good reason for so doing. The collection of (suitably anonymised) data, to assist combat hate crime, is however normally well understood and appreciated by potential hate crime victims themselves.

#### **Page 18 – Para 7(6) - Support for victims and witnesses**

Paragraph 3 refers to links with statutory and voluntary groups to provide support to victims. The wording here should be strengthened, so that officers are 'strongly advised to contact' these groups, not just reminded that they exist (see earlier comments about working in partnership etc). Officer training on hate incidents should include material on the existence and nature of such groups, so that officers are familiar with what is available. Ideally, key umbrella groups working on racism etc. should be invited to be part and parcel of the awareness training, thereby creating links early on in the career of police recruits.

#### **Page 20 – Para 7(8) - Repeat victimisation**

The way the definition reads, the 12-month period under consideration would run from the date of the first report to the police. Conceivably, a number of incidents could occur before the victims get up the necessary courage to contact the police; should this not be considered repeat victimisation as well? On the other hand, this should not eat into what is already a limited time-frame. Is it necessary to have any time limit at all? If it is, we think it should not be a hard-and-fast rule and should be instead applied with discretion. In particular, we think that consideration will need to be given to the severity of the incidents involved, and particularly serious incidents or crimes should not be time-limited.

The bullet point list of those who could provide advice and assistance in such circumstances should definitely include statutory, voluntary groups and local community organisations.

**Page 20 – Para 7(9) - Minority liaison officers**

Some comments regarding these officers have already been made above (their title? what training do they receive? Is this considered a specialist task, or is it to be included alongside other responsibilities?)

The bullet point list of roles could also include

- contact with the District Policing Partnerships, as these are another existing structure for linking the police and the community. In fact, in passing, we should note that it is unfortunate that no reference at all seems to be made to the existence of DPPs, and the assistance they might and should give to working with local police on tackling hate crime. At the very least, the DPP can provide a forum for discussing how best to communicate and work with hard-to-reach groups, and consideration should be given to having Minority Liaison Officers attend occasional meetings alongside the District Commander (or include specific reports in the DC report to the DPP?). For more useful insights into work being done at the local level in this regard, see CAJ's Commentary on District Policing Partnerships which, amongst other things, has some discussion of related efforts in London by the police authority there.
- More detail on the community outreach aspect of the work: the International Association of Chiefs of Police and other groups active in this field strongly recommend increasing public awareness as a means of combating hate crimes, and there is 'best practice' guidance available from a range of sources.
- As with community safety more generally, there can be value in the police working with vulnerable groups and individuals to inform them about ways to prevent and protect themselves from bias-motivated incidents and crime. Training could include how to recognize threatening situations and coping skills for dealing with bias-motivated behaviours. Outreach work could also include the importance of reporting bias-related incidents and the support that is available for seeking redress of discriminatory actions.
- Some people, reluctant to approach the police, may report bias incidents to their landlord, employer, doctor or other perceived 'official'. Particular reference ought to be made in this regard to community and local groups that can be of assistance, and their help should be encouraged. Of course, while recognising the need for outreach or public awareness campaigns, it will be important to emphasise that police involvement will be important in the event of criminal behaviour.

In addition to the section on the role of the Community Safety branch, this text should include a commitment from the police leadership as a whole to take a high-profile public stance and speak out forcefully against intolerance, bigotry, and hate crime. This practice is recommended, not only in the aftermath of high-profile incidents, but at all times.

**Page 23 – Para 7(13) - Asylum seekers, refugees and migrant workers**

Officers will surely need concrete guidelines on how to manage the situation when their duty to protect individuals at risk brings them into contact with those with irregular immigration status. It would be helpful if this section would acknowledge and give clear guidance regarding the sensitivity around immigration status, particularly when this is an issue impeding public recourse to the police to counter hate attacks. The comments by British Irish Rights Watch (which we have had sight of) has already referred the PSNI to the International Convention which is relevant to migrant workers and could be usefully alluded to here.

**Page 23 – Para - 7(16) Intelligence**

In this section, it would be helpful to mention planning for incidents such as ‘backlash’ attacks around potentially high-risk dates or events.

**Page 27 – Para 7(18) Hate related incidents perpetrated by the police**

Reference is made in this section to hate related incidents perpetrated by members of the police service on other members of the police service – should it not also explain the consequences of such behaviour when exhibited against members of the public (eg explain how complaints can be made etc)? It is also important to publicise the existence of the ‘internal’ policy so that members of vulnerable groups will be reassured that such behaviour is not acceptable inside or outside of the police.

More generally, either in this section, or elsewhere, there should be a very clear statement about how the police intend to convey to the public that it will not under any circumstances tolerate racism or other forms of discrimination by its members.

There was a long history of allegations of sectarianism against the police in the past, and the PSNI will have to make exceptional efforts to overturn this legacy.