

STRAND ONE: POLICING

(2 March 1998)

A DISCUSSION PAPER BY THE BRITISH GOVERNMENT

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PRINCIPLES FOR POLICING IN NORTHERN IRELAND: A DISCUSSION DOCUMENT

PREFACE: MARJORIE MOWLAM, SECRETARY OF STATE

The Government is committed to discussions in talks taking place without pre-conditions on an open agenda. I re-affirm that commitment, and determination to see progress made. No areas are excluded. This paper is part of the Government's contribution to discussions on policing in Strand I of the Talks. I am publishing it, so that everyone has the opportunity to consider it, and to contribute.

Policing is a central issue in any society. In Northern Ireland, the history of deep political division, and of recurrent violence have made policing a highly emotive subject too. We believe that those involved in policing in the Royal Ulster Constabulary, in the Police Authority, in the criminal justice system generally - have done all they could, under very difficult and dangerous circumstances, to maintain the highest standards; to uphold democracy and the law, often at great sacrifice. Their efforts have helped to create the opportunity for progress through peaceful political means. We recognise that there are diverse views on, and experience of policing; and that the needs, desires and fears of all the people of Northern Ireland must be expressed. We welcome the contributions to the debate on policing which have taken place over the past five years, many of which have been most carefully and constructively thought out. We want to take that debate forward, in a sensitive and sensible way.

But policing is a big subject. At its heart, it is about problems in society and how these can be dealt with in a way that is acceptable to the vast majority of citizens. That way, we believe, must be in accordance with principles of fairness, justice, and impartiality. It is about what the police can and cannot do; how they carry out their work; how they interact with the community they serve on one hand, and the wider criminal justice system on the other; how they are recruited and trained; organised and financed; and to whom and how they should be accountable.

It is also about how the active support and allegiance of people for the law, and for the basic principles of democracy, can be harnessed and fostered; and how this can be expressed in and through the police service itself. The police themselves cannot, of their own volition, resolve these matters. They require the support of a political agreement, with which all the people of Northern Ireland can feel comfortable. I believe this is attainable, based on the fundamental principle of consent, and on the Mitchell principles of democracy and non-violence.

The Government considers that as part of that process wide-ranging discussions incorporating views and comments from across the community should be aimed at establishing agreement on the principles underpinning policing in a peaceful society. All views and comments made to Government will be welcome, and carefully considered. Particular issues will be identified which will need further, more detailed examination. This will take time.

Meanwhile, the Government, working with the Police Authority, the ICPC and the Royal Ulster Constabulary, will continue to look for and implement improvements to the policing service, delivered to the people of Northern Ireland in accordance with principles of fairness, justice and impartiality.

And, if we succeed in bringing about a political agreement leading to a peaceful society, questions will have to be faced about the size of the police service. We will deal with any changes this will entail with sensitivity and generosity.

MARJORIE MOWLAM

INTRODUCTION AND AIM

1.1 The Government sees the overall aim of discussions on policing as to reach a broad consensus which defines the role, structure and accountability of an acceptable police service in a peaceful society. Continuing violence might require additional powers (and attendant safeguards), but this paper is focused on policing in a peaceful environment.

1.2 This paper is intended as an aid to those discussions. It poses some fundamental questions; broadly sets out the Government's own position on those questions; and seeks views and comments from others.

1.3 The first part of the paper asks:

- why do we need a police service in Northern Ireland?
- What should the police do? and
- What powers do the police need to do their job?

1.4 The second part of the paper asks:

- How should the police go about their tasks?
- How should the police be recruited and trained?
- How should they be organised and funded?

1.5 The third part of the paper deals with questions of accountability, asking

- to whom the police should be accountable and in what way?
- How can society make sure that its needs are being met?

- What happens if things go wrong? and
- What is society's role in contributing to successful policing in partnership with the community?

PART I

WHY HAVE A POLICE SERVICE AND WHAT SHOULD IT DO?

2.1 No society exists without some method of regulating the behaviour of its citizens; the justification for this is the general well-being and safety of the citizens of that society. In most societies, acceptable and unacceptable behaviours are codified into law, and there is some form of recognised, organised body to encourage (and if necessary enforce) adherence to accepted behaviour; and to bring to account (generally before a separate and independent body) those who transgress the law. These basic principles are widely recognised as forming essential foundations for human rights protection.

2.2 In the United Kingdom these fundamental requirements are met through a long tradition of law made through Parliament, and so representing a broadly based democratically mandated moral consensus; a police service charged with upholding the law, which is independent of the Executive, and accountable both to the law (through the Courts) and to the community (through Police Authorities and directly by public opinion); and a judicial system independent of both the Executive and Parliament, but whose decisions have to take place within the law set by Parliament and subject to review within the judicial system, ultimately by Appeal to the House of Lords.

2.3 In such a complex modern society, the following factors are likely to determine the success of a police service:

- that they are effective in addressing the problems encountered by society;
- that they do so efficiently, making good use of the resources provided by society;
- that they have an ethos which encourages openness, participation, and partnership with those from all backgrounds and walks of life;
- that they are accountable to the society it serves but
- carries out their duties impartially, free from partisan political control; and so are
- acceptable to the vast majority of the community.

2.4 In pursuit of these key attributes, the police in Northern Ireland must:

- protect and reassure all members of the community; by having the necessary skills and resources to combat effectively threats to the safety and security of society,; and by countering the special problems posed by organised and international crime, through co-operation and participation within the frameworks of the national and international agencies (eg National Criminal Intelligence Service; Interpol; Europol);
- prevent crime and disorder, wherever possible without force or recourse to courts, by playing their part in the overall criminal justice system to educate and divert those most at risk of falling foul of the law; and co-operating with other criminal justice and social agencies to facilitate the

resolution of problems in conjunction with the community as a whole;

- uphold the law fairly and impartially; in accordance with national and international standards for efficiency, effectiveness, and professionalism, so helping to maintain a peaceful society in which individuals can go about their lives with minimal interference consistent with the need to maintain law and order; and
- bring to justice those who break the law; thereby
- protecting the fundamental rights of individuals in society.

2.5 The Government considers that the Royal Ulster Constabulary, in very difficult circumstances and at considerable sacrifice, have played their full part in endeavouring to meet these attributes; and that their success in meeting these criteria is reflected in the recognition accorded to the RUC, not only within Northern Ireland, but in professional policing circles world-wide. The RUC will continue to do all it can to contribute constructively to the development of a peaceful, stable society in Northern Ireland; its commitment to the highest standards of professional integrity and conduct is clear.

POLICE POWERS

3.1 Police powers in Northern Ireland are primarily regulated by the Police and Criminal Evidence (Northern Ireland) Order 1989 ("PACE"). There are, in addition, a wide range of powers granted to the police under other legislation which they are charged with enforcing. For example, licensing and clubs, betting and gaming, and road traffic, to name but a

few. Police powers and their attendant safeguards fall principally within the following categories:

- Powers to stop and search persons (and vehicles);
- Powers to enter, search and seize property;
- Powers of arrest;
- Powers of detention; and
- Powers to interview suspects.

3.2 The Secretary of State for Northern Ireland has issued 5 Codes under the Police and Criminal Evidence (Northern Ireland) Order 1989, which regulate practice under that Order in respect of:

Code A the exercise by police officers of statutory powers of stop and search;

Code B the searching of premises by police officers and the seizure of property found by police officers on persons or premises;

Code C the detention, treatment and questioning of persons by police officers;

Code D the identification of persons by police officers;

Code E the tape recording of interviews by police officers at police stations with suspected persons.

3.3 The first edition of Codes A-D came into force on 1 January 1990. The current edition, which came into force on 29 July 1996, contains a revised edition of those four codes and, for the first time, Code E on tape recording of interviews with suspects.

3.4 Many of the revisions were made following recommendations by the Royal Commission on Criminal Justice, which reported in 1993 and by changes in police powers contained in the Police (Amendment) (Northern Ireland) Order 1995.

3.5 The codes were revised after extensive public consultation and many of the comments received are reflected in the text.

3.6 The PACE legislation and its codes reflect current thinking on the best practical balance between unfettered police powers to combat crime on one hand, and the need for safeguards for individuals, and for due process, on the other. This has been the subject of recent, careful consultation, but any views on these provisions, and on their operation will be welcome, and will be considered.

PART II

HOW SHOULD THE POLICE CARRY OUT THEIR FUNCTIONS?

4.1 The role of the Constable

Traditionally, policing in Northern Ireland, the rest of the United Kingdom, and indeed much of the rest of the world has

been carried out primarily by patrolling police officers, whether on foot, or in vehicles. These officers are clearly visible and distinguishable from the rest of the population, through a distinctive uniform; have (as described above) significant powers, held as individuals in their office of Constable, not possessed by individual citizens, and form part of a disciplined, unitary organisation with its own internal structure, having responsibility (under the law and subject to accountability arrangements) for a given geographical area.

4.2 Policing in Partnership

However, it is now increasingly recognised that the traditional uniformed officer may be only one of a number of elements which go to make up the kind of problem solving, proactive, policing partnership which the public now demand and which is needed to tackle the difficult issues facing society today. Many problems the police used to have to tackle alone, are now recognised as better addressed in multi-agency partnerships. Within some of these the police may need to play only a relatively minor, if key role. A number of jurisdictions have also tried, successfully, schemes in which reputable members of the community, (uniformed or not) have performed tasks, in co-operation with the police, which might have been regarded as solely "policing" tasks. These tasks have included acting as contact points between the community and the police; undertaking certain beat patrol tasks (although relying upon the traditional uniformed officer to deal with any incidents which occur in the course of a patrol); and helping to promote crime prevention initiatives, ranging from property marking to prevent burglary and theft,

to participating in or leading activities to divert young , people from anti-social activities.

4.3 There are many different ways in which these ideals of partnership and involvement between the police and the community can be realised. This paper is not the place to explore the possibilities (the Consultation paper 'Your Voice - Your Choice' also covers some of these issues); but this is an area where views would be welcome, including on how best to take forward discussions, and implement changes identified as desirable.

POLICE STANDARDS

5.1 Policing requires unique access and contact with individuals, many of whom are vulnerable or disadvantaged. So, no matter what systems the police use to perform their role at grass roots level, proper arrangements must be in place for propriety and accountability, and to ensure that all those involved in policing are properly selected, trained, and organised for the tasks they face, and are properly regulated with clearly defined roles, and are answerable for their actions.

5.2 In performing their functions - which essentially involve enforcing, in partnership with other statutory agencies, as part of the criminal justice system, agreed standards of behaviour for society - what standards should the police themselves adhere to?

5.3 The Government believes that members of the police need to be:

- honest - those appointed to the police must be free from corruption and of conspicuously good character, in order to earn public trust and credibility;
- fair - police officers must be impartial and sensitive in their dealings with the public - again it is important that this is seen to be the case;
- have strong personal courage and self-discipline in facing difficult situations where duty requires them to intervene: they must be capable of exercising restraint under pressure, even when provoked;
- courteous - members of the police must be polite and respectful to all members of the society they serve;
- open and approachable - offering reasonable explanations of their duties, decisions and actions to the public when asked to do so; able to listen sympathetically to people's fears and concerns; and able to react constructively and intelligently to criticism;
- in touch with and sensitive to their local community, and to the differing needs and views of individuals;
- recruited, appointed, and promoted openly and fairly in accordance with recognised standards of best practice, based upon merit;
- disciplined fairly, in accordance with clearly defined rules, and in an equitable manner.

5.4 The Government believes that the highest standards are rightly demanded of police officers, as set out in the RUC's Code of Professional Policing Ethics, and Statement of Purpose and Values. Existing systems are intended to ensure that these requirements are met; but the Government invites views

on whether further improvements are needed, and if so, how these could be achieved.

5.5 The requirements also raise a number of questions about the personal lives and qualities of individual members of the police service. The Government believes it is highly desirable for the police to be representative of the society they police. Indeed, police officers are also members of that society and it is important that the police should facilitate membership from all sections of society.

5.6 But there are a number of fundamental questions:

- Should police officers be required to live where they work?
- Might it be better if they come from within the particular local community they police?
- How could such communities be defined and delineated? What safeguards, against favouritism for example, would be required?

Alternatively,

- Should police officers (as a matter of policy, and a safeguard against corruption) not serve in the geographic area where they or their families originate?

More generally,

- should there be limitations on who can join the police? If so, what sort of limitations are needed, and why?

- What restraints, if any, should be placed on the lives and activities of police officers, outside work?
- Should they be required to declare membership of private societies, and religious or political organisations? Or should such membership be banned?

Turning to recruitment issues

- Should there be formal quotas for female officers?
- What about sexual orientation?
- And community background, in terms of religious affiliation or ethnic origin? Should there be formal quotas for these aspects, too?
- What about class divisions, and political views?

Should the police try to ensure that recruitment procedures are neutral in all such respects? How could this be achieved?

STATUTORY AND FUNDING FRAMEWORK

6.1 The Government currently sets the overall framework for policing, and finances it, as an integral part itself of the "tripartite" structure for policing. The money (some £660m annually) comes from the Northern Ireland Block. The Government's own proposals for some of the mechanics of police finance, planning and accountability, are set out in the Police (Northern Ireland) Bill, currently before Parliament. This is aimed at improving organisational efficiency, effectiveness and accountability by clarifying and strengthening the roles of the Chief Constable, the Police Authority, and the Secretary of State. By setting up the

independent Police Ombudsman to deal with complaints, the Bill aims to improve also accountability at an individual and operational level.

6.2 But there are wider dimensions to policing. Should there also be a formalised North-South dimension to police co-operation in the island of Ireland, building on the good relations which already exist between all the police services of these islands? If so, what might this be? How might this be co-ordinated with the position of Northern Ireland as part of the UK; and with the UK's membership of the European Union? Is there scope for further practical co-operation measures eg shared computer facilities or shared training? Are there particular problems where such co-operation is particularly needed - perhaps drugs, or car theft?

STRUCTURE AND ORGANISATION

7.1 Any examination from first principles of policing also raises issues about the structure and organisation of the Royal Ulster Constabulary. Should it continue to be a unitary service? Should its internal structures be aligned with those of other, Northern Ireland public service structures eg District Councils? Should it continue to be both a Northern Ireland-wide organisation and have elements of regional/local organisation? Should it be more clearly delineated on functional lines - eg a Traffic and Highways Branch dealing with traffic offences, and crimes occurring on roads; a Drugs Branch; a Criminal Investigations Branch, dealing with major criminal cases, etc?

POLICE COMPOSITION, RECRUITMENT, AND TRAINING

8.1 At 1 October 1997 monitoring revealed that the minority community occupied 8.24% of posts in the Regular RUC. The percentage of applicants to the RUC perceived to be from the minority community was 12.2% at the January 1994 competition; this had increased to 14.8% in 1996. Of those accepted in 1996, 15.93% were from the minority community. (Applications received in respect of the 1997 competitions have not yet been analysed.)

8.2 At 31 January 1998 monitoring revealed that women occupied 10.87% of posts in the Regular RUC. At Superintendent rank 0.72% of the posts are occupied by women.; 7.41% at Chief Inspector; 4.16% at Inspector; 6.53% at Sergeant; and 12.71% at Constable.

8.3 Equality of opportunity in the RUC is an important issue for the Government, the Police Authority and the Chief Constable, and for society more widely.

8.4 The RUC is subject to fair employment legislation and works in close conjunction with the Fair Employment Commission and Equal Opportunities Commission. The Chief Constable has publicly stated his determination to increase Roman Catholic representation, and to make the RUC a more welcoming environment for women officers. Circumstances in Northern Ireland in recent years have deterred many Roman Catholics from coming forward to join the RUC; women have faced disadvantages too. The Royal Ulster Constabulary has made, and continues to make, strenuous efforts to ensure equality of opportunity, both for applicants and for serving members.

8.5 Following his recent inspection of the RUC, Her Majesty's Inspector of Constabulary commented favourably on the scope and quality of work carried out by the RUC's Equal Opportunities Unit and the contribution it has made to promoting commitment to equal opportunities principles and practice throughout the RUC.

8.6 A programme of Community Awareness now forms part of initial recruit training. This enlists substantial support and contributions from community representatives, academics, the clergy and minority groups. Students are invited to examine the impact of their own background on their personal development, beliefs and opinions and given the opportunity to compare these with individuals with differing social background and political or religious beliefs.

8.7 Provision is also made for visits to churches of different faiths and discussion of issues such as community perceptions of the RUC, policing a divided society and human rights issues.

8.8 The introduction of the Community Awareness Package has been so well received by Initial Training Students that it has been expanded to other officers. The package aims to prepare officers to deliver a uniform standard of quality service to all the people of Northern Ireland; arrangements are in hand to ensure that the programme continues to build up, on a rolling basis, across the whole RUC.

- What other measures could be taken to enhance recruitment and training procedures, and to address the problems which are associated with its composition?
- What safeguards might be required?
- What role might factors such as symbols and ethos play? How might these be addressed?

8.9 The Northern Ireland Affairs Committee is currently conducting an Enquiry into these issues; and the Government will be considering its Report in due course.

PART III

ACCOUNTABILITY

9.1 Under the United Kingdom's traditional, tripartite policing structures, the police operate - as part of the criminal justice system - free from direct political control and influence in enforcing the criminal law, so ensuring that officers can uphold the law, pursue inquiries and make decisions about whether to arrest and prosecute individuals, on a professional basis without the risk of partisan political interference. This is the essence of 'operational independence'. Nonetheless, it is right and proper that society should be able to exert clear and tangible influence over the priorities and approach of the police, because policing involves addressing a range of society's problems; and the police exist to perform these functions on behalf of society as a whole.

9.2 In exercising its powers on behalf of society, any police service must have clear and unambiguous rules and

standards which explain the extent (and limits) of these powers. In addition, there must be effective and transparent ways of making the police answerable ('accountable') for their actions as and when a breach of those rules or standards is alleged to have taken place; and fair and rigorous means of redress if a breach is established.

9.3 The Government believes that the following are vital components of any system of police accountability:

- The police must only act within the law;
- The police must continue to be duly constituted under the law;
- Police officers must continue to be accountable to the law for their actions, in the same way as ordinary citizens;
- There must continue to be clear, publicly available legal codes which set out the powers the police have; and the laws they enforce. These must balance the need to protect society against criminal behaviour, with protecting the individual freedoms of its citizens and must be democratically mandated;
- The public must be aware of, and understand the role and responsibilities of the police, and their own role in assisting the police to fulfill those responsibilities;
- There must be an open, accessible and independent means of investigating complaints against the police;
- There must be clear and effective mechanisms by which people at a local level can bring their concerns, fears and needs to the attention of the police;

- There must be tangible and clear ways for people to influence police priorities and policies - but not control individual police actions;
- There must continue to be bodies representative of the community, within which the police can be held to account for their use of resources and their achievement of policing objectives;
- There must continue to be independent, professional means of inspecting the police to ensure proper standards of effectiveness (eg by Her Majesty's Inspector of Constabulary).
- Policing is an expensive business (currently costing some £650m a year) so there must be effective ways of ensuring that money is well spent and resources allocated to best effect.

TO WHOM SHOULD THE POLICE BE ACCOUNTABLE; AND HOW?

10.1 Solutions to problems of accountability must give a voice to all who have a stake in promoting a peaceful and civilised society; must simultaneously achieve a balance between the accountability, and the freedom from partisan political control or influence, of the police; and must be workable in practice. Such solutions are not easy to devise. However, to be effective and command widespread support, the Government believes the police must be responsive to views at a variety of levels. Each level raises questions about the part it should play. Some ideas are set out in "Your Voice - Your Choice", the consultation paper on community and police partnership; views on these are welcome.

10.2 In addition, one of the Government's primary duties is to secure the safety of its citizens and their property, and to ensure their protection by the law.

10.3 How can these fundamental responsibilities and duties be reflected in any new arrangements? And what part should any new institutions play? As policing in Northern Ireland does not, and cannot, take place in isolation from the rest of the UK, or from the international scene, how could relationships between any new institutions and the Government be structured?

CONCLUSION

11.1 In any society, if the police are to command public confidence and support and so best fulfil the vital role society requires of them, they must be capable of efficiently delivering an effective policing service impartially and fairly. Above all, a police service which cannot uphold the law will fail to win public confidence and acceptance. But the law itself has to command widespread support; and individuals and groups must behave responsibly in accepting the rule of law, even when this may be perceived as contrary to their own self interest. Police accountability must, therefore, go hand in hand with the need to allow the police the flexibility, powers and freedom to get on with their job, on behalf of the whole community; and with community support for the body of the law itself.

11.2 Accountability, efficiency and effectiveness alone are not sufficient for the police to be successful. The community has rightly high expectations of its police, and looks to them for protection of recognised rights, for the preservation of

order, and for the upholding of the law. But the implicit contract with the community imposes duties on the community, as well as on the police. Those duties include co-operation with the police and criminal justice agencies, and the acceptance of the rule of law.

11.3 It follows that policing can only succeed on the basis of what has become known (in the context of UK policing) as consent. That consent can only be achieved in a genuine two-way process, in which:

- there has to be acceptance of the legitimacy of the law, on the basis that it is the product of due democratic process;
- that law must be upheld impartially, fairly and effectively;
- communities must embrace the duly constituted police in upholding the law; and reject resort to violence or support for vigilante action;
- everyone must take, within duly constituted structures and processes, their share of responsibility for policing.

11.4 How can this vital process of consolidating community support for law, and for the upholding of law, be facilitated?

- What more needs to be done, by whom?
- May there be a case for a wide-ranging, multi-faceted review of policing, perhaps by an Independent Commission, to produce recommendations to inform the Government and the parties? If so, should the establishment of this Commission follow from and be part of any broader political agreement?

- Or should the Government itself in consultation with the other parties, take forward any necessary changes which have been identified?

VIEWS, COMMENTS AND IDEAS ON ANY ISSUES IN THIS DISCUSSION PAPER ARE WELCOME, AND SHOULD BE SENT TO:

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The Government may be asked to publish the responses to this paper. Those who wish their comments to remain confidential should indicate this clearly in their replies.