

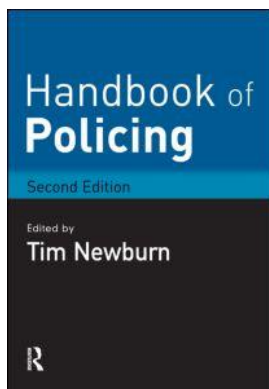
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Chapter 9

The police service of Northern Ireland

Aogán Mulcahy

Introduction

Northern Ireland currently occupies a hugely prominent position globally in respect of police reform debates. Although the historical 'lessons' from Northern Ireland were invariably negative (Mulcahy 2005), the ambitious police reform programme outlined in the 1999 Patten Report, and which formed a key pillar of the peace process, has moved Northern Ireland centre-stage as a 'model' for debates about police reform generally. This chapter outlines historical and contemporary developments in relation to policing in Northern Ireland. First, I consider the historical context of policing during the Troubles, particularly in terms of the role of the Royal Ulster Constabulary (RUC) and its relationship with the public. I then examine the issue of police reform during the peace process, discussing in detail the recommendations of the 1999 Patten Report. The third section assesses the implementation of the reform programme, the emergence of the Police Service of Northern Ireland (PSNI), and the impact of this on police oversight and operational policing. The chapter concludes by considering the implications of these developments for wider debates on policing and police reform.

Historical context of policing in Northern Ireland

The history of policing in Northern Ireland is immutably tied to issues of state, and to the competing territorial claims and allegiances of unionists/loyalists and nationalist/republicans. Created following the partition of Ireland in 1921, the state of Northern Ireland was designed from the outset to reflect the political interests of unionists who wished to remain part of the United Kingdom, and who comprised approximately two-thirds of the population. The state was, from the beginning, riven with insecurity due to the significant nationalist minority within its borders, whose allegiance was to a united Ireland, as well as strained political relations with the Irish Free State (later the



Irish Republic). Issues of security dominated the consciousness of the unionist establishment, and ultimately this was pursued through strategies of domination rather than accommodation. The Royal Ulster Constabulary (RUC) played an overt role in state security, and it was supported in this by a controversial militia force, the Ulster Special Constabulary (also known as the 'B' Specials), and by an extensive range of legislative powers (most notably, the Civil Authorities (Special Powers) Act 1923).

Fifty years of one-party rule followed, but by the late 1960s a vocal civil rights campaign developed in protest at the discrimination that characterised the state's treatment of the Catholic nationalist community, particularly in relation to the gerrymandering of local government boundaries and discriminatory housing allocation. Civil rights marches were met with loyalist counter-protests, often resulting in violence, and serious disturbances spread across Northern Ireland resulting in the deployment of the British Army in August 1969. The RUC was heavily criticised for the heavy-handed and partial manner in which its officers policed the civil rights movement (Cameron Committee 1969: 72–4), including indiscriminate machine gun fire resulting in civilian deaths, the 'failure to prevent Protestant mobs from burning down Catholic houses' and 'the failure to take any effective action to restrain or disperse mobs, or to protect lives and property' (Scarman Tribunal 1972: 15–16). Cumulatively, the police response to the civil rights movement generated what the Scarman Tribunal described as 'the fateful split between the Catholic community and the police' (1972: 15).

Against this backdrop, a reform agenda was outlined in the 1969 Hunt Committee Report. It proposed abolishing the Ulster Special Constabulary, and establishing a civic ethos within the police by removing responsibility for state security from the RUC and disarming its officers, as well as many other measures such as the establishment of a Community Relations branch. Its implementation, however, was overtaken by events as levels of violence escalated dramatically, particularly following the introduction of internment without trial in 1971 and the shooting dead of 13 members of the public (a 14th victim later died from his injuries) on 'Bloody Sunday' in January 1972. The Northern Ireland parliament in Stormont, Belfast, was suspended, and direct rule from Westminster was established.

As levels of paramilitary¹ activity increased greatly, the army was directly involved in providing day-to-day security throughout Northern Ireland. However, the military techniques being practised had evolved from colonial campaigns and were not well suited to a peace-keeping function; army actions often proved controversial, counterproductive and damaging to public support for the security forces. Moreover, the use of emergency measures such as internment without trial, and the granting of 'special category status' (akin to prisoner-of-war status) to paramilitary prisoners, was viewed within the British political and military establishment as unsustainable in the long term. With high levels of paramilitary activity, and no hope of an imminent political breakthrough, the British government undertook a major review of security issues and gradually moved away from a conflict management strategy predicated on emergency measures to one instead based on normalisation.

Normalisation involved a range of overlapping measures that characterised the conflict as a 'law and order' problem rather than a crisis of state legitimacy. Henceforth, the army, which previously had taken the lead role in maintaining security and order, would instead play a supporting role. In its place, the police would now assume primary responsibility for security in Northern Ireland. Although there were some areas, especially along the border, where the police could not maintain a routine presence due to the security risks involved (a situation that persisted up until the late 1990s), police primacy nevertheless was based on the premise that an expanded and better trained and equipped police force could successfully counter paramilitary violence. This involved increasing police capacity dramatically: expanding police numbers, providing better training in public order policing (see Waddington, this volume), increasing the level of weaponry available to officers, and other measures such as the creation of specialist squads and a far greater emphasis on intelligence gathering. In addition to increased police capacity, police primacy also involved enhancing police professionalism generally, in an effort to assert the RUC's role as an impartial police service and thereby secure increasing levels of support among the Catholic community.

From the late 1970s onwards, the RUC became increasingly preoccupied with demonstrating its professionalism and impartiality. The manner in which it policed unionist protests against the 1985 Anglo-Irish Agreement in particular – which brought the police into direct conflict with mainstream unionism – seemed clear evidence of this shift (Hermon 1997). But police primacy also ensured that the police were now at the forefront of the government's conflict management strategy, and this expanded range of activities and responsibility also embroiled the police in a series of damaging scandals. In the late 1970s allegations surfaced routinely that suspects were beaten during interrogations. In the early 1980s, allegations of a shoot-to-kill policy emerged following the killing of six members of the public by the security forces over a three-week period in Armagh. From the mid-1980s in particular, far-reaching allegations of collusion between members of the security forces (including RUC Special Branch) and loyalist paramilitaries further undermined the RUC's claims of professionalism.

In addition to controversies related to security policing, the issue of police effectiveness against 'ordinary' crime also affected levels of public support for the RUC. Although Northern Ireland, even at the height of the Troubles, enjoyed relatively low levels of 'ordinary' crime when compared with other European societies, the difficulties of maintaining a routine police presence in some areas ensured that a 'policing vacuum' developed, with hugely negative consequences for community safety there (see generally, Brewer *et al.* 1997). In republican and, to a much lesser extent, loyalist areas, hostility towards the police ensured that residents in those areas were often reluctant to engage with the police over any issue. Even if some residents did want to do so, fear of intimidation from their neighbours often inhibited them from doing so. In addition, the risks that officers faced in responding to calls for service ensured that the RUC's civic policing activities – such as crime prevention and detection activities – were enormously curtailed.

Against this backdrop, paramilitary organisations operated a system of 'alternative justice' as a response to criminal behaviour in those areas.

Although in terms of media coverage it was most closely associated with physical punishments – especially beatings and kneecappings (Feenan 2002) – this system also functioned as an alternative to the policing provided by the RUC (notwithstanding the massive controversy and criticism it generated; see Kennedy 1995). Although the nature and scale of paramilitary punishments shifted in response to the wider political context, this system of alternative justice remained in place throughout the conflict and into the peace process, providing a vivid demonstration of the real difficulties and controversies that surrounded the issue of police legitimacy (Ellison and Shirlow 2008).

These issues cumulatively had a profound impact on levels of public support for, and confidence in, the police. Survey data revealed the starkly different attitudes held by Catholics and Protestants on different aspects of policing and security policy. Table 9.1 demonstrates that approximately half or more Catholic respondents believed that the RUC treated Protestants better than Catholics, while a significant minority of Protestants also held this view. Table 9.2 demonstrates a similar gulf in the attitudes of Catholic and Protestant respondents towards various security issues.

Table 9.1 Public perceptions of police impartiality, 1986–94

	1986	1989	1990	1991	1992/3	1993	1993/4
% of Protestants who think the RUC treat Protestants better than Catholics	11	13	12	18	22	17	19
% of Catholics who think the RUC treat Protestants better than Catholics	56	52	54	48	55	48	50

Source: Mulcahy (2006: 68).

Table 9.2 Public attitudes towards security issues

	Catholics agreeing (%)	Protestants agreeing (%)
House searches are used too little	3	26
House searches are used too much	35	3
Random searches of pedestrians are used too little	6	32
Random searches of pedestrians are used too much	41	3
Vehicle checkpoints are used too little	9	34
Vehicle checkpoints are used too much	40	8
Approve of 'shoot-to-kill' actions against terrorist suspects	7	61
Approve of increased use of undercover surveillance operations	25	90
Approve of use of plastic bullets during riot situations	9	86

Source: Mulcahy (2006: 70), adapted from Weitzer (1995: 137) using data from 1978–1990.

The relationship between unionists and the RUC had begun to change in significant ways from the 1980s onwards as the force embarked on a sustained

process of professionalisation to enhance its claims of impartiality. Nevertheless, in terms of its function, composition, ethos and symbolism, to many nationalists it remained an institution that protected unionist political interests and reflected a unionist identity. Increased professionalism on the part of the RUC did make inroads into nationalist opinion, but any gains made in levels of public support tended to disappear once security policing was examined. As Whyte (1990: 88) famously noted, Protestants and Catholics disagreed more on what he termed the 'unhealed sore' of security policy than they did on constitutional questions.

The republican and loyalist paramilitary ceasefires announced in 1994 appeared to signal an end to the conflict, but the ensuing peace process was characterised by mutual suspicion, uncertainty and setbacks. Political progress was hostage to this uncertainty, and the newly-established Northern Ireland Assembly was suspended on several occasions. The IRA also ended its ceasefire in 1996 by bombing Canary Wharf in London, returning to a ceasefire status in July 1997. As the peace process staggered towards a resolution, it was apparent that the controversy and emotion that attached to debates on policing during the Troubles had not abated. The issue of police reform instead formed the most controversial aspect of the peace process.

The Patten Report and police reform

Political negotiations during the peace process culminated in the 1998 Belfast Agreement (also known as the Good Friday Agreement). Although the negotiators had been able to reach agreement even on the release of paramilitary prisoners, the issue of policing was instead deferred for consideration by an Independent Commission on Policing (ICP), with the broad remit of bringing forward 'proposals for future policing structures and arrangements, including means of encouraging widespread community support for those arrangements' (Northern Ireland Office 1998: 27–8). Chaired by Chris Patten, the Commission drew together considerable local and international expertise in policing and organisational change. It embarked on an extensive consultation process, including a series of highly emotionally charged public meetings, as well a review of policing structures in other jurisdictions. The Report acknowledged the contentiousness of policing, and its centrality to the dynamics of the conflict:

Policing has been contentious, victim and participant in past tragedies, precisely because the polity itself has been contentious. The consent required right across the community in any liberal democracy for effective policing has been absent. In contested space, the role of those charged with keeping the peace has itself been contested. The roots of the problem go back to the very foundation of the state. Since 1922 and the establishment of the Royal Ulster Constabulary (in part drawn from the ranks of the old Royal Irish Constabulary), the composition of the police has been disproportionately Protestant and Unionist. This has become much more pronounced during the last 30 violent years for reasons that

we shall examine later. Both in the past, when the police were subject to political control by the Unionist government at Stormont, and more recently in the period of direct rule from Westminster, they have been identified by one section of the population not primarily as upholders of the law but as defenders of the state, and the nature of the state itself has remained the central issue of political argument. This identification of police and state is contrary to policing practice in the rest of the United Kingdom. It has left the police in an unenviable position, lamented by many police officers. In one political language they are the custodians of nationhood. In its rhetorical opposite they are the symbols of oppression. Policing therefore goes right to the heart of the sense of security and identity of both communities and, because of the differences between them, this seriously hampers the effectiveness of the police service in Northern Ireland. (ICP 1999: 2)

Against this backdrop, and in the context of an uncertain political climate, the Commission argued that its recommendations for future policing arrangements 'make sense regardless of the broader political context. They touch on the efficiency, acceptability and accountability of the police service in Northern Ireland in any imaginable circumstances' (ICP 1999: 2). As such, the Commission noted that its recommendations were framed by a series of 'tests' that each proposal had to satisfy (1999: 6):

1. Does this proposal promote effective and efficient policing?
2. Will it deliver fair and impartial policing, free from partisan control?
3. Does it provide for accountability, both to the law and to the community?
4. Will it make the police more representative of the society they serve?
5. Does it protect and vindicate the human rights and human dignity of all?

Overall, the Report made 175 recommendations covering the gamut of policing activity. Underpinning these, however, were two key concerns: human rights, and the relationship between the police and the public.

In relation to human rights, the Report noted that policing was fundamentally concerned with the 'protection and vindication of the human rights of all' (ICP 1999: 18), and recommended 'a comprehensive programme of action to focus policing in Northern Ireland on a human rights-based approach'. Human rights, the Commissioners claimed, 'should inspire everything a police service does. It should be seen as the core of this report' (ICP 1999: 20). In terms of specific proposals, the Report recommended a new oath of office with human rights at its core, and a new code of ethics that integrated the European Convention on Human Rights 'into police practice'. It called for all police service employees to receive full and ongoing training in human rights, and for 'the human rights dimension [to] be integrated into every module of police training'. The Commissioners noted that even in 1999, of the 700 training sessions recruits received, only two were devoted to human rights, compared

with 40 on drill and 63 on firearms training. The Report also proposed that awareness of, and respect, for human rights should form part of the appraisal of police officers, and that a lawyer with human rights expertise should be appointed to the staff of the police service.

In terms of relations between the police and the public, the Report highlighted the fact that effective and accountable policing involves 'a real partnership between the police and the community' (ICP 1999: 8). It noted that: 'it is not so much that the police need support and consent, but rather that policing is a matter for the whole community, not something that the community leaves to the police to do. Policing should be a collective community responsibility: a partnership for community safety' (ICP 1999: 8). Accordingly it argued that 'policing with the community should be the core function of the police service and the core function of every police station' (ICP 1999: 43).

The Report recognised that a peaceful environment would bring a significant reduction in the overall size of the force, and proposed significant changes in terms of the recruitment and composition of the PSNI. In an effort to bring Northern Ireland's policing ratio of 1:140 population closer to the Home Office recommended level for England and Wales of 1:390 population (Ellison 2007: 252), it sought a reduction in police numbers from approximately 13,000 to 7,500 officers and recommended a large-scale severance programme to facilitate this. It also recommended that for a 10-year-period – and with a view to increasing the proportion of Catholics within the police to 30 per cent by that time – recruitment should be on the basis of equal numbers of Catholics and non-Catholics drawn from a pool of qualified candidates. The Commission also recommended significant changes to the symbols of policing. It noted that: 'while we have not accepted the argument that the Royal Ulster Constabulary should be disbanded, it should henceforth be named the Northern Ireland Police Service' (although the British Government instead chose the name 'PSNI'). It called for all police symbolism to be free from association with either the British or Irish states.

The Report also proposed various 'normalisation' measures, including shedding the militaristic trappings that had characterised the RUC during the conflict. Significantly, the Report called for the Special Branch (which it noted was widely viewed as a 'force within a force') to be amalgamated with the Crime Branch, and for the appointment of a 'commissioner for covert law enforcement' to monitor policing activity in that sphere.

While many of the Report's recommendations addressed matters that focused directly on issues related to the police institution, particularly with a view to promoting best practice within the PSNI, it also made significant recommendations in respect of the regulation of policing generally. Specifically, the Report recognised the state's limited capacity to provide comprehensive solutions to issues of crime and security, and sought to outline various means to maximise local involvement and capacity in the authorisation, delivery and governance of security generally (see Shearing 2000, 2001; Kempa and Shearing 2002; Mulcahy 2008).

The Report's 'policing' recommendations were most evident in the new institutional framework it proposed for the governance of policing (see Jones, this volume). In addition to recommending that the doctrine of 'operational

independence' be replaced by one of 'operational responsibility' (whereby the Chief Constable could be required to justify operational policing decisions), the Report called for the creation of new agencies of oversight to ensure accountability to the public and to the law. It proposed that the ineffective Police Authority of Northern Ireland be replaced by a new Policing (rather than 'police') Board to whom the police would be accountable, and that the Board be given powers to initiate inquiries, and to require the Chief Constable to report on any issue. The Commission envisaged the Board's remit as 'going beyond supervision of the police service itself, extending to the wider issues of policing and the contributions that people and organisations other than the police can make towards public safety' (ICP 1999: 29). It proposed that District Policing Partnership Boards (DPPBs) be established in each local authority area to provide a local consultative forum. Significantly, it recommended that DPPBs should have the power to impose a local tax of up to three per cent to purchase additional policing services, whether from the police or other agencies. Drawing largely on the recommendations made in a 1997 report by Commission member Maurice Hayes, the ICP Commission also proposed the establishment of a fully independent agency – the Office of the Police Ombudsman of Northern Ireland (OPONI) – to monitor and investigate complaints against the police.

The Patten Report was published in September 1999 to a combination of acclaim and outrage. For unionists, initially at least, the proposed changes to the RUC's symbolism were seen as an enormous slight, and prominent campaigns to 'save the RUC' were launched. The Report had studiously avoided any detailed analysis of past policing practices and instead focused on future arrangements. However, by failing to outline in detail the case for reform, the ICP may have inadvertently contributed to unionist perceptions that there was no significant case for reform in the first place. RUC officers also criticised the Report, both for the wholesale changes it recommended and for the perception that it failed to give due recognition to the casualties sustained by officers during the conflict, including 302 officers killed and many thousands seriously injured. In other quarters, though, the Report received a much warmer reception for the sustained and imaginative manner in which it sought to outline the basis of 'a new beginning for policing in Northern Ireland'. Although the British Government accepted the Patten recommendations 'in principle', the implementation process was tortuous in the face of sustained criticism (from ICP members and others) that government proposals were departing in significant ways from the Patten recommendations. Two pieces of legislation (the Police (Northern Ireland) Acts of 2000 and 2003) and two implementation plans were required to enact the Patten recommendations and for the nationalist Social and Democratic Labour Party (SDLP) to participate in the new institutions, although Sinn Fein refused to do so until 2007.

The new landscape of policing in Northern Ireland

The new structures and institutions established as part of the Patten reform programme quickly came to be viewed and promoted as a model of best

practice within the specific context of Northern Ireland, as well as further afield. The Oversight Commissioner noted that: 'The recommendations of the Patten Commission and the success of the Police Service of Northern Ireland in implementing them are now being seen as models for many police forces around the world' (Office of the Oversight Commissioner 2003: 1; see also Ellison 2007; Ellison and O'Reilly 2008; Mulcahy 2008).

The final report of the Oversight Commissioner noted that the majority of the Patten recommendations (140 out of 175) had been fully implemented, and that substantial progress had been made in respect of many others (Office of the Oversight Commissioner 2007: Appendix a). The recommendations relating to human rights issues have been 'largely accomplished' (2007: 8), and the lawyers tasked with monitoring policing compliance with human rights stated that: 'the PSNI continues to set the standard that other police services in the UK should aspire to' (Starmer and Gordon 2006: i). Furthermore, the composition of the police service has changed dramatically under the 50:50 recruitment policy. Approximately 2,790 officers left under the severance programme, and recruitment campaigns increased the proportion of Catholic officers within the service from 8 per cent in 1998, to nearly 24 per cent by February 2008. In charting the implementation process in previous reports, however, the Oversight Commissioner repeatedly criticised the PSNI for appearing to 'cherry pick' (2003: 15) among recommendations, and he specifically criticised the pace of change in relation to a number of issues, including the establishment of a new police training college, the civilianisation programme, the effective incorporation of human rights issues within the training programme, and the merging of Special Branch with the Crime Branch. In his final report, the Oversight Commissioner also offered a note of caution, stating that some of the ICP recommendations 'remain unfulfilled and there are significant future challenges that place recommendations at risk' (2007: 2-3).

Oversight and the institutional environment of policing

The new institutional environment of policing oversight in Northern Ireland comprised the Policing Board, District Policing Partnerships and the Police Ombudsman. The Policing Board soon established itself as a more robust accountability mechanism than its ineffective predecessor, the Police Authority. It created a new code of ethics for the PSNI and a framework for monitoring human rights, and developed substantial policing plans. It also held its meetings in public, although few decisions were taken at them. Nevertheless, wider political conflicts also impacted on the work of the Board. The main political parties were allocated seats on the Board under the d'Hondt system, and approached policing issues from diametrically opposed positions. The Democratic Unionist Party (now the largest Unionist party in Northern Ireland) 2003 election manifesto noted:

The DUP has worked tirelessly to block those Patten proposals which were not based on the principle of good policing, but on political judgements. The DUP took up its seats on the Police [*sic*] Board and the

work of Ian Paisley Jnr, Sammy Wilson and William Hay has prevented many of the Patten recommendations from being realised. (DUP 2003: 24)

Sinn Fein did not take up its seats on the Policing Board until 2007 following a party convention at which party delegates overwhelmingly voted to support policing arrangements in Northern Ireland. However, this greater engagement also highlighted many of the underlying tensions surrounding policing. For instance, following Sinn Fein's criticism of the police response to two murders in West Belfast, the Chief Constable, Hugh Orde, during a televised meeting of the Policing Board, described Sinn Fein's stance as at best 'manipulative', and at worst, 'anti-police'. In other important respects also, the effectiveness of the Policing Board was called into question. For instance, Hugh Orde stated in April 2008 that he received more strategic questions from police recruits than from members of the Policing Board.

Nevertheless, assessments of the Policing Board were generally very positive. The House of Commons Northern Ireland Affairs Committee observed that the Board had made 'solid progress in establishing its role and had developed sound mechanisms for holding the police service to account' (NIAC 2005a: 23), and the Oversight Commissioner described it as a 'great success' (Office of the Oversight Commissioner 2007: 8).

Soon after District Policing Partnerships (the term 'Boards' was dropped in the enacting legislation) were established in March 2003 they were widely acclaimed as a major success. The then vice-chairman of the Policing Board stated that DPPs had 'helped to transform the culture of policing in Northern Ireland' and that 'the reintegration of police . . . into the normal community is actually being led by district policing partnerships' (NIAC 2005a: Ev. 27). The Deputy Chief Constable endorsed that view, describing them as 'one of the biggest steps forward in policing in a long time' (NIAC 2005a: Ev. 39).

Despite this official acclaim, the reality surrounding DPPs was rather more nuanced. The Oversight Commissioner reported that DPPs exhibited a 'wide variation in practice' across Northern Ireland (Office of the Oversight Commissioner 2007: 17). Surveys in 2004 and 2006, respectively, found that only 17 and 15 per cent of respondents thought their local DPP was doing a good job (NIPB 2006). Even within DPPs, members expressed concern that they were not provided sufficient training by the Policing Board, and that the formality of DPP meetings inhibited genuine community consultation (CAJ 2005). In particular, the establishment of Community Safety Partnerships – a recommendation made in the Criminal Justice Review (2000: 273) – under the auspices of the Northern Ireland Office, added further complications to the role and activities of DPPs. Commentators described the existence of a two-tier overlapping system for police-public consultation on community safety and crime prevention as 'wasteful', 'burdensome', 'expensive', and 'bad on the ground level' (NIAC 2005a: Ev. 29), and as generating significant 'role confusion' that directly undermined 'optimisation of community effort' (Office of the Oversight Commissioner 2007: 15, 17). Moreover, the suspicion persisted that the creation of these parallel structures was an effort to undermine the Patten Commission's vision for strong local involvement in policing. The creation of CSPs, one Commission member speculated, was 'to ensure that the

DPPs wither on the vine' (Mulcahy 2006: 175). Ultimately, the granting of tax-raising powers to District Policing Partnerships was the only major Patten recommendation to be rejected by the British government. However, the Northern Ireland Office provided a funding scheme for crime prevention measures to which CSPs could apply. Certainly, to provide CSPs with the capacity to secure government funding for local community safety initiatives, while limiting DPPs largely to a consultative role, privileged the state above local communities, in spite of the strong community role envisaged by the Patten Commission.

The wider political context also impacted on the activities of DPPs. Following the publication of the 'Updated Implementation Plan' in August 2001, the SDLP began formally participating in DPPs when they were established in 2003. It was not until after Sinn Fein formally declared its support for the PSNI in January 2007 that its representatives began participating in DPPs. A further issue that will impact significantly on DPPs involves the restructuring of police command structures and of local government boundaries. Police reorganisation in April 2007 reduced the number of District Command Units from 29 to eight, and following the Review of Public Administration, proposals are underway to reduce the number of local authority areas from 26 to perhaps seven (scheduled to occur in 2009). The Oversight Commissioner described the uncertainty over 'whether DPPs will exist' after this restructuring as a significant concern, as it would put at risk the 'important principle of local community engagement' underpinning the Patten Report (Office of the Oversight Commissioner 2007: 213).

The establishment of the Police Ombudsman was a further accountability mechanism proposed by the Patten Report. Nuala O'Loan, a legal academic, was appointed to the post of Ombudsman. Soon after the Office of the Ombudsman became fully operational in 2001, it investigated a complaint that RUC Special Branch officers had been aware of a possible bomb attack in Omagh² but that this information had not been acted on to protect the identity of an informant. The Ombudsman's report was highly critical of how intelligence information was processed within the police service, and it also criticised the leadership of senior officers. The investigation brought the Ombudsman into direct and public confrontation with the Chief Constable, and was a significant departure from past practices in which criticism of the police by official agencies tended to be delivered in muted tones. The police response to the report can be gleaned from the Chief Constable's statement that he would resign and 'publicly commit suicide' if the allegations were proven. Even though subsequently the Ombudsman's recommendations were largely accepted, her apparent willingness to investigate complaints even at the cost of such a public confrontation with the police gave rise to unionist complaints that she was acting partially. It also damaged relations with the PSNI severely. The Chairman of the Policing Board noted in 2005 that the Omagh case 'has left a residue of mistrust that we continue to deal with' (NIACb 2005b: Ev. 52). Notwithstanding the political fallout from such events, the independence displayed in the Ombudsman's investigations provided a public marker that criticism of the police would not be avoided if it was deemed necessary.

The PSNI and operational policing

The Police Service of Northern Ireland was established on 4 November 2001 under the provisions of the Police (Northern Ireland) Act 2000 as the successor to the RUC. Despite continuing political debate about the nature and scale of the police reform programme, public concerns soon surfaced about the impact these measures were having on operational policing. By the turn of the century, levels of recorded crime began to rise markedly, from 109,053 offences in 1998/99 to 142,496 offences in 2002/03, while clearance levels began to drop, reaching a low of 20.1 per cent in 2001/02 (see Table 9.3). Personnel shortages were widely blamed for a decline in the number of routine patrols and crime prevention activities, and it seems undeniable that the rise in crime and drop in clearance rates reflected, partly at least, the loss of substantial numbers of experienced officers through the severance programme recommended by the Patten Report.

Concerns about crime levels were also related to the issue of public expectations of the police. The very momentum which had yielded the peace process and the Belfast Agreement, and the prominence and scale of the police

Table 9.3 Crime levels in Northern Ireland

	<i>Number of offences</i>	<i>Clearance rate (%)</i>
1998/99	109,053	29.0
1999/00	119,111	30.2
2000/01	119,912	27.1
2001/02	139,786	20.1
2002/03	142,496	23.0
2003/04	127,953	27.4
2004/05	118,124	28.2
2005/06	123,194	30.6
2006/07	121,144	23.6
2007/08	108,468	20.5

reform programme within it, readily lent themselves to the view that problems surrounding policing had been resolved and that a new and unproblematic era of 'normal policing' would develop organically (Mulcahy 2006: ch. 6). Moreover, the increased levels of engagement between the police and the public (involving formal contact with over 600 groups) itself generated increased expectations of the PSNI. Against this background, in 2001/02 Her Majesty's Inspector of Constabulary found that 'the Service, as a whole, was largely failing to deliver the community policing service articulated within the Patten Report and expected by the public' (2002: 1). Moreover, the Inspector further noted that public expectations of the PSNI were 'very high, and in many cases, wholly unrealistic', and that failure to meet these demands often led to 'robust' criticism of the police (2002: 19, 2). Although crime levels have dropped significantly since then (by 24 per cent),³ the Oversight Commissioner, in his final report, nevertheless noted that the goal of meeting 'the

expectations of the communities and residents of Northern Ireland . . . has not yet been reached' (2007: 3), and highlighted the difficulties associated with unrealistically high levels of expectation:

The reality of capacity issues such as resource restraints, call and response management, crime and clearance rates, coupled with the time it takes to build trust relationships, all point to an 'expectation gap'. Normalised policing is quite simply a complex, difficult and expensive business that can never fully satisfy client demand. (Office of the Oversight Commissioner 2007: 212)

Table 9.4 Public assessments of police performance

	2006 (April)		2006 (October)		2007 (April)		2007 (October)	
	C	P	C	P	C	P	C	P
<u>Performance of local police</u>								
Very/fairly good	51	56	49	54	56	65	54	67
Neither good nor poor	25	21	24	21	20	17	21	16
Very/fairly poor	22	20	25	24	22	17	23	16
Don't know/refusal	2	3	1	1	2	1	1	0
<u>Performance of police in Northern Ireland as a whole</u>								
Very/fairly good	56	61	51	65	61	69	62	71
Neither good nor poor	23	20	26	15	22	19	20	16
Very/fairly poor	18	17	21	18	13	13	15	13
Don't know/refusal	3	2	3	1	4	0	2	1

Source: Northern Ireland Policing Board (2007: Tables 1 and 2).

In terms of public assessments of local police performance (see Table 9.4), it is worth noting that generally an overall majority of Catholic and Protestant respondents rate the police as performing a very or fairly good job. Within this though, Protestants are more likely than Catholics to describe police performance as 'good' (by an average eight per cent margin across these four surveys), and less likely to describe it as 'poor'. Public assessments of police performance across Northern Ireland as a whole are higher than for the local police, but a similar pattern is evident in terms of the differences in attitudes held by Catholic and Protestant respondents. Protestants consistently perceived the police to be performing better than Catholics did (by an average margin of nine percentage points).

When we examine public perceptions of how the police treat the public (see Table 9.5), again, there are clear differences in the views expressed by Catholic and Protestant respondents. The survey results demonstrate that while an overall majority both of Catholics and Protestants view the police as treating members of the public across Northern Ireland fairly and equally, Protestants

Table 9.5 Public perceptions of police treatment of the public

	2006 (April)		2006 (October)		2007 (April)		2007 (October)	
	C	P	C	P	C	P	C	P
<u>Satisfaction that the police treat members of the public <i>fairly</i> in Northern Ireland as a whole</u>								
Very/fairly satisfied	55	74	55	71	61	72	62	73
Neither satisfied nor dissatisfied	26	15	27	17	20	17	21	16
Very/fairly dissatisfied	18	9	16	11	16	9	15	10
Don't know/refusal	1	2	2	2	3	1	2	1
<u>Satisfaction that the police treat members of the public <i>equally</i> in Northern Ireland as a whole</u>								
Very/fairly satisfied	51	70	54	68	60	71	58	72
Neither satisfied nor dissatisfied	25	15	24	17	19	17	22	18
Very/fairly dissatisfied	22	13	18	12	19	12	18	9
Don't know/refusal	2	2	3	3	2	1	2	1

Source: NIPB (2007: Tables 3 and 4).

are more likely than Catholics to view the police positively in respect of these issues. When we consider the extent to which respondents are satisfied that the police treat the public fairly or very fairly, levels of Protestant satisfaction are higher than that for Catholics by an average of 14 percentage points. In terms of perceptions of equality, levels of Protestant satisfaction with the police are again higher than that expressed by Catholics, by an average of 14.5 percentage points.

These differences in opinion between Catholic and Protestant respondents – and especially the fact that these are greater in relation to perceptions of police fairness/equality than to assessments of police performance – demonstrate that the historical patterns of public attitudes towards the RUC continue to be mirrored for the PSNI. This was recognised by the Oversight Commissioner who noted that:

It will take a determined effort over several years, on the part of the Policing Board and Police Service, to improve policing efficiency and effectiveness to the extent that it will be able to cope with demand, and an equal amount of time to build trust relationships with all of the diverse groups, both in and arriving in Northern Ireland. (Office of the Oversight Commissioner 2007: 212)

Difficulties in building trust relationships were evident in the development of 'community restorative justice' schemes in republican and loyalist areas. Although these had emerged as a means of providing an alternative to paramilitary punishment beatings, suspicion of the police ensured that the

schemes in republican areas refused to co-operate with the PSNI, although they did co-operate with other statutory agencies (see McEvoy and Eriksson 2008).

Here one issue that continued to exert an impact on public confidence in the police was the nature of past policing practices and controversies. Despite the future-oriented vision of policing articulated in the Patten Report, the peace process was littered with the debris of the conflict: competing claims of personal and communal victimhood dominated the public sphere (see generally, McEvoy 2008). In terms of policing, the legacy of the conflict was profound. Not only was the full implementation of the Patten Report recommendations continually inhibited and undermined by the slow pace of political progress in establishing the new Assembly and in reaching a full and stable agreement on issues of state, but past police activities also came under intense scrutiny.

Throughout the conflict, the police had been embroiled in a number of high-profile controversies – including allegations of the unlawful killing of paramilitary suspects, as well as the smouldering issue of security force collusion with loyalist paramilitaries – and investigations into past events were a recurring feature of the peace process. In 2003 Sir John Stevens published his third report on collusion, concluding that it had occurred in a number of murders in Northern Ireland. He also noted that his first investigation on this issue had been impeded to the extent that the building in which the investigation was housed was burnt down in ‘a deliberate act of arson’ (Stevens 2003: 13). The Police Ombudsman also investigated allegations of collusion, and reached equally disturbing conclusions. She found that collusion had occurred, including the protection of serial murderers and the destruction of evidence, and that ‘some informants were able to continue to engage in terrorist activities including murders without the Criminal Investigation Department having the ability to deal with them for some of those offences’ (OPONI 2007: 143). She further noted that a ‘culture of subservience to Special Branch had developed with the RUC’ and that Special Branch had ‘acquired domination over the rest of the organisation’ (2007: 144). The fact that these findings were made in relation to events that occurred during the late 1990s when the peace process was underway only added to their significance.

While collusion was perhaps the most controversial issue facing the police, the legacy of the conflict posed massive challenges for the police in other ways also. A Historical Enquiries Team (HET) comprising police and civilians from Northern Ireland and other jurisdictions was established in 2005 to investigate the vast numbers of unsolved murders during the years 1968–98. Although this initiative was taken to provide resolution to the families involved as well as to the wider community, it was criticised for appearing to be largely limited to providing ‘closure’ of sorts to families, rather than offering any realistic possibility of securing convictions in those cases. It was also criticised for expending resources on this vast and retrospective catalogue of cases, rather than directing them towards current operational policing needs. In addition to the HET, a number of major public inquiries were underway into key events during the conflict, including the lengthy Saville Inquiry into ‘Bloody Sunday’ in 1972, or were being considered for specific high-profile instances in which

collusion was alleged. The Police Ombudsman also had powers to investigate historical cases, and its reports contributed to this scrutiny of past policing practices. Nevertheless, the Oversight Commissioner described the Historical Enquiries Team and the Police Ombudsman as 'blunt instruments' in seeking to deal with the past, and instead urged a societal response to the legacies of the conflict, given that 'issues of the past have established a barrier in the road toward re-establishing the trust necessary for fully achieving' the goals of the Patten reform programme (Office of the Oversight Commissioner 2007: 216).

Conclusion

Police reform formed a key component of the Northern Ireland peace process. From the start of the Troubles, disputes over policing and the administration of justice had been central to the dynamics of conflict, and it was inevitable that resolution of these issues would be central to any meaningful political transition. Uncertainty remained a feature of the political process, albeit at a much lower level than in previous years. Although the threat from republican groups opposed to the peace process lessened, PSNI officers continued to be targeted. In 2007 two police officers were shot and injured in two separate incidents, in May 2008 an officer was seriously injured when a bomb placed under his car exploded, and in June 2008 two officers escaped injury when they were lured to an ambush but the bomb failed to detonate. Furthermore, although the Northern Ireland Assembly was on a firm footing, agreement on the devolution of policing and criminal justice to the Assembly still had not been reached by June 2008. Inevitably, the peace process would be littered with such incidents. However, one of the most striking features of this was the manner in which senior Sinn Féin figures strongly criticised such attacks, and called on members of the public to provide any information they had to the police. It appeared that the momentum of the peace process would not be derailed.

The Patten Report and police reform programme implemented in Northern Ireland soon achieved a mythic status for the manner in which the practice and oversight of policing had been transformed. As the Policing Board chairperson noted: 'Each year police officers, diplomats and public representatives come to Northern Ireland to be briefed on developments in policing and, in their words, to see first hand what an accountable, modern 21st Century police service looks like' (DPP Newsletter, December 2006: 3). As Ellison and O'Reilly (2008) have documented, the 'Northern Ireland Policing Model' now attracts global interest, and PSNI expertise has been sought in a myriad of contexts, including the development of community policing in Mongolia. Nevertheless, while one element of this involved attentiveness to the oversight mechanisms proposed in the Patten Report, a significant element of the global transfer of the Northern Ireland Policing Model involved the counter-insurgency and security policing expertise for which the RUC and, to a much lesser extent, the PSNI, had been renowned, but which within the context of Northern Ireland had proved so costly in terms of public support for the police.

Even in relation to the oversight mechanisms developed as part of the reform programme, significant qualifications must be raised. Dupont, for instance, has described the Patten Report as 'probably the closest attempt to date to design . . . a regulatory framework' consistent with the principles of a nodal framework (2006: 107). Nevertheless, the implementation of the Report focused more on issues of police efficiency and organisational best practice than on the recommendations concerning policing more generally. Despite the wide mandate envisaged for the Policing Board, it has remained steadfastly focused on the police, rather than on the provision and regulation of security more generally. Similarly, the recommendation that DPPs should be granted tax-raising powers was rejected by government. In that sense, the implications of the Patten Report for the 'nodal governance' approach are unclear.

While the peace process facilitated innovative responses to a range of issues, including power-sharing, police reform, and so on, it also raised the prospect of banal governance. As far as policing and criminal justice was concerned, the advent of peace was an opportunity for government to downscale the enormous and costly security infrastructure that had been in place throughout the conflict (Ellison and Mulcahy 2008). It also provided an opportunity for a managerial overhaul of structures and practices across the criminal justice system as a whole, and in many ways this was one of the clearest features of the Patten Report (Mulcahy 2006: 163–5). While in the short term it involved a large reduction in police numbers, the long-term reality was starkly noted by the Oversight Commissioner, that 'the current level of resources is not sustainable and will not be available at levels that currently exist' (2007: 215). In a manner familiar from earlier developments in Britain (McLaughlin 2006), the Oversight Commissioner stated that the police service 'must educate the public on the realities of policing and the realities of what is possible' (2007: 213). It is also clear that the PSNI faces a number of new challenges that themselves reflect the reconfiguration of Northern Irish society in light of the peace process, including responding to racist/hate crime and organised crime (Northern Ireland Affairs Committee 2005c, 2006; Northern Ireland Council for Ethnic Minorities 2005).

Policing in Northern Ireland, therefore, stands between the mythic and the mundane. The future of policing there looks immeasurably brighter than its past, and that in large part is due to the principled and imaginative programme of reform outlined in the Patten Report, and to the commitment of those charged with its implementation. It is also important, though, to realise that while the reform programme is largely complete in terms of the implementation of the Patten recommendations, any proper assessment of these changes will require an appropriate timeframe – and a longer one than is available here – for the full impact of these measures to unfold. For those very reasons, developments in Northern Ireland will continue to attract the attention of those interested in the role of policing in political transitions, as well as in operational policing generally.

Notes

- 1 The main republican paramilitary organisations involved in the conflict were the Irish Republican Army and the Irish National Liberation Army. The main loyalist organisations were the Ulster Defence Association and the Ulster Volunteer Force.
- 2 On 15 August 1998, 29 people were killed when the Real IRA (a republican paramilitary organisation opposed to the peace process) exploded a car bomb in Omagh town centre. It remains the largest loss of life associated with a single incident in Northern Ireland during the conflict.
- 3 By 2005/06 the clearance rate had risen to 30.6 per cent, but it fell to 23.6 per cent in 2006/07 and to 20.5 per cent in 2007/08 largely due to changes in the processing of cases in which no prosecutions resulted (see Ellison and Mulcahy 2008).

Selected further reading

A New Beginning, the 1999 report of the Independent Commission on Policing, should be the starting point for all researchers exploring contemporary policing arrangements in Northern Ireland. The reports of the various oversight bodies also provide valuable information on the implementation of the reform programme, public attitudes towards the police, and other issues:

- Oversight Commissioner (www.oversightcommissioner.org)
- Northern Ireland Policing Board (www.policingboard.org.uk)
- Office of the Police Ombudsman of Northern Ireland (www.policeombudsman.org)

The Conflict Archive on the Internet website contains a wealth of data on the Northern Ireland conflict (www.cain.ulst.ac.uk), and the Committee on the Administration of Justice (www.caj.org) is a further important source of commentary on policing and human rights generally.

For academic accounts of the history of the RUC and of policing during the conflict, see Ellison and Smyth's *The Crowned Harp* (2000), Mulcahy's *Policing Northern Ireland* (2006) and Weitzer's *Policing Under Fire* (1995), while Brewer's (1991) *Inside the RUC* examines the nature of 'normal' policing during the conflict. McGarry and O'Leary (1999), Mulcahy (2006) and O'Rawe (2003) provide detailed discussions of the police reform debate, while Ellison (2007), Ellison and O'Reilly (2008), Mulcahy (2008) and O'Rawe (2007) provide recent assessments of the implementation of the Patten Report recommendations, particularly in terms of its wider contribution to international debates about policing and police reform.

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