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DRAFT

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TALKS: POLICING POLICY - PRESSURE POINTS AND ROOM FOR MANOEUVRE

Introduction

As indicated in the draft negotiating brief for talks on policing, the Government's objectives from talks on policing are:

- to ensure all parties to the talks recognise that policing issues have been addressed seriously and comprehensively;
- to develop and agree with the political parties a set of principles for policing which:
 - explain the function and purpose of the police service;
 - explain its accountability to the community; and
 - set out the standards expected of it;
- to use those principles to help ascribe characteristics to an appropriate and acceptable policing service for Northern Ireland, encourage constructive discussion; and so
- to gain agreement (to the greatest extent possible) to future arrangements for the policing service in Northern Ireland;
- if an overall political agreement is secured, to have the

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legitimacy of the law enforcement agencies in Northern Ireland accepted by all sections of society in Northern Ireland; and

- to agree the involvement and roles (if any) in policing in Northern Ireland of:

- i) any new devolved administration;
- ii) the Secretary of State for Northern Ireland; and
- iii) the Irish Government (under any successor to the Anglo-Irish Agreement).

Successful handling of this aspect of the negotiations will require careful, in-depth preparation and analysis of options.

KEY PRINCIPLES AND 'PRESSURE POINTS'

2. The Policing Structures White Paper sets out the Government's key principles: that is of a police service which upholds and is seen to uphold the law fairly, with rigorous impartiality, efficiency and effectiveness; which is accountable both to the law, and (through a strong and independent police authority) to the community; is responsive to the community, and accordingly commands widespread confidence and support. These principles are (with the possible exception of the tripartite structure) not intended to be negotiable, and ought not to cause particular problems. But there is room for manoeuvre around the mechanisms by which the police service is delivered, and its ethos and symbols whilst observing such principles. For example, it can be extrapolated from the principles that a tripartite police/community/government relationship is needed (or is desirable) but that says little about the nature of the relationship, or who should have what powers. Nearly all the "symbols and ethos" issues are not subject to the principles: the key elements of a proper police force do not include the name or badge (save indirectly and symbolically). Similarly, the size or number of police forces can be argued between the two principles of efficiency and community responsiveness.

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3. The White Paper puts forward one set of mechanisms to help the police service meet the principles more fully, but it addressed only a limited part of the policing equation, and we cannot claim that it represents the only approach - though we would argue that it is the best. There remain substantial areas where pressures for and against change can be expected, and where Government policy is either undecided, or where existing policies and practices may be capable of adjustment, as part of the negotiation process. These "pressure points" include:

- (a) symbols issues, including ethos;
- (b) organisational issues (eg regional/two-tier policing);
- (c) compositional issues/fair employment;
- (d) "style" issues/community policing;
- (e) structural issues - tripartite system/operational independence;
- (f) complaints systems.

4. Each of these issues (save for complaints, where discussion should await the outcome of the Hayes Review) is considered in detail at Annexes A to E, respectively. They form a matrix, within policing policy itself, and extending into the 'constitutional' and 'normalisation' areas. In terms of handling negotiations, it will be vital to have a proper grasp of each issue, and of the relationship between it, and other related issues. It will also be necessary for there to be prior internal, NIO (and wider Government) support, both for the positions proposed, and for the (at this stage very tentative) trade-offs which may become possible. Understanding of (and if possible support for) those positions within the RUC at senior level is also desirable.

5. Dramatic, revolutionary changes of the sort some may wish to see are unlikely to be realistic and may well be dangerously counter productive; but considerable mileage can potentially be extracted from sensible, pragmatic changes, if properly thought through, handled, and presented.

6. A first step towards this is Ministerial endorsement of the

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possibility of changes, along the lines in the Annexes. Work can then be put in hand to explore and flesh out the options, and consult officials in interested Whitehall Departments principally the Home Office. The RUC should also be made aware of this work, and their views obtained, as appropriate, as it progresses.

7. Accordingly, if Ministers agree, the options outlined in the Annexes will be explored, with other Government Departments and with the RUC; if a discussion would be helpful, officials stand ready.

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A

SYMBOLS ISSUES, INCLUDING ETHOS

1. Name:

Facts

- "the Royal Ulster Constabulary"
- Name is established with Royal Consent; and is incorporated in Section 1 of the Constabulary (Ireland) Act 1922.
- Change would require Royal consent and primary legislation.

Other people's positions

- Both Police Authority and the Chief Constable have accepted the notion of "Northern Ireland's Police Service" as a bye line, without formal status, but this has been greeted with reservations by nationalists, who would prefer the addition to the title to be done with proper formality. Unionists, the RUC and the Police Authority would strongly oppose any change to the 'core' of the name; but could probably accept a formal addition to it.

Government policy

- Current policy is that it is for those who seek change to propose and argue for it; and that any change would have to command widespread support for which there is no evidence at present.

What could be done?

- Very difficult (politically) to change "the Royal Ulster Constabulary". This would require primary legislation which would be bound to be opposed by the Unionists; by Parliament; and by the police service, UK wide. A non-starter.

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- Could (relatively) easily add "the Northern Ireland Police Service"; would require primary legislation, and (possibly) separate Royal consent.

What's it worth?

- On its own, an indication of 'openness'; of willingness to bridge the 'cultural' gap. A measure which could be worth doing unilaterally - and with or without Talks. Not something to bargain over.
- Not too costly from a Government perspective, and very useful as a goodwill gesture, if done smoothly and quickly - the effect would be ruined by haggling.

2. Badge

Facts

- Currently, RUC badge incorporates the Crown, harp and shamrock. The Crown is seen as part of the "Royal" in the name, although all UK police forces can, if they wish, use the Crown in their insignia, because of the status of constables as officers of the Crown.
- Minor changes - eg in the luxuriance of the shamrock - are possible and have occurred in the past; the design can be given a "new look".
- Change would require [?still under investigation].

Other people's positions

- Nationalist objections turn round the inclusion (and "superior" position) of the Crown;
- Major changes would be politically very difficult, unless to something (what?!) entirely different and universally acceptable.
- Such changes would require acceptance by the police service itself.

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Government policy

- As for Name;
- Also important to keep insignia in line with UK wide practice - indicating that RUC is not a "stand-alone" force, but part of the network of UK forces, with common standards, ranks, terms and conditions, etc.

What could be done?

- A "new look" badge (perhaps with more shamrock, "uniting" the Crown and Harp and the inclusion of other 'Irish' dimensions) could be produced, tied in with the addition of 'The Northern Ireland Police Service' to the name.
- Significant changes with 'Irish' dimensions could be possible - see the Superintendents' Association badge, attached.

What's it worth?

- Don't knock minor changes - it worked with the UDR/R Irish change.
- Valuable indicator of change - for which significant movement in the SDLP position on support for the police should be expected/extracted, probably without overt direct linkage.

3. Oath

Facts

- Oath is set out in Section 17 of Constabulary (Ireland) Act of 1836, as amended;
- Change would require primary legislation;
- Oath follows English format, with the addition of an extensive section prohibiting membership of seditious or disruptive or disloyal organisations.

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Other people's positions

- Precedent of Irish arguments over QC's 'oath' show that it is the reference to the Sovereign (common to both the English police oath and the RUC oath) which is regarded as a 'chill factor' for nationalists. Irish and SDLP both want changes to oath, centring on removal of references to the Sovereign.
- Unionists will vehemently oppose this, regarding the Oath as an "oath of allegiance" in a very narrow and literal sense.

Government policy

- Scottish police oath contains no 'Sovereign' reference (and never has); but Scottish police legislation defines duties of constables; tradition in Ireland is closer to the English position.
- Current policy is therefore for no change; but accepts that a move to the English position would be possible;

What could be done?

- Some changes which are already in train (eg from oath to affirmation; stressing "oath of office" not "oath of allegiance" aspect) could be emphasised;
- Meaning of oath (to uphold the law; impartially and independently of partisan political considerations; sovereign as fount of Justice; constable as Officer of Crown) could be explained;
- Move to English formulation possible (and not difficult) but would not meet nationalist concerns; and so is not likely to be worth the hassle;
- Move to Scots formulation possible, but more difficult; is tied to the implementation of the White Paper proposals on putting duties of constables into statute; but would meet the 'chill factor' concerns; and would maintain parity within a UK context. However, Unionists would not welcome it.

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What's it worth

- A very valuable, symbolic indication of change; for which much credit should be extracted from the SDLP and Irish.

4. Ethos

Facts

- Virtually none!
- A fudgey area; issues will be discussed in Talks, and could then inform a gradual process of change - eg starting with more concerted training in community awareness; more "outreach" training of police officers with community groups etc; and (under the "neutral environment" banner) issues such as portraits of the Queen in police stations might be tackled.
- Problems will lie in linking any "agreements" reached in Talks (or views expressed there) with the initiation of actual change within the RUC.
- The Secretary of State can issue 'Guidance', which is generally respected.

Other people's positions

- Unionists see no problem with the RUC's ethos - "its our police force - hands off the "RUC".
- Nationalists do have problems with the ethos: ultimately rooted in the constitutional/allegiance problem, but "pulled" into the policing area by the 'overwhelmingly Unionist' police ethos. These problems are then used by extremists, to undermine the concept of policing, and the police themselves.

Government policy

- Dramatic, revolutionary change for the sake of it would be very costly and counter-productive.
- Change for which there is sound reason should happen.

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- The RUC is (and should be) acceptable to all sections of the community.
- If there are demonstrable problems, which could be mitigated, remedial action should be taken.
- Relevant policies in other areas, eg Fair Employment/Equal Opportunities, apply.

What can be done

- The Government has few straightforward or direct mechanisms available to it, to bring about change; and a 'dirigiste' approach could be counterproductive unless agreed beforehand with the police.
- 'Guidance' might however be of considerable presentational value; and resulting action might represent very valuable tangible "change".
- Early contact on the 'ethos' area with the RUC at senior level, (in the context of the Fundamental Review) to clear lines is necessary; together with a common understanding of the possibility of Government issuing formal Guidance in this area.

What's it worth

- Not a bargaining counter.
- Considerable credit might be expected for tangible change; either as a 'big bang' package; or on an incremental basis as evidence of attention being paid to views expressed in Talks; or as an outcome of the Fundamental Review.
- Assuaging Nationalist concerns about the 'ethos' of the RUC may help progress on more difficult constitutional territory.

B

ORGANISATIONAL ISSUES - REGIONAL/TWO-TIER POLICING; ALL-IRELAND ELEMENTS

Facts

- "Regional" policing (in the sense of separate, free standing police forces) would not be acceptable on grounds of efficiency and effectiveness; and because (unless rigorously audited from the centre) it could be susceptible to lack of impartiality.
- "Two-tier" policing risks creating "nice guy" local cops and "nasty guy" central ones; without gaining community support for policing as a whole.
- But there is plenty of scope, within a single force, for regionalisation and specialisation, so achieving close community identification with the police and community/police integration.
- And Government policies in creating 'national' police institutions eg NCIS, formalising the powers of police in areas such as intrusive surveillance, are already arguably creating a 'second tier', at a national (UK) level.
- Government policy is also to encourage EU initiatives for joint action in areas where this improves efficiency or effectiveness - eg Drugs. Europol has scope to develop improved liaison - not an "all Ireland force," but a co-ordinated joint response.

Other people's positions

- Irish and Nationalists look for change in police structures and organisation as evidence of new approach: They see regionalisation/or two tier policing as ways of breaking up a monolithic, unionist RUC, and allowing them ownership and involvement.
- Unionists see change in these areas as threatening the integrity of the RUC (and Northern Ireland itself for which the RUC is in some respects a symbol).

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Government policy

- Do not believe it would be efficient or effective to have more than one police force for NI.
- Encourages moves to 'BCU' models of police management; and close links between local police commanders and their communities.
- Encourages efficient use of specialist units, tasked by BCU commanders.
- Encourages concept of HQ function as policy definition, standard setting, and (where necessary) co-ordination, not "hands on" operational control.
- Encourages national (UK wide) co-ordination where this makes sense in effectiveness and efficiency terms; and international co-operation in the same terms, through Europol and Interpol.

What could be done

- A sensitive area, but could be a valuable ground for "compromise" and "change".
- Two edged sword here: unless "change" is described as such, in exaggerated terms, it will not secure Nationalist approval; such "change", so described, ensures fierce Unionist opposition.
- However, possible to explore the scope for defining HQ functions as "central service" and areas as "regional" units; and for "local" service and "specialist" squads; with the emphasis on achieving efficient, effective use of resources.
- Should also be possible to examine the extent to which functions could be moved out from the police to other bodies, following the work done in England and Wales on Police Core and Ancillary Tasks. Potentially difficult from the Unionist perspective, but maybe worthwhile from a Nationalist perspective, and could have attractive efficiency dimensions in the long term.

What's it worth?

- Changes could start draining Nationalist swamps of suspicion: to

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be politically valuable in a Talks context we would need some legislative ingredient indicating strong local accountability: possibly statutory backing for CPLC's?

- Could be worth major movement for the SDLP/Irish.

C

COMPOSITIONAL ISSUES - FAIR EMPLOYMENT/EQUAL OPPORTUNITIES

Facts

- RUC composition (Regulars) at 18.6.96 (age range 18 to 64) is 88.80% majority; 8.10% minority; 3.10% other. NI working population composition in same age range is 51.83%; 36.63%; 11.4%; overall NI population composition is 50.58%; 38.39%; 11.03%.
- Present RUC composition (age range 18 to 64) is 89.41% male; 10.59% female. Working population composition in same age range is 49.43% male; 50.57% female.
- UK average for police forces is 85.61% male; 14.39% female.
- NI Constitution Act (s.19) prohibits discrimination on the ground of religious belief or political opinion, in the discharge of their functions by public authorities. But this section does not apply to PANI; the RUC; or the ICPC.
- Fair Employment and Equal Opportunities legislation does apply to PANI, RUC and ICPC: and prohibits discrimination (direct or indirect) in employment on grounds of religion or gender; and in provision of services on grounds of gender.
- RUC is committed to ensuring equality of opportunity at all stages in the recruitment/promotion process.
- Recent increase in % of applications from minority background candidates has translated into higher % of recruits - but not fully so: drop out rate was above normal.

(Population figures are from 1991 Census)

Other People's Positions

- Irish and nationalists see more balanced composition as essential to acceptability of police - and regard 'extraordinary' measures to achieve this as a price worth

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paying.

- Sinn Fein considers that the police service should be made up, not of "bigoted, sectarian-minded" individuals, but of "civic-minded, public-spirited" people. However there is recognition of the need to avoid sectarianism and 'apartheid' solutions; and implicit acceptance that many existing officers should continue to serve, in the 'new' police service.
- Some Unionists willing to see 'extraordinary' measures - eg Ken Maginnis 50-50 recruitment - but how widespread support might be for this is unclear.

Government Policy

- Discrimination on grounds of religion, gender or political views is wrong. Legislation prohibiting such discrimination is in place, but very patchy in coverage - ie does not cover political views.
- Recruitment, promotion etc must be based on merit alone.

What Could be Done

- PANI, RUC and ICPC could be brought within remit of s.19 of NICA (perhaps by extending provisions of Parliamentary Commissioner Acts/Commissioner of Complaints to cover them). [In respect of RUC, this may be a recommendations from the Hayes Review]. This would make it clear that discrimination in the exercise of functions on grounds of religion or political opinion is unlawful.
- Targeted special recruitment exercises (of relatively small numbers) might demonstrate intent and bona fides: eg a 'mature recruit' campaign; a 'come home' campaign aimed at officers with NI backgrounds in mainland forces.
- 'Interleaving' or exchange programmes with the Garda might also be a useful public demonstration and would have genuinely useful knock ons in terms of contacts etc.
- Difficult to see any real impact made on the imbalances without substantial, additional, discriminatory recruitment - at a time

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when the service should be reducing in size. This would be expensive, inefficient, and contrary to the fundamental principles underlaying the Fair Employment legislation.

What is it Worth?

- Application of s.19 NICA would be very useful, in reinforcing safeguards for police impartiality: but likely to be seen as worthwhile in its own right: not a bargaining counter, but a confidence building measure. Almost the same effect would be produced by implementing the White Paper proposals on Duties of Constables.
- Setting aside FE legislation etc would be fraught with danger - creating precedents which could be cited elsewhere - eg school teachers - and undermining the Fair Employment policy as a whole: so nothing would be worth this "concession".
- Measures short of this - especially exchanges with the Garda - would be worth offering: acceptance would signal significant movement by the Irish.

D

STYLE ISSUES - COMMUNITY POLICING

Facts

- Few!
- The Government has no mechanisms available to it to 'direct' the Chief Constable on 'how' to police: but could issue Guidance (reinforced by HMI?)
- Generally accepted in policing circles world-wide that moves towards a problem-solving, community orientated, "partnership" style of policing, and away from a strictly reactive ex-post facto "law enforcement" style, are useful, particularly in dealing with alienated, high crime areas.
- Plenty of scope for change in RUC/PANI practise, organisation etc: an inevitable outcome of the Fundamental Review.

Other People's Positions

- Irish and nationalists (and many others!) look for mythical "Dixon of Dock Green" policing (which never did exist).
- Some recognition by DOJ officials that this is unrealistic: but a powerful political propaganda image.
- Unionists fear that 'community policing' may mean dismantling the RUC by regionalisation under another name: and are reinforced by sceptics among police officers, who prefer the power, 'crime buster' image.

Government Policy

- Encourages police/community partnerships.
- Encourages local policing solutions of local problems.
- Supports central provision of specialised services where this is more efficient or effective.

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What can be done

- There is scope for initiatives in "community policing" - RUC is already taking steps in the direction of greater local involvement; community groups are beginning to think for themselves what they would like to see.
- Need considerable preparatory work (most of which would fall to the RUC): ie examination of experience elsewhere, eg in Great Britain/overseas; examination of potential "knock ons" and linkages to other areas; construction of models for use in NI; training of personnel; establishment of systems within the police; before "community policing" could be credibly and viably launched. Is a natural outcome of the Fundamental Review.
- Could (in a low profile manner) embark on this - in concert with the RUC, PANI, and others eg Home Office. Could establish pilot projects to test applicability in NI.
- Could (as a result) issue (detailed?) Guidance as an expression of Government policy.

What is it worth?

- Part of the process of change, which may (if desired) be attributed to Talks. If so attributed, could be valuable to Irish and Nationalists as evidence of 'change'.
- With careful handling, unlikely to upset Unionists - eg set in context of UK wide policy, Neighbourhood Watch, etc.

E

STRUCTURAL ISSUES - TRIPARTITE SYSTEM/OPERATIONAL INDEPENDENCE

Facts

- Key thing to preserve is police impartiality.
- Operational independence of police within a tripartite structure is one (proven) way of achieving this.
- There could, theoretically be others: and there may be arguments that police impartiality is less important than establishing "ownership" of the police by the entire community.
- There may be a feeling that new institutions in NI will also "require" actual control over the police as agents of coercion (at least as a virility symbol) and potentially in order to be able to enforce their will against potential protests. (Shades of the fall of the power sharing Assembly).

Other People's Positions

- Little understanding of rationale for operational independence/the tripartite structure in Irish/Nationalist circles - tho' Sinn Fein appear to accept that direct political control is unwise.
- Unionists hanker for a return to the Ministry of Home Affairs solution.
- Public is generally in favour of tripartite structure, and very reluctant to see direct political control.

Government Policy

Set out in White Paper: Operational Independence/Tripartite Structure as a mechanism to preserve police impartiality, and ensure accountability.

What could be done

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- White Paper proposals represent a workable solution capable of attracting support.
- Could adjust White Paper position; more or less radically.
- A radical option might be for the Panel to constitute a Police Commission, replacing the Minister for Home Affairs/Justice in a traditionally Irish bipartite system; less radically, the Panel could replace the Police Authority, within a more conventional Tripartite one.
- In any event, the sensitivity of policing will require entrenchment of safeguards, in some shape or form, probably at Westminster; and UK dimensions (eg national security; serious crime; overall efficiency and effectiveness) must be accommodated.

What its worth

- Radical options only worthwhile (subject to safeguards!) if this is the only way of securing overall support for an Agreement.
- Less radical options may well be sufficient to gain support - should endeavour to ensure that the exploration of these gains the maximum mileage.