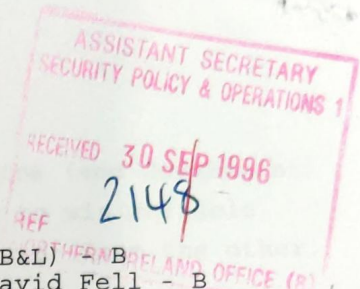


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FROM: MRS C COLLINS
Police Division
27 September 1996



cc PS/PUS (B&L)
PS/Sir David Fell - B
Mr Thomas - B
Mr Leach - B
Mr Daniell - B
Mr Bell - B
Mr Watkins - B
Mr Smyth
Mr Stephens - B
Mr Beeton - B
Mr Hill - B
Mr Perry - B
Mr Lavery - B
Mr Maccabe - B

Mr Steele

TALKS POST DRUMCREE: POLICING POLICY OPTIONS

I attach a draft submission to Sir John Wheeler and the Secretary of State, following up Mr Legge's minute of 4 September, and subsequent discussion, outlining options in each of four identifiable "pressure point" areas; and seeking Ministerial endorsement for the work needed to firm up on these options.

2. The earlier draft circulated on 4 July has been substantially reworked, to take account of the helpful comments of colleagues, and also of Sir John Wheeler's views on policing reforms.
3. In essence, the Minister considers that any proposals for change must meet a pragmatic, political, three point test:

- they must demonstrably result in an improved police service, in terms of efficiency, effectiveness, and acceptability across the community;
- they must not represent political 'bribery'; especially firmly ruled out are cosmetic "tit for tat" changes, which attempt to assuage feelings on one side of the community by exciting those on the other; and

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- they must not be such as to lose the police (and Government) support from one side whilst failing to win reliable support (in at least as great a measure) from the other.

4. I believe the proposals (though open to the charge of being unadventurous) do stand a fair chance of passing this test. If accepted they do open the door (quietly) to more exciting possibilities. After all, the road from here to Samarkand does start on the Larne/Stranraer ferry.

5. If colleagues feel a meeting would be helpful at this stage, I should be happy to arrange one; but my own preference would be first to obtain Ministerial approval to the principle that change is possible. The detailed work will clearly require much consultation; and I would envisage separate meetings being required on each of the areas identified. I would like to get this to Ministers in the week commencing 14 October; I should be grateful for comments by close of play on Wednesday 9 October.

Signed

C COLLINS

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DRAFT

FROM: CHRISTINE COLLINS
Police Division
October 1996

cc PS/Michael Ancram
PS/PUS(B&L) -B
PS/Sir David Fell-B
Mr Steele-B
Mr Thomas-B
Mr Leach-B
Mr Daniell-B
Mr Bell-B
Mr Watkins-B
Mr Smyth
Mr Stephens-B
Mr Beeton-B
Mr Hill-B
Mr Perry-B
Mr Lavery-B
Mr Maccabe-B

1. PS/Sir John Wheeler(B&L) -B
2. PS/Secretary of State(B&L) -B

TALKS: POLICING POLICY OPTIONS

Purpose

As Mr Legge's minute of 4 September and the subsequent discussion make clear the pressure points on policing (both arising in Talks, and independently) have assumed a higher profile, post Drumcree. Deciding how best to tackle them has equally assumed a new salience, whether in Talks or elsewhere. Accordingly, it is necessary to be well prepared: this minute analyses some of the key areas; sets out some options; and seeks Ministerial endorsement for further exploration of these.

Background

2. The negotiating brief on policing sets out the Government's objectives from Talks as:

- to ensure all participating parties recognise that policing issues have been addressed, on an open agenda, seriously and comprehensively;

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- to develop and agree with the 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 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).

3. Post Drumcree, the demands for change and for a "New Deal" from the Nationalist side are even more strongly felt and voiced; and (whilst they may have their doubts about the RUC's handling of Parades) Unionists will ultimately resist (perhaps even more trenchantly) any radical changes. This is especially true of any changes to the politically important, symbolic aspects of policing, which will be regarded as a dilution of the British heritage. In this environment, successful handling of "policing" in the Talks, or (if Talks fail) of policing policies in any alternative process, will require careful, in-depth preparation and analysis of options. An openness, and preparedness to listen and contribute constructively on the part of HMG, whilst defending stoutly all that is good in the existing system, and remaining adamant on the need to test ideas for practicability, effectiveness, and widespread support, will be essential.

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KEY PRINCIPLES

4. The Policing Structures White Paper sets out the Government's key principles for policing, arrived at after an extensive, 3 year programme of wide-ranging consultation and policy development. These principles are 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, representative and independent police authority) to the community; is responsive to the community, and accordingly commands widespread confidence and support. These principles have very widespread support, although some parties may disagree with part or all of the reforms suggested by the White Paper on foot of those principles; and some may feel very strongly that these attributes are notable for their absence from the current set-up.

5. The White Paper puts forward one possible set of mechanisms to help the police service meet the principles more fully, but it addresses only a limited part of the policing equation; neither can we claim that it represents the only approach - though we would argue that it is workable, proven, and (perhaps most important post Drumcree) capable of swift implementation. Alternative approaches should be addressed with an open mind, but must be subjected to rigorous, objective analysis. There is scope (and indeed a pressing need) for constructive discussion around the mechanisms by which the police service is delivered. 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. Similarly, the size or number of police forces can be argued (at a simple level) between the two principles of efficiency and community responsiveness; and (at a more advanced level) in terms of the organisations, structures and dynamics which will maximise both efficiency and community responsiveness, without sacrificing either.

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PRESSURE POINTS

6. There are also substantial areas where pressures for and against change can be expected, and where Government policy is either undecided (because the process of consultation, and policy formulation is not yet far advanced); or where existing policies and practices may be capable of more or less radical adjustment; or which are independent of the principles, eg nearly all the "symbols" issues: the key elements of a proper police force do not include the name or badge (save indirectly and symbolically) but these matters are of deep, emotional importance to Unionists and Nationalists, and to the police service itself.

7. These "pressure point" issues include:

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

POSITIVE THINKING

8. Each of the first four issues is considered in detail at Annexes A to D, respectively. Consideration of complaints systems should await the outcome of the Hayes Review. Whilst policy on the tripartite structure is set out in the White Paper, likely positions in talks, and feasible adjustments to current policy in the event of an agreed settlement, are outlined at Annex E.

9. Taken together these issues form a matrix within policing policy itself, but extending into the 'constitutional' and 'normalisation' areas. Potentially, the 'small' shifts in each area, taken together, form a package of defensible, comprehensive change which will improve the quality of the police service, and its acceptability.

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HANDLING

10. There will need to be prior internal (NIO and wider Government) support, both for the initial positions and for the (at this stage very tentative) changes which may be proposed. Understanding of (and if possible support for) those positions within the RUC at senior level, and within PANI, is also important.

11. Dramatic, revolutionary, changes to "policing" of the sort some may wish to see are unlikely to be practical or viable, and may well be dangerously counter productive. However, it is arguably essential to the development of a broad, stable, political consensus that genuine concerns over policing are tackled, and that changes which can lead to improvements, objectively judged, in the delivery of the police service and in its basis of community support, are identified and implemented. Considerable progress to this end can be made from sensible, pragmatic changes, if properly thought through, handled, and presented.

12. The key factor is that such changes must be based on sound ethical and practical foundations. As much discussion and progress to this end as possible should be taken forward in Talks, because the structured format of discussion and presence of independent Chairmanship will assist in the development of common ground. If discussion were to be remitted to any devolved institution, the acrimony would be highly disruptive, and the prospects of consensus slim. However if Talks fail, then bilateral discussions can carry the work forward. Deferring changes and discussion in the hopes that the problems will go away, or of finding a political Holy Grail, an Ultimate Answer, will simply embed the problems further; and make them more difficult to resolve.

13. A first step towards the development of soundly based positions on the likely pressure points, following the constructive discussion of Mr Legge's minute, is Ministerial endorsement of the possibility of changes, along the lines in the Annexes. Work can then be put in hand to explore and flesh out the policy options, and consult officials in interested Whitehall Departments (principally the Home

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Office). The RUC should also be made aware of this work, and their views obtained, as appropriate, as it progresses. Similarly, the Chairman of the Police Authority should be made aware of the work on a personal basis. Many of the issues are closely interrelated with work done in the context of the Fundamental Review, and the Police Authority's Community Consultation exercise, and policy consideration should be informed by that work.

14. Accordingly, if Ministers agree, the options outlined in the Annexes will be explored, initially with other Government Departments; subsequently with the (new) Chief Constable and Chairman of the Authority; and further advice provided in due course.

CHRISTINE COLLINS

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 to the core of the name would have to command widespread support (for which there is no evidence at present).

What could be done?

- (Theoretically) change "the Royal Ulster Constabulary". Very difficult (politically). This would require primary legislation which would be bound to be opposed by the Unionists as attacking their British heritage; by Parliament; and by the police service, UK wide. **A NON-STARTER.**

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- Add "the Northern Ireland Police Service". Could (relatively) easily do this. Would require primary legislation, and (possibly) separate (probably prior) Royal consent.

What's it worth?

- On its own, an indication of 'openness'; of willingness to bridge the 'cultural' gap, without removing British elements, by Government. 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 provided there was police and PANI support, 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 (and many do) use the Crown in their insignia, because of the status of constables as "holders of office" under 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".
- We understand that change would require strict adherence to the normal rules governing the issue of Coats of Arms, as laid down by the Rouge Croix Pursuivant.

Other people's positions

- Nationalist objections turn round the inclusion (and "superior" position) of the Crown;
- Major changes (especially removal of the Crown!) would run into vehement Unionist opposition as an attack on Unionist culture.
- 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 possibly 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. Bryan
check
done
- Another valuable indicator of commitment to change, in the direction of broadening 'ownership' of the police. Could bring significant movement in the SDLP position on support for the police, probably without overt direct linkage.

3. "Oath"/Declaration

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 oppose this tooth and nail, 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 (perhaps) closer to the English position.
- Current policy is therefore for no change; but accepts that a move to the English position would be possible (this has now been carried forward in the context of the proposed Police Bill);

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 (but would anyone understand?);
- Move to English formulation possible (and not difficult) but would not meet nationalist concerns; and so is not worth the hassle for "political" reasons"; (but is worth doing for practical, updating, ones);
- Move to Scots formulation theoretically possible, but more difficult; is dependent upon the implementation of the White Paper proposals on putting duties of constables into statute. Would meet the 'chill factor' concerns; and would maintain parity within a UK context. However, Unionists would regard it as a dilution of their

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British heritage; and it could be politically controversial both in NI and at Westminster.

What's it worth: Move to Scots Formulation

- A very valuable, symbolic indication of change; for which much credit should be extracted from the SDLP and Irish; but probably only practically feasible in a benign scenario of peace, harmony and goodwill.

What's it worth: Move to English Formulation

- Much needed modernisation and consolidation, clarifying a key part of the position of the police in the unwritten British Constitution.
- Could be reassuring to Unionists.
- Taken with other White Paper/Consolidation changes, would represent a very considerable step towards resolving concerns at the 'constitutional' position of the police - without diluting the British heritage (arguably, would strengthen and clarify that heritage).

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

Facts

- "Regional" policing (in the sense of separate, free standing police forces) would be difficult for HMG to accept, both 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 (like the 'B' Specials or the HMSU's) without gaining community support for policing as a whole. (the Government's key objective)
- But there is plenty of scope, within a single force/service for both "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 police force," but a co-ordinated, joint police response.

Other people's positions

- Irish and Nationalists look for change in police structures and organisation as (at least) evidence of new approach. They see regionalisation and/or two tier policing as ways of breaking up a monolithic, unionist RUC, and allowing them ownership and involvement.

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- 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; and from which the break-up of the RUC is a proxy for break-up of Northern Ireland, and repartition or unification.

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 (and Drumcree et seq, have raised the stakes here); 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 (and police) perspective,

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but maybe worthwhile from a Nationalist one, and could have attractive efficiency dimensions in the long term.

What's it worth?

- Changes could start draining Nationalist swamps of suspicion.
- To be politically valuable in a Talks context we would need some tangible ingredient indicating Government support for strong local accountability: possibly statutory backing for CPLC's; or powers for district councils to seek explanations from PANI (and the RUC?).
- Could be worth major movement for the SDLP/Irish.

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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. PANI civilian staff composition is 83.1% majority; 11.4% minority; 5.6% 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.
- 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. But Section 19 of Northern Ireland Constitution Act (prohibiting discrimination on grounds of religious belief/political opinion in discharge of functions) does not apply to ICPC, PANI or the RUC.
- 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 paying.
- Some Unionists willing to see 'extraordinary' measures - eg Ken Maginnis 50-50 recruitment - but questionable whether there would be widespread support for this in practice.

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Government Policy

Both sides highly doubtful, we are not sure

- Discrimination on grounds of religion, gender or political views is wrong. [Some legislation prohibiting such discrimination is in place, but very patchy in coverage - ie does not cover discrimination in provision of services on basis of religion or political views;]
- Recruitment, promotion etc must be based on merit alone.

What Could be Done

- Very little indeed, unless there is peace, goodwill and harmony. Then -
- Targeted special recruitment exercises (of relatively small numbers) would 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 would 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 when the service should be reducing in size. This would be expensive, inefficient, and contrary to the fundamental principles underlaying the Fair Employment legislation.
- Accelerated voluntary retirement would be expensive (very) especially if recruitment was maintained in order to speed up change in composition. Theoretically possible, but very difficult to make the sums work any way sensibly. Compulsory redundancy would require highly controversial primary legislation; and maintaining recruitment would then be susceptible to legal challenge.

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What is it Worth?

- Setting aside FE legislation etc would be fraught with danger - creating precedents which could be cited elsewhere and undermining the Fair Employment policy as a whole: so hard to see what 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.

Conclusion

- More balanced composition is a long term aspiration. Meantime, efforts should concentrate on more coherent training etc on community relations.

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STYLE ISSUES - COMMUNITY POLICING

Facts

- Few!
- The Government currently has no statutory mechanisms available to it to direct or influence the Chief Constable on 'how' to police: but clarification of the Secretary of State's role in policing policy, and of his powers to issue Guidance (proposed in the Police Bill) might fill the lacuna.
- HMI can report upon, and make recommendations about, policing policies and practices, as part of the inspection process; but currently HMI operates in NI on an administrative rather than a statutory basis.
- 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 practice, 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 may fear that 'community policing' may mean dismantling the RUC by regionalisation under another name: and could be reinforced by sceptics among police officers, who prefer the powerful 'crime buster' image.

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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.

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. The post Drumcree 'boycott' of the police may impact on these efforts - but hopefully will not be sustained.
- 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 (once Secretary of State's role and powers have been clarified).

What is it worth?

- Part of the (inevitable) 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.

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ETHOS

Facts

- Virtually none! In so far as 'ethos' can be distinguished from 'symbols', perhaps centres on cultural divides/composition, with resonances of concern about "militarism"
- 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;
- separately, (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.
- 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.

Other people's positions

- Unionists see no problem with the RUC's ethos - "it's 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 then 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 are sound reasons (ethical and/or practical) should happen;

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- The RUC is (and should be) acceptable to all sections of the community. (See Community Attitudes Surveys); but
- 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 currently 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 value; and resulting action might represent very valuable tangible "change", (only possible if the changes proposed in the Police Bill clarifying the Secretary of State's powers in this area are implemented.)
- 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 recommendation 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. Alternatively the White Paper proposal on duties of constables, and on the over-arching duties of the Secretary of State, the Police Authority and the Chief Constable, would fulfill similar purposes.
- Early contact on the 'ethos' area with the RUC at senior level, (perhaps in the context of the Fundamental Review) to clear lines is necessary; together with a common understanding and acceptance of the possibility of Government issuing formal Guidance in this area.

What's it worth

- Not a bargaining counter: if something is "right", it should be done; if not, it should not.
- Application of s.19 NICA would be very useful, in reinforcing safeguards for police impartiality; worthwhile in its own right:

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not a bargaining counter, but a confidence building measure. Similar effects would be produced by implementing the White Paper proposals on Duties of Constables; and on the duties of the Secretary of State, PANI and the Chief Constable.

- Considerable credit might be expected for tangible change: through implementation of the White Paper; on an incremental basis as evidence of attention being paid to views expressed in Talks; or as a natural, evolving outcome of the Fundamental Review.
- Assuaging Nationalist concerns about the 'ethos' of the RUC without exciting Unionist irritation may help progress on more difficult constitutional territory; this may be achievable from this package.

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; although these are (perhaps) more difficult to advance post Garvaghy Road '96.
- There may also be a feeling that any 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 and indeed Garvaghy Road '95 and '96).

Other People's Positions

- Irish/Nationalist circles show virtually no understanding of the concept of operational independence or the rationale behind the tripartite structure (though Sinn Fein appear to accept that direct political control is unwise).
- Unionists hanker for a return to the Ministry of Home Affairs solution: ie political direction and control by the incumbent Minister.
- Public is generally in favour of tripartite structure, and very reluctant to see direct political control (for obvious reasons).

Government Policy

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

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What could be done

- White Paper proposals represent a workable solution capable of attracting support, and producing tangible benefits in a short timeframe.
- Could adjust White Paper position to fit Talks outcomes; more or less radically.
- A radical option might be for the Panel (if there is one) to constitute a Police Commission, replacing the Minister for Home Affairs/Justice in a traditionally Irish bipartite system; detached to a very large extent from Westminster;
- less radically, the Panel could replace the Police Authority, within a more conventional Tripartite one, retaining a Secretary of State role;
- realistically, the Assembly could provide 'elected members' to PANI in proportion to Party strengths (as in an English Police Authority); and the Secretary of State could exercise his functions after consultation with the Panel/an Assembly Committee; and
- there could be a progression from one to the other, as the stability of new institutions develops.
- 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, especially in a climate of change in other areas eg community policing. We should endeavour to ensure that the exploration of these gains the maximum mileage.

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