

## ACCOUNTABILITY I: THE PRESENT POSITION

- 5.1** This chapter considers the concept of accountability in policing, and how this has been addressed in Northern Ireland. In the next chapter, we make recommendations for accountability arrangements for the future.
- 5.2** In a democracy, policing, in order to be effective, must be based on consent across the community. The community recognizes the legitimacy of the policing task, confers authority on police personnel in carrying out their role in policing and actively supports them. Consent is not unconditional, but depends on proper accountability, and the police should be accountable in two senses – the “subordinate or obedient” sense and the “explanatory and cooperative” sense<sup>1</sup>.
- 5.3** In the subordinate sense, police are employed by the community to provide a service and the community should have the means to ensure that it gets the service it needs and that its money is spent wisely. Police are also subordinate to the law, just as other citizens are subordinate to the law, and there should be robust arrangements to ensure that this is so, and seen to be so. In the explanatory and cooperative sense, public and police must communicate with each other and work in partnership, both to maintain trust between them and to ensure effective policing, because policing is not a task for the police alone.
- 5.4** It follows that there are many aspects to accountability. There is democratic accountability, by which the elected representatives of the community tell the police what sort of service they want from the police, and hold the police accountable for delivering it. There is transparency, by which the community is kept informed, and can ask questions, about what the police are doing and why. There is legal accountability, by which the police are held to account if they misuse their powers. There is financial accountability, by which the police service is audited and held to account for its delivery of value for public money. And there is internal accountability, by which officers are accountable within a police organization. All of these aspects must be addressed if full accountability is to be achieved, and if policing is to be effective, efficient, fair and impartial. This chapter deals with the areas described above, although internal accountability is discussed at length in Chapter 10 and accountability issues recur throughout this report. Accountability should run through the bloodstream of the whole body of a police service and it is at least as much a matter of the culture and ethos of the service as it is of the institutional mechanisms described in this chapter.

### Democratic Accountability

- 5.5** In Northern Ireland accountability has not been achieved in either of the senses described in paragraph 5.2 above. The public have not been able to hold the police accountable through their democratically elected representatives, as should happen in a democratic society, whether the mechanism is an elected mayor or state governor as in the United States, or a Police Authority with a majority elected membership as in Britain. In Northern Ireland, Police Authority members are all appointed by the Secretary of State after selection through open competition; some may also

<sup>1</sup> Marshall, G., “Police Accountability revisited”, Butler, D. and Halsey, A.H. (eds) *Policing and Politics*, Macmillan, London 1978. Marshall refers to these as the two “modes” of accountability

be elected councillors, but it is the Secretary of State, not the electoral process, that appoints them to membership of the Authority. The Secretary of State also has powers to remove members from the Authority. The problem of achieving a representative membership by this means has been exacerbated by the refusal of some key political parties and trades unions to allow their members to be appointed to the Authority.

- 5.6** Moreover, although there is in Northern Ireland a tripartite arrangement which resembles the arrangements in Britain – whereby a Police Authority, the Chief Constable and central government share responsibilities – the arrangement in Northern Ireland does not work as in Britain. A problem in applying the tripartite model to policing in Northern Ireland is the one-to-one relationships: one police force, one police authority and one Secretary of State. In England and Wales, the Home Secretary relates to a large number of police authorities. He is a more remote figure – less interventionist – and chief constables there have to forge a working relationship with their police authorities. In Northern Ireland the Secretary of State is much more directly involved and the security situation has been a major factor in bringing about a situation in which, in effect, the Chief Constable has been responsible to the Police Authority for what might be called ordinary crime policing and directly to the Secretary of State for security-related policing. Given the proverbial difficulty of serving two masters, it is not surprising if at times chief constables have tended to develop a more direct relationship with the one who appeared more influential.
- 5.7** These arrangements are not a basis for democratic accountability in the sense of the police in Northern Ireland being “subordinate” or responsible to the community of Northern Ireland. The Secretary of State exercises both direct influence over the police, through direct links with the Chief Constable, and also indirect influence through the appointment of Police Authority members. He/she also determines the budget. The Secretary of State, although a democratically elected minister and answerable to Parliament, is never a member of a Northern Ireland political party and therefore never someone elected by the people of Northern Ireland. So, neither through the Police Authority nor through government are the people of Northern Ireland – whether unionists or nationalists – able to hold the police of Northern Ireland to proper democratic account in the “subordinate” sense of the term.
- 5.8** There has long been an anxiety throughout the United Kingdom to prevent the police becoming subject to political direction. The concern that the police should be impartial servants of the community rather than executives of current government policy lies behind the system of autonomous regional police services in Britain and the tripartite system of police governance – chief officer, police authority and central government. These arrangements achieve a distinction between the police and the state.
- 5.9** The anxiety to avoid political direction of the police is strong in Northern Ireland as well. This view was put to us by both communities and by police themselves. Many respondents to our consultation exercise warned against a return to the situation before 1969, when the RUC was in practice subject to direction by the Minister of Home Affairs in the former Unionist government, a state of affairs which many regard as a contributing factor to the outbreak of the Troubles of the past thirty years. Several people also commented unfavourably on the present relationship between the Secretary of State and the RUC, and saw the police as an instrument of British government policy rather than a service meeting local priorities.

- 5.10** The Police Authority's statutory power to hold the Chief Constable to account has significant deficiencies. Since its inception in 1970 it has had the power to call for reports from the Chief Constable, but the Police Authority itself has pointed out a fundamental problem arising from doubt as to whether the Chief Constable's obligation to report includes operational matters. The Police (Northern Ireland) Act 1998 provides that if "it appears to the Chief Constable" that such a report is not in the public interest, or necessary for the discharge of the Police Authority's functions, he may request the Authority to seek a decision from the Secretary of State on whether the report should be provided. Furthermore, the Police Authority's power to obtain a report, subject to this qualification, is more limited still because it is not supported by a power to follow up the receipt of the report, if the Authority judges it necessary, for example by undertaking or commissioning inquiries.
- 5.11** The Police (Northern Ireland) Act 1998 contains labyrinthine provisions as to objectives, performance targets and policing plans, and the respective roles of the Secretary of State, the Police Authority and the Chief Constable. We have found these confusing, both in the text and in the oral briefings we have received from government officials (and we are mystified as to why this legislation was put through parliament in the weeks following the establishment of this Commission, given that our terms of reference required us to take a new look at the subject). But what does emerge clearly is that the Police Authority's scope for setting objectives, priorities and targets is, or can be, greatly constrained by the role given to the Secretary of State, who can set objectives (as well as principles) which must be taken into account; who must be consulted by the Police Authority, and by the Chief Constable, at several stages of the planning process; and who appears to be able to give the Chief Constable directions over the head of the Police Authority (see paragraph 6.18).
- 5.12** It is, however, not only the powers of the Police Authority that limit its effectiveness as a mechanism of democratic accountability. There is a perception that, to quote Weitzer, Police Authority members have "strongly pro-police orientations"<sup>2</sup>. True or not, the perception is fed by the way in which the Authority sometimes speaks about the police in public, for example defending the police service in relation to allegations of police wrongdoings, before such allegations have been properly investigated.
- 5.13** The Police Authority has also been hampered in its accountability function by having been responsible, until this year, for providing executive services to the police and managing more than three thousand civilian support staff working with the police. The combination of being at once part of the policing service and also required to monitor that service and hold the police to account was seriously flawed. As a result of the Police (Northern Ireland) Act 1998, the civilian staff have now been transferred to the Chief Constable's responsibility (from April 1999), but at the time of writing the complete separation of functions between the Police Authority and the police has not yet been achieved, and the relationship between the two bodies is still in some respects that between executive collaborators rather than one between a service provider and a regulator.

## **Transparency**

- 5.14** Transparency is accountability in the "explanatory and cooperative" sense described above. People need to know and understand what their police are doing and why. This is important if the

<sup>2</sup> Weitzer, R., *op. cit.*

police are to command public confidence and active cooperation. Secretive policing arrangements run counter not only to the principles of a democratic society but also to the achievement of fully effective policing.

**5.15** The past arrangements have not held the police adequately accountable in the “explanatory and cooperative” sense. Police authorities in Britain meet in public, as do comparable bodies in the United States. The Police Authority in Northern Ireland does not. Indeed, until recently, because of concerns about security, even the names of its members were not publicly available and not all of them are even now. However justified the concerns about personal safety might have been, it is inescapable that a body that meets behind closed doors cannot be perceived to be performing an “explanatory and cooperative” function between the public and the police. The public need to see, as they can see in Leeds or Los Angeles, their senior officers presenting reports and answering questions before the public’s representatives. We do not doubt the sincerity with which Police Authority members have tried to meet their remit to represent the views of the community on policing, but the clear message from the submissions and evidence we have received over the past year is that the community has very little cognisance of the Police Authority and its work. The proliferation of local Community and Police Liaison Committees, which we discuss later, and which do provide opportunities for public attendance at meetings, does not in our view compensate for the absence, at central level, of a means of holding the police publicly and regularly to account.

**5.16** Communication with the public and with the media is an area in which the RUC has been extremely weak. This was the view of many observers, not only journalists, who spoke to us. Police officers themselves tend to see the problem as a question of “public relations”; in nearly every police station we visited there was a feeling among officers that the RUC was not getting its message across. But it is much more than that; it goes well beyond the public relations department of the police and the “handling” of media. There needs to be a culture of openness and transparency in a police service as a whole, in which police officers as a matter of instinct disseminate information about their work. The prevailing instinct at present, however, is defensive, reactive and cautious in response to questions, as we experienced ourselves in relation to some of our own inquiries.

### **Legal Accountability**

**5.17** The police are tasked to uphold and if necessary enforce the law, but, like any citizens, they must at all times act within it. Police officers should have sound knowledge of the law and of their powers under it. They need sufficient discretion to do their jobs well but they need at the same time to be monitored in their adherence to the law, and to have any errors rectified and abuses punished. It is important for the credibility of the police in the communities they serve that all this should not only be the case but that it should also be seen to be the case. The incorporation into law of the European Convention on Human Rights, to the extent that this is effected by the Human Rights Act 1998, should serve to clarify those aspects of the law relating to policing where respect for human rights and human dignity are paramount considerations. Even where, in exceptional and defined circumstances, some derogation from these standards is permissible, these must be prescribed by law and proportional in the circumstances. Procedures to secure compliance with the law and with international human rights standards and norms are thus an important safeguard both to the public and to the police officers carrying out their duties. An

efficient and well-regarded system for dealing speedily, effectively, openly and fairly with complaints about the behaviour of police officers protects them from malicious complaints and should reassure and protect the public.

- 5.18** As we noted in Chapter 3, there are sharply different views in Northern Ireland as to whether the police have acted within the law in the past. A clear majority believe that they have, but a significant minority argue that there has been a large degree of abuse. Although we were not a commission of inquiry, and had no powers to investigate specific allegations, we took seriously a number of allegations concerning past police performance, some of which are still under investigation.
- 5.19** Whatever the outcome of these investigations, we are in no doubt that the RUC has had several officers within its ranks over the years who have abused their position. Many supporters of the RUC and both serving and retired officers have spoken to us about “bad apples”. It is not satisfactory to suggest, as some people have, that one should somehow accept that every organisation has such “bad apples”. They should be dealt with.
- 5.20** It is not simply individual officers who have been at fault here. We are not persuaded that the RUC has in the past had adequate systems in place to monitor and, when necessary, act upon complaints against officers and civil claims awards. Most modern service industries put a high premium on dealing quickly and effectively with complaints about customer service. This is a prime responsibility of management. What might be called quality of service complaints about policing should be dealt with speedily and effectively at a local level as informally as possible. The incidence of complaints should be used by management at all levels as an indicator of public satisfaction or otherwise with the service being provided, of the need to make changes and of training requirements. The proposals we make in this report are designed to ensure that this is the case, and to minimise as far as possible any prospect of abuses such as those alleged to have taken place in the past.

### **Financial Accountability**

- 5.21** The police service in Northern Ireland costs the taxpayer more than £600 million per year. The size of this budget and the importance of getting good value for public money call both for good management within the police service and for close, expert scrutiny by those responsible for holding the police accountable. Neither of these requirements seems to us to have been adequately met.
- 5.22** This is not to say that the Police Authority is not closely involved in the expenditure of this budget. It is – sometimes too much so: the Authority has, for example, enforced rules whereby a sub-divisional commander in the RUC cannot authorize the spending of £100 to repaint his station locker-room, but must refer the matter to his superiors (a convoluted bureaucratic procedure which, if properly costed, would almost certainly be found to be more expensive than the repainting job itself). The greater failing is at the other end of the scale where, as HM Inspector of Constabulary has argued in his reports over the years, there is a need for a more structured approach to budgetary planning. Unlike other police services in Great Britain, for example, the Policing Plan produced by the Police Authority is not a costed plan. We have also seen little if any evidence of value for money studies or initiatives in any of the presentations or papers given to us

by the Police Authority. In their submission of November 1998 the Authority describes, in a four paragraph section on financial management, its role as securing from government the funds necessary for policing, and makes no mention of the need to ensure that the police use the money efficiently.

**5.23** We note that the Northern Ireland Audit Office has, over the past year or so, begun to look into particular issues of police resource management. This is a welcome start, but not yet comparable in scope with the excellent work done on police resource issues by the Audit Commission in England and Wales.

**5.24** At present the principal accounting officer for the Northern Ireland block (including the policing budget) is the Permanent Under Secretary at the Northern Ireland Office, and the Chief Executive of the Police Authority is a sub-accounting officer. The Chief Constable, however, is not designated as an accounting officer, which in our view is a flaw in the accountability arrangements. The senior official of the organization that actually spends the money should in principle be accountable for how it is spent.

### **Internal Accountability**

**5.25** Internal accountability is dealt with separately, as part of our chapter on Management and Personnel (see paragraphs 10.8 to 10.15).