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INTRODUCTION

This research is premised on the assumption that there is a need for police co-operation between states which share a common land border, a free travel area, and common economic, social and cultural interests. The free movement of persons across the border serves the criminal every bit as much as the ordinary citizen. Accordingly, it makes sense that police authorities on either side of the political and jurisdictional boundary might develop methods of co-operation which enable them to combat the cross border criminal more effectively. This is particularly germane in Ireland where persons accused of a very wide range of offences, such as sex assaults, thefts, drink driving and many others, often take advantage of the border in order to stay ahead of the law enforcement authorities.

The need for effective cross border police co-operation is by no means confined to the investigation and prosecution of crime. The capacity of the authorities (including the police) on either side of the border to respond to a major incident or emergency on the border will be enhanced significantly if they have joint disaster planning which is regularly rehearsed in joint exercises. (“Lockerbie is eleven minutes from Derry”).

One of the most fundamental obstacles to the development of more effective cross border police co-operation on the island of Ireland is an information deficit. Not only are there gaps in literature and research in both jurisdictions, but virtually all of what is available has been produced for the needs of one jurisdiction only. Very little research has been carried out which addresses the law, procedures and practice in one jurisdiction with reference to that in the other. It is the objective of our work to attempt to fill this gap in order that any future cooperative strategies between the Garda Síochána and the Police Service of Northern Ireland might be better informed and hence, more effective. It is important therefore to state that this research does not address policing *per se* but rather is directed towards the aspects of policing which might either facilitate or impede co-operation between the two services in Ireland.

This Report is presented in six main sections. These are by no means discrete as there is necessarily overlap between them. The first deals with the background information on the two police services in Ireland in terms of their historical development. It covers the period from approximately 1920 to the implementation of the Anglo Irish Agreement in 1985. The second section outlines obstacles to cross border policing and discusses the formal and informal strategies developed to deal with them. The very fact that a political border has been drawn across the island of Ireland has obvious implications

for policing there. The practical issues of division, in terms of the extent to which they either impede or facilitate co-operation, are considered. Special attention is given to the Patten proposals, the recent inter Governmental Agreement on cross border police co-operation and the degree to which these developments are likely to affect policing in both parts of the island. Section three attempts to locate cross border policing in Ireland in a EU context.

Top-Down initiatives have had a major effect on the development of policing in Ireland. However, of equal significance in this regard, are the perceptions and attitudes of, and within, the two police services. That is the culture of the police themselves and that of the communities which they serve. We argue that these issues are just as important to co-operation as are any legal requirements and an approach to them constitutes section four. It became clear during the course of the research that an almost unanimous view of participants was that the whole area of training was of paramount importance in terms police co-operation. Section five is devoted to a study of current strategies and those proposed for future development.

While a significant amount of desk research was essential for this report, the methodology was characterised more by illuminative and qualitative work with participants in the field. In this regard we are grateful to *inter alia*

- Officers of all ranks in the Garda Siochana and the Police Service of Northern Ireland
- Officers of Customs service (ROI)
- The Department of Foreign Affairs (ROI)
- The Department of Justice Equality and Law Reform (ROI)
- Politicians from both jurisdictions
- The Commission for the Administration of Justice
- The Pat Finucane Centre
- The Northern Ireland Commission for Human Rights
- The Police Authority for Northern Ireland
- The Police Federation, PSNI
- The Northern Ireland Office

We are especially grateful to Tracey Gleeson who did much more than simply structure and format this report

In order to place the question of co-operation between the Royal Ulster Constabulary and the Garda Síochána within a context, it is important to look at (among other things) the historical development of both forces, and in particular at those elements of their organisational and cultural structures that might be thought to facilitate or impede the development and evolution of that co-operation.

The Development of the Garda Síochána since 1922

The Royal Irish Constabulary (RIC), established in 1835, was the predecessor to The Garda Síochána and the Royal Ulster Constabulary, and many of the key ingredients that had contributed to the effectiveness of the RIC were incorporated into the new force when it was created in 1922. The RIC had been an armed, paramilitary force covering the island of Ireland (excluding Dublin which had its own separate force, the Dublin Metropolitan Police - DMP) with a total (in 1918) of 1,129 stations throughout the thirty-two counties. Its membership was, according to Brady (1974), three quarters Catholic: it was however largely managed by (usually Protestant) members of the Anglo-Irish ascendancy, and its managerial style and culture was established along the lines of other colonial paramilitary forces used by the British in Africa and India.

In February 1922, Michael Collins established a committee to consider the creation of a replacement force for the RIC. The Committee proposed a unified, unarmed force with a maximum strength of 4,300 men organised in 21 divisions, to police all of independent Ireland, and to be administered by a Commissioner who would be responsible to the government. The new force, 'The Garda Síochána' or 'Civic Guard', was announced in the Irish Independent on 7 March of that year.

The role envisioned for the new force in the Irish Free State would be a different one from that fulfilled by the RIC. Whereas a degree of organisational continuity was possible, a police force that would be conceived as a 'Peoples' Guard', rather than an instrument of colonial power, necessitated some fundamental changes that were both operational and conceptual. At one level this amounted to little more than changing the name and the badge: but, at a more profound level, it signalled an aspiration to establish and promote a new relationship between the new force and the local community. This was, however, further complicated by the divided and volatile post-revolutionary and post civil war state of the country, and the new force faced the thorny and longterm task of "rooting out militarism and stamping a civilian imprint on Irish culture." (Lee1989). Inevitably the force was perceived by some anti-treaty supporters as aligned with the provisional government, and therefore partisan in relation to the terms of the Anglo-Irish Treaty. These fears became manifest during what became known as the Kildare Mutiny in the summer of 1922 when recruits, dissatisfied with the level of RIC influence in the new force, threatened the authority of the provisional government.

A commission of inquiry, established after the mutiny, made a number of recommendations (Walsh 1998). It was decided to disband but not disperse the Civic Guard, and immediately by selective recruitment to reconstitute the force. More importantly, the decision was taken to disarm the force and to make the relationship between the people and the guards closer by involving them in a wider range of local government activities. The vision was of:

“a police body that shall be servants of the people neither militaristic nor coercive, above party and class, serving the Government of the people, no matter what Government alone” (Allen 1999)

The Garda Siochana Act (1924) that followed allowed for 4,918 gardai; 1,200 sergeants; 150 inspectors and superintendents; 27 chief officers and supervisory officers (Breathnach 1974). Shortly after this, the Police Forces Amalgamation Act (1925) merged the DMP and the Garda Siochana.

Not surprisingly the Irish Free State remained a volatile place during the 1920s (Breathnach 1974), and many have argued that the new police force constituted a major influence in the process of wooing a divided and often rebellious population in the direction of constitutional democracy. The force was often under-strength, under-armed and regularly under attack from paramilitary groups on both sides. A separate Special Branch was established in 1925, distinct from the uniformed force, to deal with political crime and attempts at subversion. But the fact that the uniformed force was unarmed appeared to represent the idealistic nature of the nascent state, and it also had the advantage of a dynamic - if occasionally unpredictable - leader in Commissioner Eoin O’Duffy.

In 1932 when Fianna Fail, led by Eamonn de Valera, came to power for the first time, the supposed apolitical integrity of the Garda was severely tested. Tensions between the pro- and anti-treaty sides had fluctuated throughout the twenties and into the thirties, and O’Duffy had used fairly extensive powers of repression to keep the peace, including the use of military tribunals in the place of normal courts and the proscription of 12 political groups (Saor Eire and the IRA among others). De Valera, representing those who did not agree to the Anglo-Irish treaty, sacked O’Duffy because he was “likely to be biased in his attitude because of past affiliations”¹.

Breathnach (1974) suggests that:

“Perhaps O’Duffy’s ideas of a police force would be more appreciated today, but in the twenties the police were the right hand of the government and they could not be permitted to operate as a satellite army within an Ireland of so many satellite armies.”

By 1932 all political prisoners had been released, and many of these joined the police and the army. In April 1933, an organisation called the ‘Army Comrades Association’ (ACA), led by O’Duffy after his dismissal, began to wear a uniform of blue shirts in public, and announced plans to march 20,000 men to the capital in protest against de Valera’s government. One consequence of these paramilitary stirrings was that, in 1933, 367 new recruits were admitted to the Gardai to help keep order in the

¹ Dail Debates vol. 46 col. 764, 14 Mar 1933

increasingly fractious conditions created by the two groups. Clashes between 'mildly fascist' Blueshirts and 'mildly communist' IRA members became more numerous and violent. However, the guards emerged from this period of Irish history with a reputation as an impartial force, having acted with equal severity towards both IRA members and Blueshirts.

Supported by a new Offences Against the State Act (1939) the Garda Síochána moved strongly against the IRA in 1940 and consequently suffered a number of fatalities. However by 1945 the IRA had been largely defeated. With the Free State now at peace with itself, the remainder of the history of the force is tied less to the development of the state than to the internal development of the organisation.

The structures and procedures of the force were largely reformed in the early 1960s. Up to then, it could be argued that the twenty-six county state was policed by a force designed to meet the exigencies of nineteenth-century Ireland (Griffin 1999). The Garda Síochána was highly centralised and controlled by its administration headquarters in Phoenix Park, Dublin. The Garda Commissioner, who was the head of the force, was appointed by the government, and remains responsible to the Minister of Justice. Breathnach (1974) claims that this political association, which is at once so important and precarious, has never seriously been questioned or defined.

Clearly this strong centralised and hierarchical structure had advantages, for example of "ensuring that the force functions as an integral unit, rather than as an unwieldy body of individuals" (Walsh 1998). Further benefits included a coherent system of governance during the thirty years after independence when the state was under threat. However its garrison-like nature had begun to cause dissatisfaction among its members, especially as a result of its perceived isolation from the rest of the community. An article in the *Garda Review* in September 1939 demonstrates the point:

"we have now a force held together by rigid bonds of discipline, lacking the beneficent welding influence of social life."

An Interdepartmental Inquiry set up in 1950 was intended to examine Garda strength. The committee set about modernising the force by removing some of its extraneous duties and introducing automobiles to selected districts. It also found it possible to shed 714 men in a re-organised force of 6,683 (Allen 1999). Releasing guards from antiquated rural duties dramatically altered the nature of the police service, freeing guards from the compulsion to return every few hours to their station.

Figure 1 Garda Numbers 1922 -1970

Garda Numbers 1922 – 1970	
1922	2,960
1935	7,516
1945	7,485
1968	6,554
1970	6,546

Source: Breathnach 1974

In 1952, for the first time since 1943, 174 new recruits were brought in to the force to replace some of the guards who had retired, or who had joined the United Nations contingent in 1956². In 1958 the first *banghardaí* (female officers)³ were recruited. This second generation of guards proved quite unlike its predecessors. This was reflected in 1959 when the guards gained the right to negotiate directly with the authorities over pay. The Joint Representative Body went to arbitration and gained a modest rise in salary. Younger guards were however excluded from the offer and this caused a significant degree of dissatisfaction,

On 4th November 1961, in an unprecedented attack by the guards on what they perceived as the authoritarianism of the organisation, a number of officers attended a meeting at which it was decided to implement a go-slow to highlight the failure of officers to obtain a pay rise. Charles Haughey, the Minister for Justice, issued a statement saying that if discipline was restored a full examination would be undertaken into the negotiation procedures for increases in the salaries of younger guards. Unfortunately, on the same day, the then Commissioner issued letters of dismissal to the eleven ringleaders, which had the predictable effect of increasing support for their case, to such an extent that they were all immediately reinstated. As a result, the Joint Representative Bodies of the Force gained in status and conditions for serving members improved. Further confrontations between the commissioner and the guards led to the setting up of the Conroy Commission in 1968, to examine every aspect of the Garda Síochána⁴. The commission strongly urged a review of the relationship between the Garda Síochána and the Department of Justice as it felt the latter exercised too much control. It also introduced the idea of creating a Research And Planning Unit.

“[This unit] launched ambitious plans to computerise the administrative and forensic science records, and among other projects devised schemes for rural policing adopted in the eighties, and for regionalisation of the management structure, long delayed but eventually introduced in the following decade.” (Allen 1999)

The unit was also responsible for the codification of the Garda regulations and revision of the Garda guide, ending one aspect of the organisation’s link to the colonial past. By 1969, the actual strength of

² 500 guards left the service in the first five years of the 1950’s for these reasons.

³ By 1996 seven per cent of the force were women (McNiffe1999). The term *banghardaí* has not been used since 1991.

⁴ Throughout the Sixties the guards were improving their service. In 1960 tracker dogs were introduced. In 1963 a juvenile liaison scheme was established. A sub-aqua unit was created in the mid-sixties and Templemore Training College in County Tipperary was opened.

the Garda Síochána was about 6,500. There were just five women sergeants and twenty-three women of garda rank (McNiffe 1997).

The 1970s was a time of significant change for the Garda Síochána. The job became increasingly more dangerous as violence in Northern Ireland escalated and spread into the Republic. The crime rate also increased dramatically. The 1977 figure for indictable crime was two and a-half times the 1968 figure. The nature of crime also altered. Criminal activity became more organised and vicious armed robberies became more common. In response the number of gardai was increased by almost 50%, so that by 1979 the total strength of the force was nearly 9,500 (McNiffe 1997).

By 1981 the Garda Síochána had approximately 10,000 members and in 1984 this had risen to 11,200. The number of women in the force, while remaining small, had also risen. In 1983 there were 300 women⁵, an increase from 35 in 1977. The decade also saw the passing of a Garda Síochána (Complaints) Act in 1986. This set out the procedures to be followed in the investigation of complaints by members of the public against individual guards. Walsh (1998) states that the Act was passed in the wake of a number of incidents, which were deemed by public opinion to have been treated in a heavy handed manner. Its focus was on satisfying the public that allegations of abuse by the police, in the exercise of new powers granted to them to combat terrorism, would be fairly investigated.

By 1996 the global picture of the Garda Síochána had changed quite dramatically in terms of its structures, its size, and its place within the general community. The overall structure however remained hierarchical. The country was divided into six Regions, each commanded by a Regional Assistant Commissioner. Each Region was divided into Districts commanded by a Chief Superintendent, and each District was divided into Divisions commanded by a Superintendent, assisted by Inspectors. Districts were in turn divided into sub-Districts commanded by a Sergeant who oversaw (usually) one station consisting of between three and one hundred men.

In relation to size, there are now 703 Garda Stations throughout the country, a total of 11,230 members in the force, including 1,700 detectives who operate in civilian attire. In addition there are 500 civilian staff⁶. As to the place of the force within the community, the civil war legacy is clearly finally gone, and the overall satisfaction rate with the force is believed to be high. However the many social changes – among others the increase in crime, drugs, and new migration patterns - have inevitably made the role of the guards more complex and multifaceted, and it is clear that new levels of sophistication will be necessary to deal with these in the future. Relationships with the Police Service of Northern Ireland in the wake of the Good Friday Agreement, and the Patten Report, may add to this complexity.

⁵ This included three inspectors and eight sergeants.

⁶ As posted on <http://www.irlgov.ie/garda/> at May 28th 2001.

The Development of the RUC/PSNI since 1922

Northern Ireland was brought into being by the Government of Ireland Act of 1920, which partitioned the country and provided for two parliaments, one in Dublin and one in Belfast. Despite the ongoing and extremely violent Anglo Irish war being fought between British forces and Irish Volunteers (later known as the Irish Republican Army) mainly but not wholly in the Southern part of the country, a new Parliament for Northern Ireland was opened in Belfast on 22 June 1921. Shortly after this, on 9th July 1921, a truce was agreed between London and the IRA, followed by the signing of an Anglo Irish Treaty in London on 6th December 1921. This accepted the reality of the partition of the country. For one section of the Irish population this represented an enormous betrayal, and very quickly a vicious Civil War between pro and anti treaty factions began, which lasted until April 1923.

The whole period was one of great uncertainty and instability in all parts of the island of Ireland. In the North, the newly elected unionist government was faced with regular sectarian rioting within its own borders, with – for example – the violent expulsion of Catholics from the Belfast shipyards, and continuing attacks from the IRA both internally and across its new border with the south, leading to further unrest and disruption. Unionist vigilante groups emerged, largely composed of members of the Ulster Volunteer Force, an armed militia dedicated to maintaining the integrity of the new administration's status within the United Kingdom. The new Unionist state felt itself under threat from the south, which still laid claim to the north, and from the Catholic minority within its borders who did not accept, and felt betrayed by, the new arrangements. To help counter this threat and to bring the various irregular vigilante groups under control, the Ulster Special Constabulary was formed. In response to the continuing violence, there were two meetings between Craig and Collins in early 1922, leading to pacts to establish a working relationship with the aim of restoring law and order. These produced a plan for an advisory committee to oversee increased Catholic recruitment to the police. A commitment was also given to deploy units which were 50% Catholic and 50% Protestant in mixed areas or on arms searches. Because of opposition from within the Unionist Party this agreement was never honoured. More generally the meetings had no significant effect on the violence from either side.

The Royal Ulster Constabulary (RUC) was formed in 1922 when responsibility for internal security was devolved from Westminster to Belfast. Like the RIC, it was centralised and under direct political control with the Inspector General answerable to the Unionist Minister of Home Affairs in the Northern Irish Government. He commanded a police force of 3000, backed up by a part-time B Special force. The basic organisational unit, outside Belfast, was the County, which was divided into six or eight districts headed by a county inspector assisted by a head constable. Belfast was divided into five districts and headed by a City Commissioner.

It was intended initially that Catholics would comprise one third of the new force, and this was intended to represent the proportion of Catholics in the population of the new region. Not for the last time this aspiration was not fulfilled, and Ryder (2000) provides a number of explanations for this failure: Catholics were afraid of being ostracised by their own communities; inter-recruitment between

the Specials (in the main former UVF members) and the police disadvantaged Catholics; the orange culture in the RUC intimidated them; and, most importantly, the Unionist Government urged on by a diehard minister of Home Affairs (Dawson Bates) did not want more Catholics in the police force and vacancies were most often filled from the ranks of the USC. According to McGarry and O'Leary (1999),

“Catholic representation 1923 peaked at 21 per cent in 1923, fell to 17 per cent by 1927 and to 10 per cent by the outbreak of the present round of conflict in 1969.”

From the beginning the RUC was an armed force, paramilitary in nature, with many of its members also members of the Orange Order (Ellison and Smyth 2000). It had little autonomy in its own right, and was controlled by the Government - in effect the Unionist Party - through the Minister of Home Affairs. This structure of authority lasted without a break, from the establishment of Northern Ireland in 1922 until 1972. During this time the unionist government was composed exclusively of Protestants, the majority of whom were members of the Orange Order. The Government saw the role of the RUC in political terms, that is primarily – and with some justification - as defenders of the state against attacks from the IRA and similar anti-partitionist groups. The minority Catholic community as a whole was also perceived to be essentially disloyal and antagonistic to the police, and was therefore often included indiscriminately as part of such groups. The Government made little attempt to attract the support of the minority, with the inevitable result that many of them felt obliged to accept the role to which they had been assigned.

To assist the police in their perceived role as defenders of the state, the government in 1922 passed a 'Special Powers Act', which gave wide powers of search and arrest and allowed internment without trial, suspension of inquests, and the imposition of curfews. An inquiry into policing by the British National Council for Civil Liberties in 1936 was critical of the RUC's political role. It reported that the police did not act impartially when dealing with marches or protests and consistently favoured Protestants at the expense of Catholics.

Despite these difficulties the Catholic minority within Northern Ireland did not always demonstrate their unconditional opposition to the state or the Government. For example, when the IRA began a new campaign of violence between 1954 and 1962, it quite clearly failed to win the support of the wider Catholic community. This evidence of growing acceptance of the *status quo*, however, appeared to make little impact upon the bulk of the unionist community, or their practices and suspicions. There was little unionist support for reforms aimed at the complaints of the Catholic community. Nevertheless, during the late fifties and early sixties a number of public unionist voices began to speak out in favour of change and new trust, but with little success.

The authority of the Unionist Government was therefore not seriously challenged until the Civil Rights protests began in 1968. From the beginning, the leaders of this campaign emphasised that they were not opposing the existence of the government, but were looking for the establishment of British patterns of social justice within the governance of Northern Ireland. This was demonstrated, for

example, when - unlike practices in the past - appeals for change and reform were directed towards Belfast and London rather than Dublin, indicating a disposition to accept the legitimacy of the government.

However, the combination of insecurity and long practice among unionists meant that the civil rights leaders were immediately branded as anti-partitionists whose real agenda was to destroy the state. The first line of their defence was inevitably the RUC, with the result that the series of civil rights marches during 1968 – '69 in Dungannon, Belfast, Armagh and Derry were treated by the police as an attack on the state. At the least, the policing of the disturbances that resulted exposed the failure of the police and specials to act impartially. Bardon (1992) writes:

“Images of unrestrained police batoning unarmed demonstrators including MPs, ‘without justification or excuse’, as the Cameron Commission judged later, flashed across the world.”

The sequence of events that followed is well known. In substance, the rioting that followed the Apprentice Boys march in Derry in August 1969 spread to Belfast and other places, until it was evident that the police could no longer control the situation. As a result the British army was called in, in support of the police, and assumed a control of the security operations that lasted for the next eight years, with the police playing a secondary role. A committee led by Lord Hunt investigated the policing of the disturbances. Hunt's recommendations included, the disarming of the police, the Repeal of the Special Powers Act, the disbandment of the Ulster Special Constabulary and the establishment of the Police Authority of Northern Ireland.

These and other changes meant that grass-roots unionists and loyalists, especially in Belfast, had all their suspicions confirmed, that the whole business was a clever nationalist plot to destroy Northern Ireland's place in the United Kingdom. The acceptance of the Hunt Report therefore led to loyalist rioting on Belfast's Shankill Road in which the first policeman of the troubles was killed. The civilianisation of the police force proposed by Hunt was almost immediately undermined by the emergence of the provisional IRA and a deteriorating security situation. Within a few weeks the police had to be re-armed, and a new RUC Reserve force was created to assist the police to control civil disturbances. The Ulster Defence Regiment was formed in 1970 to patrol borders and protect the state, and recruited many members of the disbanded Ulster Special Force (B Specials). The Special Powers Act was replaced by Emergency Provisions Act (1973) and reinforced by the Prevention of Terrorism Act (1974). These gave the police greater powers than they had enjoyed under the old Special Powers Act. They suspended the right to jury trial, reintroduced internment and gave the police wider powers of arrest.

Following the Hunt Report, the Police Act (1970) established an independent Police Authority for Northern Ireland, as a means of increasing police accountability to the public, and to distance the police from political control. In theory the act gave the Police Authority important powers over the

police but in a deteriorating security situation they were never effectively applied. Weitzer (1995) pointed out that:

“On those few occasions when the Authority has pressed for a wider remit or asserted itself against the decisions of the Chief Constable, it usually has encountered stiff resistance. In 1976 it was denied a request to attend security meetings at the Northern Ireland Office and it was also refused access to files on complaints against officers. In a submission to a task force on complaints, the Authority claimed a right to such files under the Police Act and complained that its role in monitoring how complaints were being handled was being thwarted by the RUC”

By 1971 the IRA had gone on the offensive with a bombing campaign all over Northern Ireland, but mainly in Belfast and Derry. The reintroduction of internment without trial by the Faulkner government in 1972, followed by allegations of ill treatment of internees, and the shooting dead of 13 civilians by British paratroopers at a civil rights demonstration in Derry (Bloody Sunday) served to increase recruitment to the provisional IRA. A number of vigilante groups were policing both communities and there was pressure from unionist ranks for a ‘third force’ to defeat the IRA. In March 1972 the Northern Ireland parliament was dissolved and direct rule imposed from Westminster.

After 1969 the RUC, in practice, assisted the army whose security policy was governed by reaction to events. The army’s strategy was solely a military one and the ongoing conflict resulted in fortification of police stations and further militarisation of the police. Non-jury courts presided over by one judge, as recommended by the Diplock Report (1972), were able to consider as evidence confessions obtained in the interrogation centres at Castlereagh and Gough Barracks. Complaints about ill-treatment of prisoners were investigated and reported upon by Amnesty International in 1978. They found sufficient evidence of maltreatment of suspected terrorists to warrant a public enquiry. This was corroborated by the Bennett Report (1979) which also found evidence of ill treatment.

By 1976 the policy of police primacy was recognised as ‘the way ahead’ and the RUC resumed a central role in policing. The new Chief Constable, Sir Kenneth Newman saw his task as restoring the police to a central role, developing a counter-insurgency strategy and enshrining impartiality as a guiding principle of the police force. Events on the street undermined this ideal. The RUC were under attack from all sides and normal policing at this time was simply not an option. For their own protection the police had to be armed and travel in heavily armoured vehicles. The Police Federation protested increasingly that the use of a civil police force for military duty was inappropriate. Nevertheless, on January 1st 1977 the new policy of police primacy was firmly established under a joint directive signed by the new GOC Lt–General Creasey and Chief Constable Newman.

Crucial to this counter insurgency strategy was effective intelligence gathering. One consequence of this emphasis was the emergence of the ‘supergrass’ - a person who was prepared to give evidence in exchange for immunity from prosecution and/or financial inducement. Convictions were often made in Diplock courts, on unreliable evidence that did not require corroboration. Many informants retracted

their evidence and strong protests came from both sides of the community. As a result the RUC and security forces ceased to rely on the strategy.

Alleged collusion between the security forces and loyalist paramilitaries has been an ongoing issue and has instigated inquiries by, among others, Stalker, Samson and Stevens. The Stevens Inquiry (1989) concluded that while there was no evidence of institutionalised collusion with loyalist groups there was evidence of security documents reaching loyalists through members of the security forces.

Meanwhile, increasingly successful operations against Protestant paramilitaries, and the policing of banned orange parades and demonstrations, led Protestants to complain that the RUC was no longer 'their police service'. The police were confused, attacked from all sides and racked by allegations of shoot-to-kill policies and collusion with loyalist groups. By the end of 1998, 302 policemen and women had been killed and thousands maimed and injured.

In April 1998 the Good Friday Agreement was agreed by the majority of the political parties in Northern Ireland. The difficult and contentious issue of policing was an important element within the Agreement, and it was agreed that an independent commission on policing would be set up. This was quickly put in place under the chairmanship of Chris Patten, and was charged with making recommendations for a future police service that would be:

"Professional, effective and efficient, fair and impartial, free from partisan political control; accountable both under the law for its actions and to the community it serves; representative of the society it polices and operates within a coherent and co-operative criminal justice system, which conforms with human rights norms."

The commission consulted widely, held public meetings, and received letters and petitions from a great many groups and individuals from all parts of Ireland, the UK, and wider afield. Members also visited other police services in the Republic of Ireland, Britain, Canada, South Africa, the United States and Spain.

The key changes recommended in the commission's final report included, a new name and symbols for the police service, a new Policing Board to replace the current Police Authority, comprehensive action to focus policing on human rights, new District Policing Partnership Boards to carry out local consultation on policing, and unique arrangements for recruitment designed to redress religious imbalances in the composition of the police service.⁷

Prior to the Good Friday Agreement, the RUC was described as a tripartite system, the three major elements of which were the Chief Constable, the Secretary of State for Northern Ireland, and the Police Authority. Within this system the Chief Constable was held to have operational independence, but also to be responsible (or answerable) to the Police Authority in relation to administrative and financial matters. In practical terms this appeared to mean that the Chief Constable was not in any

⁷ Police Authority for Northern Ireland, Annual Report 1999/2000

meaningful way under the control of the Authority. The Secretary of State was the final arbiter in the case of disputes. The managerial structure was that the force was headed by a Chief Constable, assisted by two Deputy Chief Constables: Northern Ireland was then divided into three regions each headed by an Assistant Chief Constable, 12 divisions headed by Chief Superintendents, and 38 subdivisions headed by Superintendents.

The new Police Service of Northern Ireland (resulting in the main, but not entirely, from the Patten proposals) is organised on a continuing tripartite system designed to assist transparency and accountability. The Secretary of State is responsible for producing long-term objectives and principles. While the Chief Constable has operational responsibility, he has also an obligation to report to the Policing Board and may be asked to explain operational decisions. The Policing Board is composed of 19 members, 10 elected members drawn from the Assembly, and 9 independent members representative of the community who are appointed initially by the Secretary of State in consultation with the first and second ministers. The Police Board will set objectives and priorities for a 3-5 year period, hold the chief constable and the police service to account, negotiate a budget, and present an annual policing plan. They will also be responsible for appointing the Chief Constable subject to the approval of the Secretary of State. The Board may follow up any report from Chief Constable by instigating an inquiry by the Ombudsman, Her Majesty's Inspector of Constabulary or the Audit Office.⁸

The new divisional structures have been replaced by District Command Units (DCUs) that are aligned with the local council areas. Each DCU is further divided into sectors, and the policing team for each sector is committed to working towards involving the community in a problem solving approach to policing. Each council is to establish a District Policing Partnership Board (DPPB). It will be made up of a majority of elected members, along with a number of independent members to be selected by the local council with the agreement of Policing Board. The position of chairperson of each DPPB is to rotate between the political parties, and each DPPB must submit an annual report to the District Council and to the Policing Board.

History of Cross-border Co-operation between the Two Police Forces

The political circumstances leading to the establishment of Northern Ireland, the creation of a land border, the existence of illegal organisations and private armies, continuing bitter political disagreements and disputes between governments (right down to comparatively recently), all contributed to an atmosphere - and a set of practical realities - that made co-operation between the two police forces difficult. In addition, as we have seen, the two forces emerged within societies with quite different cultural and political aspirations and senses of institutional identity. They also developed different organisational structures, different relationships with their various communities, and different attitudes to and understandings of their roles and responsibilities.

⁸ The Patten Report 1999 and the Implementation Plan 2000

It is therefore probably true to say that complex and sophisticated sets of inter-force relationships did not tend to emerge during the first 60 or so years of their existence. Individual members of the two forces agree that this was indeed the case, but they also argue that relationships at various levels of efficiency and depth nevertheless did exist for the mutual benefit of both police services and their immediate communities, although often covert and unpublicised. At its weakest, this often meant that near to the border, the local Garda and RUC man knew each other personally, and co-operated in relation to ordinary criminal activity, petty crime and local difficulties. At other more complex levels, examples of co-operation were cited in relation both to larger civil and criminal offences (murder, armed robbery, smuggling), and also to the activities of illegal paramilitary organisations. These organisations often constituted a threat to the equilibrium of the local community, and sometimes to the lives of police personnel from both sides. For example, during the 1956 IRA campaign, co-operation continued to depend on the relationships and friendships that had been built up at border stations.

When the civil rights disturbances began in the late 1960s however, and the Northern Ireland government used the police to suppress dissent, there was a cooling in cross border relationships even at the local and informal level. The subsequent campaign of the Provisional IRA, the devolution of the Stormont Government, and the imposition of direct rule from Westminster gradually brought recognition from the British Government that the problems in Northern Ireland had an Irish dimension. The Sunningdale talks (1973) were the first official indication of this. As a result of these talks, the initial steps towards more formal co-operation in policing were taken at a meeting between Garda and RUC officers at a military airfield at Baldonnel, outside Dublin. It was agreed to set up a series of study groups to examine, *inter alia*, the improvement of radio communication, exchanges of intelligence and more co-ordinated border patrols. The talks were wide ranging and created a basis for future co-operation within the Anglo Irish Agreement. Border superintendents were appointed in Northern Ireland in 1978 to further enhance the system of formal co-operation.

It was suggested to us that the 'shoot to kill', and other controversies, engendered a distrust of the RUC among the Guards,. The perception that terrorists could live with impunity in the Republic of Ireland, led to a similar lack of confidence in the Gardai. Both resulted in a decline in co-operation between the two services. The Anglo Irish Agreement (1985) was to return co-operation to a firmer footing. This agreement provided for regular meetings between the two police services at all levels. It also suggested shared training facilities and exchanges of personnel, and recommended that the criminal law should be examined to find areas that could be harmonised to the benefit of both jurisdictions.

These regular meetings were successful in creating good working relationships but made little progress in the suggested areas of training, personnel exchanges and harmonisation of criminal law. Fourteen years later, in 1999, Patten still the need to point out that arrangements for co-operation between the Garda Síochána and the RUC are more *ad hoc* and dependent on personal relationships than, for example, the arrangements between Kent County Constabulary and its neighbours in France

and Belgium. The Patten Commission also confirmed that co-operation across the broader range of police activities has been less developed than one would have expected. The Commission has made a series of recommendations that reflect those of the Anglo Irish Agreement and that, if implemented, will establish a level of co-operation not formerly enjoyed between the two jurisdictions.