

**A comparative study on the role of  
police accountability in integrating  
communities**

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Winston Churchill Fellow 2007**

## **Acknowledgements**

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## **Policing is too Important to Leave to the Police (Patten Report 1999)**

### **Introduction**

Policing in Northern Ireland was central to the transition from 'The Troubles' to a more settled society and political accommodation, as part of this process an Independent Commission on Policing (ICP) was established to make recommendations for the future of policing. Arising from the ICP report better known as the Patten report (1999) was a new architecture for civilian oversight of policing in Northern Ireland, described by the independent police Oversight Commissioner to be the most profound reform ever faced by any police force in the world. Aspects of the new structures were influenced by what the ICP saw in the US and South Africa. Both these countries have a head start on police reform so it was possible that their experience could offer insights and lessons that would be relevant for Northern Ireland and perhaps the UK in general.

The purpose of my Fellowship was to conduct a comparative study on the role of police accountability in integrating communities. To learn lessons from each country that could assist develop police accountability to secure widespread public confidence and build relationships between police and 'hard to reach' or 'hard to communicate with' groups. The latter gaining confidence and trust in police secure in the knowledge that police are there to serve not repress.

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Police Accountability in Northern Ireland, USA and South Africa

The Good Friday Agreement (or Belfast Agreement 1998) heralded a new era for Northern Ireland and included a review of policing by an Independent Commission on Policing. The commission, chaired by the Right Honourable Chris Patten, included

members from South Africa, the USA as well as from across the UK and NI, in all it made 175 recommendations when it published its report (better known as 'The Patten Report') in 1999. The Report was later described by the Oversight Commissioner (appointed to monitor implementation) to be the most profound reform ever faced by any police force in the world, while the Police Service of Northern Ireland Chief Constable has described the PSNI as being the most accountable Police Service in the world. Work implementing the recommendations continues some 8 years later.

Given the involvement of the representatives from South Africa and the US I thought it would be interesting to compare the accountability structures established by 'Patten' against those in the US and South Africa. In order to do so I applied for and was fortunate to be awarded a Fellowship from the Winston Churchill Memorial Trust. I am grateful to The Winston Churchill Memorial Trust for their support.

The police accountability structure now existing in Northern Ireland is founded on two independent bodies the Policing Board for Northern Ireland and the Police Ombudsman for Northern Ireland. The Policing Board comprises 10 local assembly politicians, and, 9 lay members appointed by the Northern Ireland Office (NIO) following a public competition. The NIO also appoints the Police Ombudsman following a public competition for a term of office for 7 years. Both bodies actively guard their independence of police and government, and each in their own way supports policing. Each body has statutory basis and powers, for example, the Policing Board can ask questions, give advice, or, require the Chief Constable to provide a report on incidents involving police, and, if considered appropriate it can cause an independent investigation into any matter it feels is in the public interest to do so. The Policing Board besides holding the Chief Constable to account is also working to widen participation and increase confidence in policing. The 'Patten' report made it clear that the Police Service itself should act in the public interest and not solely in the interests of the police service.

The Police (NI) Act 2000 requires local councils to establish a District Policing Partnership (DPP) (which is supported by the Policing Board for Northern Ireland),

comprising local councillors and independents appointed by the Policing Board (politicians have a majority on each DPP). The DPPs provide community views to the Police District Commander; monitor police performance at district level, make arrangements for getting the views of the public on policing in their area and gain their co-operation with police in preventing crime, and, act as a forum for discussion and consultation on matters affecting local policing (NIPB 2008).

The role of the Police Ombudsman is to investigate all complaints against police officers<sup>1</sup>, this role was later extended to include police policies. The powers of the Ombudsman are extensive with investigators having the full range of powers available to police officers, and, the Ombudsman having the power to initiate investigations (without a complaint) if he feels it is in the public interest to do so. The Ombudsman investigators can have full access to all police information and intelligence. In the recent past the Ombudsman launched enquiries that have been described as a ‘surrogate truth recovery vehicle’ (Ellison 2007) alongside dealing with present day complaints. The Ombudsman has a statutory responsibility to secure the confidence of the Public and Police officers.

In 2003 PSNI was surveyed on the impartiality of PONI, of the 3924 officers who responded only 13% believed the Ombudsman was impartial (PONI 2004) by 2007 the survey sample seems to have changed to include only those officers investigated (PONI 2007). The operating cost of the Ombudsman is £8 million (PONI 2007) and as Ellison (2007) points out the cost is high in comparison to England and Wales, and raises questions of sustainability. The cost of the ‘truth recovery’ enquiries is a drain on PONI resources and their contribution to policing is unclear. In a speech the Joint Chairs of the Consultative Group on the Past: dealing with the legacy, described the Criminal Justice System as a ‘crude instrument’ to deliver the truth, “often not deliver[ing] what people seek or bring about the healing that they long for” (CGOTP 2008). The CGOTP challenge is to find new and better ways to deal with the legacy of ‘The Troubles’. Perhaps these sorts of questions will cause a refocusing on what should be the key role of a Police Ombudsman. In sum the Oversight Architecture creates a strong framework for

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<sup>1</sup> Only for police officers on duty or the complaint is connected to their being a member of PSNI

police accountability and with recent surveys indicating that public confidence in police is high (NIPB 2007).

The US law enforcement is extremely complex with over 18,000 agencies nationwide having investigative powers; the existence of so many is perhaps indicative of the American distrust of Federal government. Furthermore, some police departments are small perhaps as few as 3 or 4 sworn officers while other departments sub contract services from larger police departments. This desire for local control and interdependence between police departments makes it difficult to have a nationwide system of oversight. However, there are local incidents, often representing a 'crisis' for policing, that prompt the US Department of Justice (DoJ) to intervene. If the local authority declines to act as requested the DoJ can apply to court for a Consent Decree to compel change. Such an order requires the police department/local authority to make specified changes and a Monitor is appointed by the court to oversee the change process. Such a court order is time bound and tends to be aimed at correcting practices without securing the changes to police culture necessary for long term change.

LA County Sheriff is subject to a Consent Decree and the Monitor Merrick Bobb, a lawyer, reviews the police complaint system, Internal Affairs investigations, and serious force incidents. He sees his role to ensure the integrity of the complaint process, in other words was the investigation of the complaint fair and thorough? Was the use of serious force justified? When investigating he considers police policies and practice and the context in which the incident occurred. He reported a tension at times between his role and the Sheriff who nevertheless accepts that the Monitor role is constructive and done in good faith. Such a tension is a healthy tension.

However, there are examples of longer lasting oversight and one example is the Office of Inspector General (OIG) for the Los Angeles Police Department (LAPD). The OIG is responsible to, and reports directly to the Police Commission that oversees the LAPD on behalf of the Mayor of Los Angeles. The Mayor appoints the Commissioners who are professional people who donate their time and they de facto act as a Board of Directors

with the Chief of Police as the CEO. The purpose of the Commission is to provide civilian input and the framework for policing. The OIG is responsible for overseeing the complaint process with investigations mostly conducted by the Police Department.

The OIG has same right of access to police information as the Police Commission; to oversee police handling of complaints; conduct investigations at the request of the Commission or may initiate an investigation without prior approval but continuance of the investigation is only subject to securing the approval of the commission. The review of citizen complaints of misconduct and oversight of the Department's internal disciplinary system are also important functions.

In some smaller Police Departments accountability arrangements take a different slant. Some police chiefs, such as County Sheriffs, are elected and answerable to the electorate while other's are appointed by the local political power. Often these police chiefs lack a similar operational independence as UK Chief Constables and are relatively easy to dismiss from their post.

The US Census 2000 indicated that some 10 million people (65% increase over 10 years) did not speak English as a first language. Undoubtedly this increase is a reflection of the increased number of migrants both documented and undocumented who often come together to form their own local communities. As we know from experience these communities present unique policing challenges not least because of the fear of deportation and/or distrust of police (based on experience of their home police). These fears make vulnerable communities that are 'hard to reach' or 'hard to communicate with'. The community does not understand the police, and, police officers have little understanding how they are perceived by that community, nor the needs of those communities. An obvious example of this is the increasing pressure on Police to use Immigration and Custom Enforcement (ICE) powers that in effect will require officers to establish the residency status of victims and witnesses. However, there is resistance to police enforcement of what was heretofore an immigration matter.

The approach of the City of Anaheim, which has a large Hispanic community, is an innovative community governance model (Khashu 2006) this model streamlines all public services including police to provide a coordinated response to community needs. The city is divided into 4 districts each with a dedicated Community District Team chaired by a representative from the City Council Neighbourhood Services, and includes a Police Lieutenant and representatives of key public services - much like a Crime and Disorder Partnership. To develop community leadership and receive input each district team holds public meetings that team members must attend along with at least one officer from the Community Police Team. Additionally the Community districts organise events that support policing and aimed at improving quality of life in local neighbourhoods. I had the benefit of attending one such meeting and it was remarkable how once reported antagonistic relationships had been improved to such an extent that police service is extolled as a valuable public service and those individuals that serve are regarded as local 'heroes'. As a result, public confidence in police has improved, and the PD workforce is more reflective of its community.

There are similarities between NI and Anaheim, with the Policing Partnerships acting in a role similar to the Anaheim District Team (obviously less the involvement of other public services)<sup>2</sup>.

In South Africa I visited the Western Cape and meet a range of interests in policing. On the surface the accountability architecture is similar to NI with an Independent Complaints Directorate (ICD) to deal with complaints against the police. However, in the Western Cape the provincial office of the ICD has 7 investigators for 16164 sworn officers covering 129,730 sq Km, in total the ICD has 152 staff (as at 2001) compared to Police Ombudsman NI which has 125 staff. In effect, the ICD can only manage the most serious incidents and must rely heavily on the South African Police Service (SAPS) to conduct investigations and maintain scenes. Some concerns were expressed that the independence of ICD is not clear as the Minister of Safety and Security is responsible for

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<sup>2</sup> While Community Safety partnerships exist in NI they are voluntary and are currently outside the remit of District Policing Partnerships

both SAPS and the ICD. Public access to ICD is restricted due to the exposure of ICD (Western Cape has 1 office), the apparent low level of government funding and the limited means available to a large section of the community to make a complaint against a police officer. While SAPS have made available space in police stations for the recording of complaints, visiting a police station can deter complainants from coming forward.

While SAPS has a National Inspection Division, its role seems to be akin to inspection and audit. In respect of corruption and internal discipline, it falls to SAPS to self police. There is also the Directorate of Special Operations (DSO) more commonly known as 'The Scorpions' which is part of The National Prosecuting Authority and consequently under the Minister for Justice to investigate serious and organised crime which recently lead to the suspension of the National Commissioner of SAPS. Following a review it has been announced that 'The Scorpions' are to be transferred under the control of SAPS and some fear that the merger maybe a step backwards.

As for community involvement each Station Commander is required to establish a Community Police Forum. The Commander selects individuals to serve on the Forum. Interestingly the Commander can dissolve and reconstitute the CPF if he/she feels it is not effective. In such circumstances it is entirely possible that those asked to join the CPF could be viewed as generally supportive of policing and uncritical of police. These circumstances call into question the robustness of the oversight perhaps in favour of providing 'friendly' advice that the Commander is not compelled to consider.

One dynamic measure is the apparent strength of multi agency working, one initiative taking place in a township outside Cape Town involves community, NGOs, local authority, public services including SAPS and the Private Security Industry (PSI) working together to regenerate the township. In another example, the PSI and SAPS can take part in joint operations with PSI operatives able to make arrests and commence arrest papers prior to handing the detainee over to SAPS. Obviously such activities have implications for police accountability. The role of the PSI is very pronounced

particularly in middle class areas where the visibility of SAPS for a variety of reasons is not what the community expects consequently they employ a PSI company to provide not only target hardening measures but also armed units to respond to intruder alarm activations. For similar reasons some local authorities have established Metro or Municipal Police department to enforce local bye-laws but they also deal with low level offending in lieu of SAPS. Effectively multi tier policing is emerging, and, with this plurality of policing effective accountability is becoming problematic.

So what have my travels revealed? The police oversight architecture existing in NI is indeed a world leader however there are examples of good practice that offer the potential to improve relationships and in doing so improve policing and service delivery. The community engagement arrangements in Anaheim City and Cape Town are proactive using a multi agency approach that includes all relevant public services and local people, interestingly these partnerships were lead by the local authority with police and community as equal partners. The outcome seems to be that public service community relationships have been greatly improved; and perhaps we in the UK can learn something to help us build more cohesive communities. One wonders if a merger of NI Community Safety Partnerships and District Police Partnerships offers a means to improve responses to local needs?

The most promising initiatives are those that are not lead by police but which have police as a partner. This feature challenges the traditional notion of police leadership as leading or being the leader rather police may need to adapt to the role of equal partner as team member and lead from within. This shift in emphasis recognises that crime control is not the sole responsibility of police and this recognition can encourage others to do their bit to tackle crime through joint action.

From the South African experience it is that sufficient resources must be made available and oversight bodies should be seen to be independent and have the confidence of community and police, as one interviewee I met said 'we are good at designing but poor at implementing'. What is vital to the success of a police complaints system is

community and police confidence in the impartiality of the complaints investigation system and investigators. Throughout I was struck by the overwhelming desire among police officers to deliver the best policing services they could and to have effective management of 'bad' police officers. What they wanted was a system in which they had confidence and trust that wrongdoing would be dealt with by impartial investigations that took account of the context in which policing was delivered. Conversely, those involved in the oversight structure wanted exactly the same thing. The trick is doing this in a way that has the confidence of all parties.

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## Itinerary

20<sup>th</sup> – 26<sup>th</sup> Aug 2007 Address Californian Attorney General's Annual Criminal Justice Conference

26<sup>th</sup> August travel to Costa Mesa Orange County California

28<sup>th</sup> Aug - 7<sup>th</sup> September meet

Costa Mesa Police Dept

Anaheim Police Dept

LAPD

LAPD Police Commission - Office of Inspector General

Criminologists at University of California @ Irvine

Community Groups at Costa Mesa

Community Groups at Anaheim

Mr Merrick Bobb Police Assessment Research Centre and Monitor

8<sup>th</sup> Sept travel to New York

10<sup>th</sup> - 14<sup>th</sup> Sept Meetings

VERA Institute

Community Outreach NYPD

Community Groups

15<sup>th</sup> Sept Travel Home

Second Leg Capetown

4<sup>th</sup> January 2008 travel to Capetown

6<sup>th</sup> - 24<sup>th</sup> Meetings with

Open Society Foundation

Institute for Security Studies

South African Police Service

Western Cape Partnership

Independent Complaints Directorate

Researcher at University of Cape Town Institute of Criminology

Community Representatives Hout Bay

Community representatives Camps Bay

Community representatives Khayelitsha

Violence Prevention through Urban Renewal

Department of Safety and Security - Western Province

26<sup>th</sup> January Return home