

### Introduction

The development of cross border police co-operation between Ireland and Northern Ireland cannot be considered purely on the basis of local factors and the Patten recommendations. Cross-border co-operation between law enforcement authorities has been, and continues to be, a major growth area at EU level. Ireland and the United Kingdom, in common with all other Member States, are already subject to extensive obligations in this area, and these are expanding at a very rapid pace. The net effect is that many of the police co-operation developments considered necessary to implement the Patten recommendations would have been required anyway as a result of EU obligations. Indeed, in many respects developments in EU obligations on cross-border co-operation are likely to surpass what would have been strictly necessary to satisfy the Patten recommendations. It might be more appropriate, therefore, for current developments in this area to be set more firmly in the EU, as distinct from the Patten, context.

The EU has been promoting police and law enforcement co-operation among Member States since at least 1976. Initially the engine driving this co-operation was the common threat posed by terrorism, drug-trafficking and organised crime. As individuals and organisations engaged in these activities began to take advantage of the free movement opportunities provided by the developing single European market, Member States had to respond by developing inter-State co-operation among their law enforcement agencies. Initially this co-operation was conducted largely on an informal, inter-governmental basis. It acquired a formal EU legal basis in 1993 with the coming into force of the Treaty of European Union (TEU) which included specific provisions on co-operation in justice and home affairs. These provisions were further enhanced by the amendments effected by the Treaty of Amsterdam (TOA) which came into effect in 1999. The range of criminal activities covered by the co-operation obligations have been extended in the process. Co-operation between law enforcement authorities has also been extended and enhanced by several EU Conventions, such as the Europol Convention and the Schengen Convention, a rapidly developing body of secondary EU legislation and a very wide range of informal measures and arrangements adopted at EU level pursuant to the Treaty provisions. These are in addition to co-operation arrangements agreed by individual Member States and their law enforcement authorities at a bi-lateral level.

EU measures to promote more effective co-operation among law enforcement authorities across State borders are broadly aimed at ensuring that criminals cannot escape justice by taking advantage of jurisdictional borders within the EU. They can be considered under the following headings: extradition; judicial co-operation; police co-operation; and harmonisation of criminal laws. All of these are of direct relevance to the current project, although some are of more acute relevance than others. Developments in each will be dealt with briefly in turn with a view to explaining how they can

contribute to removing some of the police and law enforcement problems which have been associated traditionally with the existence of the Irish land border.

### **Extradition and Related Procedures**

Extradition is the traditional method through which sovereign States have cooperated to bring fugitive criminals to justice. It involves one State surrendering an individual to another State for the purpose of being tried for a criminal offence in the latter. Typically the role of the former will be confined to the apprehension and delivery of the individual to the requesting State. The extraditing State will not normally participate in the criminal investigation of the individual beyond that which is required to satisfy the extradition request.

The rights of the extradited person and the integrity of the State have generally been protected by permitting extradition only through a judicial process and other built in safe-guards such as: the political offence exception, the dual criminality rule, the rule of speciality, the prohibition against extradition of own-nationals and restrictions on the range of offences which are amenable to extradition. The net result has been that extradition is not always available to bring a suspect to justice in a State other than that in which he or she is currently resident. Even when it is available it can often be a slow and cumbersome process.

Progressive attempts have been made through Council of Europe and EU Conventions to reform the extradition process with the aim of making it easier to extradite suspects from one State to another. However, these reforms have been rendered marginal by the most recent development in this area, namely the European arrest warrant. Once it comes into effect this measure will make a very significant contribution to effective co-operation between law enforcement authorities in bringing fugitive offenders to justice. Not only will it bypass the traditional extradition machinery, but it will also dispense with several of the current limitations which are designed to protect the rights of the suspect in the Irish arrangements.

The European arrest warrant will apply to all offences for which a person can be punished on conviction by a term of imprisonment or detention exceeding four months. Where a warrant is issued in respect of such an offence in one Member State it can be executed by the police authorities in another Member State. The suspect can then be handed over to the authorities in the former with the minimum of formality within a period of three months. If the offence is one of a list of 32 'serious' offences punishable by deprivation of liberty for at least three years the normal dual criminality requirement will not apply.

The warrant will come into effect on 1 January 2004, although there is provision for a Member State to bring it in earlier should it wish to do so.

## Judicial Co-operation

### *Evidence and related matters*

Judicial co-operation between States in criminal matters represents a higher degree of co-operation than extradition in facilitating effective law enforcement across borders. It involves the prosecutorial and judicial authorities of one State using their powers and resources to help progress a criminal prosecution in another State. It may be, for example, that in order to progress a criminal prosecution in an individual case the authorities in one Member State need to obtain evidence which is located in another Member State. The evidence in question might take the form of material which is believed to be located on private property or it might consist of witness testimony. Either way, the State cannot ensure the production of that evidence simply by the issue of a warrant by its judicial authorities as that warrant will have no validity in the other jurisdiction. One solution is to change the law so that the authorities in the State where the evidence is located will recognise and act upon the validity of the warrant issued in the State seeking the evidence. The law will also have to provide that the evidence can be seized, or the witness taken into custody, in accordance with the terms of the warrant and transferred into the custody of the authorities in the requesting State for the purpose of the criminal proceedings in that State. Another possibility is to have evidence taken from a witness before the judicial authorities in one State for use in criminal proceedings in another State.

Substantial progress on judicial co-operation and mutual assistance has been achieved already at EU, Council of Europe and UN levels pursuant to the European Convention for Mutual Assistance 1959, the Council of Europe Convention on Money-laundering and the UN Drug-trafficking Convention. Pursuant to these Conventions domestic law in Ireland and the United Kingdom already makes provision for the use in criminal proceedings in one jurisdiction of sworn evidence taken from a witness before a judicial authority in the other State in certain circumstances. Similarly, there is provision for the execution in one jurisdiction of a search warrant or an order for the production of documents issued in the other. There is also provision for a prisoner in one jurisdiction to be transferred to another for the purpose of giving evidence in criminal proceedings in the latter.

Originally, requests for judicial assistance had to be made through the central political authorities. As well as introducing a political element into the process, this requirement added to the bureaucracy and delay. Now, as a result of the Schengen developments and the establishment of Eurojust the requests can be made directly between the relevant law enforcement authorities. Not only does this speed up the process but it facilitates the development of familiar cooperative networks between the authorities.

While these provisions can make a significant contribution to criminal law enforcement across the border, it must be acknowledged that their efficacy can be hindered in certain circumstances by differences in the rules and principles governing the admissibility of evidence and the criminal process generally in the two jurisdictions. There is still some uncertainty, for example, whether the evidence obtained in accordance with the legal and administrative requirements of the State in which it was obtained will be admissible automatically in the State where it is to be used. It may be, for example,

that the legal and administrative requirements of the latter are more stringent in some respects than the former. This can be overcome by requesting one State to obtain the evidence in accordance with the most stringent requirements applicable in both States. That should pre-empt a successful challenge to the evidence in either State. The alternative is to provide for the mutual recognition of each other's evidence requirements. This is a much more complex and ambitious approach. Nevertheless, very definite steps have been taken in that direction already at EU level.

### **Eurojust**

Mutual assistance and judicial co-operation will be carried to a new level with the establishment of Eurojust. This is an EU body composed of prosecutors, magistrates and police officers of equivalent competence from each of the Member States. The essential function of Eurojust is to enhance co-operation between the competent authorities in the investigation and prosecution of serious crime. Initially, it will focus on criminal activities, including terrorism and organised crime, which have an inherent cross-border dimension. However, it is also competent to assist in the investigation or prosecution of any type of offence at the request of the law enforcement authorities in a Member State.

Eurojust is set to become a primary engine of cross-border co-operation in law enforcement at both the investigatory and prosecutorial levels. It can ask the law enforcement authorities of one Member State to undertake a specific criminal investigation, agree on the most appropriate jurisdiction in which to take criminal proceedings in any individual case, coordinate the actions of the law enforcement authorities in several Member States in an individual case and set up joint investigative teams. Also, at a very practical level, it can facilitate the progress of mutual assistance and judicial co-operation both generally and in individual cases. Overall it would appear that Eurojust will have the flexibility and the competence to progress criminal investigations and prosecutions across borders. Its presence and activities will significantly reduce the administrative, procedural and jurisdictional obstacles that can arise in law enforcement across borders within the EU.

### ***Enforcement of Judgements***

Judicial co-operation in the EU has extended to the enforcement of judgements in criminal cases. The primary example of this in current practice is the mutual recognition of confiscation and forfeiture orders issued against persons convicted of drug-trafficking and other indictable offences in the amount by which they have benefited from the offences. The relevant provisions have been introduced into their domestic law by the United Kingdom and Ireland in order to implement their obligations under the Council of Europe Conventions on Mutual Assistance and Money-laundering and the UN Drug Trafficking Convention. It is likely, however, that much more extensive provisions on the mutual recognition of criminal judgements will be introduced into domestic law as a result of other European and UN Conventions. These will extend to orders freezing the assets of suspect terrorists and suspect criminals in certain circumstances.

The practical problems associated with the enforcement of fines and other criminal penalties across the border are addressed in a number of Council of Europe Conventions, namely: the Convention on the Enforcement of Foreign Criminal Sentences, the Convention on the International Validity of Criminal Judgements, the Convention on the Enforcement of Driving Disqualifications and the draft Agreement for the Mutual Enforcement of Financial Penalties for Traffic Offences. These measures, once adopted and ratified by the United Kingdom and Ireland, will make a substantial contribution to eliminating the border as a device for avoiding the payment of fines and other criminal penalties. The net effect is that fines and criminal sentences duly handed down in one State must be recognised and enforced in the other State when the necessary pre-requisites have been satisfied. In Ireland this will have an immediate and very practical effect in the enforcement of road traffic laws. Infringements which have attracted fines, penalty points and disqualifications on one side of the border will have effect on the other side of the border. Accordingly, the authorities in the State where the offender is resident can collect the fines and impose the disqualifications etc even though they have been incurred in the other State.

### **Police Co-operation**

The obstacles to law enforcement posed by jurisdictional borders cannot be overcome solely within the context of extradition and judicial co-operation. Co-operation through these two procedures is aimed at the advancement of judicial procedures against in the State seeking a witness, suspect or material evidence located in another State. It may be, however, that the authorities in the former are only at the preliminary investigative stage and are not yet at the stage where they can initiate a criminal prosecution. Nevertheless, it may be essential to the progress of an investigation for the police in one State to be able to question a suspect or witnesses who are resident in another State, or to access material evidence which is in the possession of a private party in another State. Equally, circumstances may arise in an individual case where the requirements of effective law enforcement can best be met by the police in one State pursuing a suspect across the border into another State or keeping a suspect under surveillance in that other State. Major progress has been made on these aspects of police co-operation in the European Union. The net result is a steady decline in the capacity of internal jurisdictional borders to impede law enforcement.

The major developments in cross-border police co-operation in the EU are represented in Europol, Schengen and Eurojust. Collectively, they provide the framework and the processes through which police forces throughout the EU can cooperate directly and efficiently with each other in the pursuit of criminal investigations. In some circumstances they permit police officers from one State to operate on the territory of another State when accompanied by police officers of the host State. These structures and processes are complemented by a rapid growth in opportunities for police forces to interact with each other through personnel exchanges and developments such as the European Police College and the Association of European Police Chiefs.

Europol is established as a distinct legal entity by the Europol Convention and its two Protocols. Its overall objective is to improve the effectiveness of, and co-operation among, the police and law

enforcement agencies in the member states in preventing and combating terrorism, unlawful drug trafficking and other serious forms of international crime, the scale and organisation of which are such as to require a common approach by the member states affected. Its principal task is to assist police investigations in member states primarily, although not exclusively, through the collation, analysis and exchange of intelligence. To this end the Convention requires the establishment of a "national unit" in each member state. These national units function as the sole liaison bodies between Europol and the national police agencies. In addition each national unit must second at least one of its members to the Europol Headquarters at the Hague.

Currently, Europol pursues its objectives by focusing on unlawful drug-trafficking, trafficking in radioactive and nuclear substances, trafficking in illegal immigrants, trade in human beings and motor vehicle crime. Within two years of the Convention's entry into force this remit will extend to terrorism and can be extended further to a wide range of crimes including offences against the person and property and trafficking in arms, endangered animal and plant species, hormonal substances, growth promoters, cultural goods, antiquities and human organs. Europol's competence with respect to these crimes extends to associated crimes such as money-laundering.

It is also worth noting that Europol is set to acquire a significant operational role pursuant to the provisions of the Treaty of Amsterdam. Within five years of the entry into force of the Treaty the Council must enable Europol to facilitate and support the carrying out of specific investigative actions by the competent authorities of the member states, including operational actions of joint teams comprising representatives of Europol in a support capacity. This is in addition to other provisions of the Treaty which lay a basis for operational co-operation between the relevant national authorities in the prevention, detection and investigation of criminal offences. As yet no concrete legislative measures have been adopted on these matters. However, as noted below, the Council has given some indication of the programme it intends to pursue.

The Schengen Agreement and Convention provide for the abolition of internal border checks on the movement of persons and the introduction of associated measures on police and security co-operation, the crossing of external frontiers, asylum and immigration. The provisions on police co-operation include: bilateral agreements on the secondment of police officers from one force to another; the exchange of criminal intelligence between forces; and the enactment of measures compelling the management of hotels, guest houses and other such rented accommodation to keep a register of persons staying in their accommodation and to make this information available to the appropriate police authorities in the state. They also authorise a degree of cross-border policing in the form of hot pursuit and cross-border policing. The United Kingdom has opted in fully to the Schengen arrangements, while Ireland has opted in to everything with the exception of hot pursuit and cross-border surveillance.

Europol and Schengen are not the only developments to facilitate cross-border police investigations. The European Convention on Mutual Assistance 2000 makes provision for, *inter alia*, the spontaneous

exchange of information across borders between law enforcement authorities, the interception of communications in one State at the request of authorities in the another State and the formation of joint investigative police teams. This last development is particularly significant as it will permit police officers from one State to join with officers in the other State in the investigation of a suspect in the latter. This can include the questioning of the suspect in police custody. These developments are complemented by Eurojust which has the capacity to set up joint investigative teams to pursue investigations and prosecutions in individual cases.

### **Harmonisation of Criminal Laws**

Differences in the substance of criminal law between Member States can present fundamental problems to law enforcement co-operation. If certain behaviour is criminal in one Member State but not criminal in another, it will be very difficult as a matter of law for the latter to cooperate with the former in respect of that offence by way of extradition, mutual recognition of judgements and mutual assistance. Even, if the definition of an offence differs in some respect between one State and another this difficulty can arise. It follows that law enforcement co-operation across a jurisdictional border will be enhanced if the substance of criminal laws on either side of that border is harmonised.

The Treaty of Amsterdam makes provision for the approximation of national criminal laws in the areas of: organised crime, terrorism and illicit drug-trafficking. Already, there are legislative proposals before the EU Council to approximate national criminal laws on: terrorism, trafficking in human beings, the sexual exploitation of children and child pornography and racist and xenophobic offences. Once adopted these measures will be legally binding on Member States in the sense that they must ensure that their laws on these offences are line with the EU measures. The net effect is that the definition of these offences will be the same throughout the EU, including on either side of the Irish border.

### **Conclusion**

It is clear even from this brief survey of EU developments that the agenda for cross-border police co-operation is expanding very rapidly at European level. The range of basic and common-sense developments recommended by the Patten Commission have already been surpassed by agreements reached in the EU. While this can serve as a very useful catalyst in the otherwise very sluggish pace of developments North and South of the border, it brings with it all of the problems associated with the democratic deficit at the heart of decision-making in this area at EU level. It would be much more desirable for the much needed developments in this area to be discussed and agreed openly by the democratic administrations on both sides of the border.



### Internal culture

The existence of a 'police culture' was a recurring theme in most interviews and discussions, especially in the context of two forces with differing origins and histories. In some cases the view was that this culture related not just to practice and attitude, but to something quite fundamental and to do with how each force identified itself. In the Patten Report (1999) the general notion of organisational culture is defined as the way in which an organisation:

“sees itself and manages itself internally and the way in which it sees and interacts with its clients and others outside the organisation.”

More specifically to do with policing, Cramphorn (2001), speaking at a police conference on 'Policing and Human Rights' 2001, laid considerable emphasis on culture, stressing what he clearly perceived to be its all encompassing importance:

“Culture is far more important in determining whether policing is congruent with the values of community than are accountability techniques 'per se' or the organisational structures of the police because culture informs all police activity.”

Few would argue with the claim that, for a police service to operate effectively, it should reflect the values and culture of the community that it serves. The problem for the RUC was that traditionally its relative effectiveness was determined by an identity with the culture of only one section of the community.

The changes in policing in Northern Ireland consequent upon the Good Friday Agreement are obviously of considerable importance in this regard. The Patten Report initiated a considerable debate about all aspects of policing, and the name of the force has changed from the '*Royal Ulster Constabulary*' to the '*Police Service of Northern Ireland*'. An important element in that decision to change the name was that, along with the other aspects of the peace process, the new name would signal a change in the relationship between the force and the community as a whole.

Culture is an important matter for consideration in its own right in relation to how either of the two forces functions internally, but its real significance for this study relates to how the existence of two distinct police cultures influences the manner in which they interact with each other. The similarities and differences in culture of the two police services must therefore be important factors in contributing to, or detracting from, co-operation. One specific aspect of this was referred to as a 'culture of secrecy' within police services, where information was often a crucial element in the success or failure of their activities. This was particularly true within units like Special Branch, which were described as being



'careful about sharing intelligence'. This, it was argued, is necessary for a number of reasons, such as the protection of sources. But it was also acknowledged that such a view was at odds with demands that a modern police force must be accountable and transparent.

More generally, it was also believed that police culture within any specific force was not monolithic, but consisted of an aggregate of many sub-cultures in specific branches, such as uniform branch, special branch, criminal investigation, traffic and mobile support units, and so on. One police officer argued that, as in many other organisations, differences in culture exist at all sorts of levels. The challenge, he said, was to ensure that there is no clash at the interface that would inhibit communication. Some degree of understanding of how these cultures manifest themselves, and influence practice and decision-making, would obviously make an important contribution to better and more productive inter-force co-operation. For instance, Byrne (1999) contrasted both forces in terms of the type of relationship between uniformed officers and members of the Special Branch. It was found that Special Branch within the RUC, when compared to Special Branch in the Garda Síochána, had a higher degree of organisational independence. In his report, Patten (1999) refers to these issues, especially in the context of the Special Branch:

"Several respondents have described the Special Branch as a 'force within a force' and RUC officers, serving and retired, have made similar comments to us, a common observation being that the divisional sub commanders often knew very little about the activities of the Branch in their area."

With regard to relationships between the two forces, it is not entirely clear what all the implications of this sort of secrecy at the interface are. What is clear is that the consequent lack of openness has caused problems of communication at intra service level. In the context of the smooth interchange of information between the two police services, it is therefore likely to pose even greater problems at inter service level. The merits of informal communication have been argued elsewhere in this report. However, such a culture of secrecy might provide a strong argument in favour of formal channels of communication in situations where informal strategies are overly reliant on mutual trust between individuals.

The research nevertheless revealed a tendency, among police officers working on the ground on both sides of the border, to favour the apparent ease and speed of informal techniques of co-operation over more bureaucratic formal procedures. This is not surprising, given the perception that formal procedures take more time and are ultimately more liable to accountability procedures than are informal measures.

One Garda working on the border described how more formal and institutionalised European procedures were often resisted in practice. Transfer of evidence procedures between the North and the South now occur via the International Liaison Office, a European construct. This institution, he argued, slows down everyday co-operation. As an example he cited the situation where a car, which it

was suspected had been used in a hi-jack in Northern Ireland, was found abandoned in the Republic of Ireland: the formal procedure in such circumstances was that documentation relating to the car had to be sent to Northern Ireland, via the International Liaison Office. This process was cumbersome, took up a lot of time, and even imperilled attempts to deal successfully with the case. He claimed that most Garda felt that such a complicated procedure was in fact unnecessary, and that some therefore simply avoided it by driving the car to the border and handing it over to an officer of the PSNI. If the evidence provided in this way will help to secure a conviction, the pertinent documentation will then be put through the correct channels of procedure.

Formal powers, according to one member of the Garda Síochána, are used only for serious fraud crimes, murder or terrorism. The same source summed up cross-border police co-operation by stating that the PSNI is always on the other end of the telephone and claimed that *“officers know their counterparts well and trust them.”* The view that emerged from interviews with police officers on both sides of the border was that much successful police co-operation on the island, especially in the area of ordinary crime, has tended to be informal and relatively unsophisticated. It was uniformly accepted that these informal contacts must be maintained and fostered alongside the formal protocols required by the Patten Commission.

## Community

Inevitably the impact of the conflict has created differences between the two forces. In Northern Ireland, members of the RUC often do not live within the community where they work. Relatively high salaries have enabled them to live in more affluent middle class districts where they are likely to be shielded from potential threats to their homes and families. For many years they had to protect themselves from the IRA and, after the Anglo Irish Agreement, from loyalist bombs. More recently, they have been attacked by rioting mobs from both sides of the community. As Ryder (2000) puts it:

“Life for the police was so dangerous that none of the officers was able to live or socialise locally. They commuted to their high risk jobs from safer areas twenty to thirty miles away.”

One consequence was the creation of a climate of camaraderie and unity. It also led to a form of exclusion or social separation, and this has resulted in the PSNI being referred to on occasion as the third community in Northern Ireland. This isolation may also encourage what is sometimes referred to as a canteen culture that, it is argued, fosters elements of sexism, racism and bigotry. This is a claim that has often been made against the RUC in the past. It is difficult to establish however the extent of its existence or how it is perceived or understood by the police themselves. Police officers interviewed tended to reject the claim entirely. Ryder, who has closely researched the RUC, accepted that something like this did in fact exist, but that it was on the level of banter and was no more than exists in any large organisation.

It should be pointed out that the concept of a canteen culture is a universally recognisable trait in police services around the world. In this context Duff (2000) has investigated the extent to which the Garda Síochána have developed and subscribe to an informal culture. He found that they have a

tendency to perceive themselves as being different from people in other occupations. This would seem to be closely allied to the concept of a third community. Duff's research was informed by the work of Robert Reiner on the '*working personality*' of the British constabulary. Duff compared the characteristics of Garda officers with Reiner's findings. He found correlation, especially where members of both forces professed a sense of social isolation due to their work. He also recorded a discernible element of machismo in both male and female officers.

"Garda Síochána, it is suggested, do subscribe to an occupational culture similar to that postulated by Robert Reiner in relation to police forces in the United Kingdom. The Irish idiom appears to revolve around the level of social isolation, which officers perceive, and the strong sense of organisational solidarity which offsets this."<sup>27</sup>

It would seem therefore that if the PSNI can be described as the third community in Northern Ireland, it may well have its counterpart in the Garda Síochána in the Republic of Ireland.

There are of course historical differences between the Garda Síochána and their counterparts in Northern Ireland with regard to their relationships with the community. The Garda police are people who have the same constitutional allegiance as themselves and so there is little fundamental political separation between them. The result is that, to a very large extent, they have been part of the community in a way that was rarely possible for members of the RUC. Consequently it is easier for the Garda to act as a community or civilian police force and to claim that they have always had the support of the community. As one Garda put it:

"The Gardaí are, by and large, accepted by the people. We have never been targeted and shot at like the RUC for being police officers."

However, it would appear that such community support may be diminishing. While the Garda Síochána probably retains its traditional position in rural society, it increasingly has to face challenges in this regard in the larger cities. Changing patterns in society, along with the growth of a culturally less homogenous population, are combining to erode traditional values and respect for law and order. One survey<sup>28</sup> of rural parts of the country claimed that only 3% of Gardaí at local stations were unapproachable while 68% were approachable. In Dublin this statistic changes dramatically and 68% of Gardaí are described as unapproachable.

## Morale

The level of morale and satisfaction within a service organisation such as a police force is a prime determinant of performance, and is dependent on a wide range of factors. This range is likely to include factors such as: how members perceive themselves; how their work is valued by the community which they serve; the levels of efficiency and fairness of the administrative structures set up to manage their work; and how sensitively changes and reforms are initiated and managed.

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<sup>27</sup> Garda Review vol.28 (9) October 2000.

<sup>28</sup> Cited in the September 1999 Editorial in '*Communique; the Garda Síochána Management Journal*'. Taken from a 1999 Public Attitudes Survey in which 1000 people were interviewed.

Morale is also one of the key factors influencing co-operation between the Garda Síochána and the PSNI. Directly or indirectly, the level of morale within a police service affects the build-up of mutual trust, which we have already recognised as essential to effective communication. Low morale, partly attributable to organisational change, has resulted in problems within the PSNI. The lengthy and, at times, fractious period of debate and discussion about Patten has significantly affected the level of morale of police officers there. A senior officer claimed:

“officers [are] subject to protracted criticism from politicians and community leaders and suffer from enormous frustration caused by a lack of understanding of the difficulties they face.”

Many officers and their families remain unhappy with the name, badge and uniform changes. They believe that the changes dishonour the memories of RUC officers killed and injured in the past. The fact that the British flag now flies over police stations only on special occasions has also caused significant resentment.

The speed of the changes set in train by Patten has proved difficult to manage. A large number of experienced PSNI officers have taken retirement and new recruits will not be fully trained until March 2003. There is a visible shortfall of manpower on the streets. Present numbers of PSNI officers fall short by almost 400 of the 7,500 officers considered adequate by the Patten Report and the Police Federation claims that officers are over-stretched.

*Fig 1 : RUC/PSNI Staff Figures January 2001 – 2002*

	January 2001	January 2002
<i>RUC/PSNI</i>	8038	7104
<i>Full-time Reserve</i>	2529	2220
<i>Part-time Reserve</i>	1088	1022

*Source: Police Federation*

One quantifiable indicator of the level of morale is absentee rate. Absenteeism in the PSNI is high. On one day in January 2002, out of a force of 7,200 one thousand and twenty officers were absent.<sup>29</sup> This is only partially attributable to the number of officers injured on duty. Because of new accountability mechanisms governing the use of plastic baton rounds many less are being used, although no alternative non-lethal method of public order policing has been issued to the police. Senior officers claim that this has resulted in more police officers than formerly being injured. The fact that police officers increasingly find themselves under attack from both communities in Northern Ireland is another significant factor contributing to low morale.

The radical changes being implemented within policing in Northern Ireland would be difficult for any

<sup>29</sup> Police Federation representative, at interview.

police force to come to terms with. An indication of this came from a member of the Garda Chief Superintendents' Conference in 2000, in his response to a suggestion that something like Patten would also benefit the Garda. A consultant to the Strategic Management Initiative Review (1997) had suggested that the Steering Group<sup>30</sup> should adopt a blank sheet approach to the Garda Síochána, and that members of the Committee should design a new police service for the country from scratch. The Chief Superintendent's reaction encapsulates an important aspect of Garda culture, and suggests that members of the Garda Síochána take their inspiration from the organisation's role in the founding of the State:

“This force has too proud a history to be treated in such a manner. It has contributed enormously to the building of this nation and continues to do so”. (Monaghan 2000)

However, editorials from the Garda Review often allude to the low morale of the force. A number of causes for this are cited, including: frustration with legislation that constrains their ability to function effectively; a media perceived as increasingly belligerent and critical; problems of pay and conditions; and, (of particular concern to the Garda Representative Association) inadequate manpower levels and the burden of increasing workloads.

One article cites an example of the disjunction that sometimes exists between legislation and the reality of the job, and refers to frustrations in connection with issuing speeding fines on the border:

“We understand members of An Garda Síochána in certain border areas are directed an instruction (sic) that transgressors in respect of motoring offences from Northern Ireland should not be treated differently from those from the South – in other words – prosecute by means of summons ... an instruction issued knowing full well that such an agreement cannot happen in that An Garda Síochána have no jurisdiction in respect of serving summons in Northern Ireland.”<sup>31</sup>

In a similar vein, another editorial asks:

“Would it not merely take a simple piece of legislation to ensure that the necessary legal ‘consistency’, which should flow from driving offences, is present in all member states? Yet this simple piece of legislation is prevented from coming into existence by European bureaucratic protocol ... Furthermore ... it should be possible to simply move people from one jurisdiction to another without prolonged court challenges which only cause to delay the course of justice in all member states.”<sup>32</sup>

A significant number of Garda officers are engaged in part-time occupations or business interests, and this is a contentious issue. The Garda Representative Association believes its members should have the right to do other work on their own time as long as there is no conflict of interest. However an influential report into the Efficiency and Effectiveness of the Garda Síochána (1997) argues as follows:

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<sup>30</sup> Report of the Steering Group on the Efficiency and Effectiveness of the Garda Síochána, June 1997

<sup>31</sup> Garda Review Editorial 05/00

<sup>32</sup> Garda Review Editorial 02/00 – volume 28 (1)

“The steering group believes that it is inherently inappropriate for officers to engage in seriously time consuming secondary business activities because they deflect attention energy and commitment away from their primary employment. It may also bring into question the officers’ impartiality and it may lead to an officer being in debt or beholden to another party.”<sup>33</sup>

It is likely that pay levels influence the incidence of secondary employment engagement. Certainly there is a significant difference between Garda and PSNI pay rates.

**Fig 2: Comparative Pay Rates**

		<b>PSNI</b>	<b>GARDA SÍOCHÁNA</b>
<b>CONSTABLE</b>	Appointment	£17,733 (€28,400)	€19,209
	After 14 years	£28,062 (€44,942)	€33,031
<b>SERGEANT</b>	Appointment	£27,084 (€43,376)	€30,379
	After 5 years	£31,590 (€50,592)	€33,587

*Source: PSNI Police Federation & Garda Síochána Press Office*

In spring 1998 a thirty-nine per cent pay rise claim was lodged for ordinary Garda. The Government responded with an offer of seven per cent, and in May 1999 eighty percent of Ireland's police force called in sick as part of a campaign to demand better wages.<sup>34</sup> This form of ‘sickness’ became known as ‘Blue Flu’, and the Irish army was put on standby with one hundred percent walkouts in rural areas and about a 90 percent stoppage in the Dublin area. Another indication of the frustration of Garda officers with the levels of pay was their refusal to implement fully the new PULSE computer system. Several Garda expressed the view that at this time morale within the force was at an all time low.

### **Accountability**

It is accepted that modern policing should be based on a culture of accountability: however, the existence of different managerial systems, possibly emphasising differing levels of accountability, is likely to pose problems between co-operating police forces. At a conference on Human Rights a PSNI Deputy Chief Constable referred to the context within which formal accountability takes place. He believed that, for better or worse, this context was dependent on the culture of any police force. He pointed out that human rights law requires police to balance competing, and sometimes conflicting, rights and that to do so they must exercise discretion. This leads to selective under-enforcement, which may be discriminatory or perceived to be so. It is difficult to make this accountable.

Prior to the establishment of the new Policing Board, the RUC was accountable to the Secretary of State through the Police Authority of Northern Ireland. The Police Authority, however, lacked total autonomy because its members were appointed and could be dismissed by the Secretary of State.

<sup>33</sup> Report of the Steering Group on the Efficiency and Effectiveness of the Garda Síochána, June 1997

<sup>34</sup> April 30<sup>th</sup> 1998 *Ahern Takes Strong Line in Garda Pay* & May 1<sup>st</sup> 1998, *Minister Defends Action on Gardai*, Irish Times.

Although the Authority could ask the Chief Constable to produce specific reports, Hamilton *et al* (1995) claim;

“he/she may refuse to comply with these requests if the Chief Constable feels that such a report would contain information which is in the public interest not to be disclosed or is not needed for the Police Authority to discharge its functions.”

Livingston and Morison (1995) give further evidence of this delicate relationship. They cite the submission of Northern Ireland Congress of Trade Unions to the Opsahl Commission, which stated that the Chief Constable had indicated to them that he would;

“pay as much attention to a letter in the Irish News (the main Nationalist newspaper) as he would to the Police Authority.”

This apparent lack of accountability had a number of important side-effects. When a number of murders and assassinations occurred (in particular those of the solicitors Patrick Finucane in 1989 and Rosemary Nelson in 1999, as well as the beating to death of Robert Hamill by a loyalist mob in Portadown in sight of a police patrol) claims were made that the security forces had colluded with loyalist paramilitaries. Accusations of this sort have never been independently investigated, and the result was a diminution of confidence in the original Police Authority and a dangerous loss of confidence in the RUC within some parts of the community.

Such events undoubtedly influenced the Patten recommendations and led to the emergence of proposed initiatives designed to optimise police accountability in Northern Ireland. A new Policing Board was established with nineteen members, ten of them elected members of the Northern Ireland Assembly (selected using the d'Hondt system), and nine independent members chosen from a range of organisations including business, trade unions, community groups, voluntary organisations and the legal profession. The Chief Constable of the PSNI is responsible to the Policing Board and not to the Secretary of State. Patten recommends that the function of the Board should be “*to hold the Chief Constable and the Police Service publicly to account.*”

There were also changes in management structures at a geographical level, in order to allow for accountability mechanisms in relation to local communities. New Command Units are being established that correspond to local council areas, and it is intended to establish District Policing Partnership Boards in each of these areas. These boards will be composed of both elected and independent members and an important part of their task will be to reflect community concerns and priorities to the District Commander. Until these are set-up, their effectiveness in terms of accountability, have yet to be evaluated.

Ellison and Mulcahy (2000) have noted that the long standing issue of an appropriate and accountable police complaints system had already been addressed in the impressive Hayes Report in 1997, well before the establishment of the Independent Commission on Policing chaired by Patten. This Report recommended an independent system based around the concept of an ombudsman. Since then the



Office of the Police Ombudsman as recommended by Patten has been established. The recent report from that Office, which was highly critical of police handling of the Omagh bomb investigation, has resulted in discord between the Ombudsman and the Chief Constable. That the Policing Board has been able to reach a compromise between the two, appears to augur well for more effective accountability in the future. On the other hand, the fact that no mechanisms have been put in place to address retrospective accountability, remains a cause for concern. In fact, Amnesty International claimed that the (Patten) Report not only failed to address past examples of abusive police practices, but also did not go far enough in establishing measures to ensure accountability.<sup>35</sup>

The issue of police accountability has also assumed a higher profile in the Republic of Ireland in recent years. For example between 1990 and 1998 there was a 90% increase in complaints against the Garda Síochána, with a consequent public debate about how the relationship between the police and the community can be monitored and improved. The current system of Garda accountability in relation to members of the public is based upon the provisions of the Garda Síochána (Complaints) Act of 1986. This Act provides an apparatus for the investigation of citizens' complaints, involving the creation of a Board on which a representative of the Garda Commissioner sits. The function of the Board is to supervise investigations into complaints made by members of the public against members of the Garda Síochána. These investigations are carried out by members of the Garda Síochána, and this in itself is a source of some discontent with the system. More generally, the composition of the Board and its apparent lack of transparency are often subject to criticism, and there is a view that the Act will have to be amended if the system is to be efficient, properly accountable, and demonstrably independent, in the eyes of the public. Such changes are considered to be particularly necessary in the case of complaints perceived to be of a serious nature.

The Garda Review, the Force magazine, has stated that some members of the force have problems with the Complaints Act. It claims:

“the complaints procedure is sometimes used by solicitors in their endeavours to frustrate a prosecution and by criminals to intimidate the Gardaí into inaction in the investigation of a crime.”<sup>36</sup>

The same source strongly defends the presence of a representative of the Commissioner on the Board, although this has been a cause for criticism from those who question the impartiality of the Board on this basis. Critics of the procedure point out that in the year 1998, when fourteen hundred complaints were made against members of the Garda Síochána, only six were referred to a tribunal.<sup>37</sup> In response Gardaí say that a large number of these complaints were minor and therefore inadmissible under the terms of the Act.

Brady (2000), argues that the structure of the Garda Síochána affects its accountability mechanisms:

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<sup>35</sup> Amnesty International – index: EUR 45/050/1999 06/12/1999

<sup>36</sup> *Garda Review*. Vol. 28 (7), August 2000

<sup>37</sup> *Primetime*, RTE. 23 May, 2000

“The imperative in such a structure will tend upwards – through the bureaucracy – rather than laterally, towards the community”.

He contrasts this with the PSNI whose obligations towards District Policing Partnership Boards and the Office of the Ombudsman will oblige local commanders to respond to local needs. He foresees that these will strengthen ties between the community and the police, leading to ever-greater levels of accountability and flexibility. Garda Commissioner Pat Byrne, speaking at an IBEC (Irish Business and Employers Confederation) conference, accepted that though the current Garda Complaints Procedure was outside his control, he did however feel that the current practice should not be held on to doggedly.

As in Northern Ireland, a number of recent controversial events have called the whole area of police accountability in the Republic of Ireland into question and are therefore a cause of public concern. These have included the shooting dead of John Carthy in Abbeylara and the current investigation into police corruption in Donegal. One senior politician expressed the view that:

“Recent events, particularly in Donegal, have confirmed that a very serious look has to be taken at the Gardaí. Certainly the Patten Report should be digested in terms of what useful lessons there are for the Guards as well as the RUC.”

Amnesty International has commented that many people who are alleging ill treatment feel that they have no confidence in the complaints procedure because they do not believe that the existing system is impartial and fair.<sup>38</sup>

In addition, the Minister for Justice, Equality and Law Reform recently announced his intention to establish a Garda Inspectorate. Speaking in the Dail he said:

“Complaints against individual members [of the Gardaí] would continue to be addressed by the Garda Complaints Board and that internal disciplinary matters would continue to remain the responsibility of the Garda Commissioner. However I recognise that there are situations outside the existing complaints machinery that require to be covered.”

He continued:

“Where specific Garda systems or operations do not measure up to the appropriate standards, for example, the difficulties which arose in Co. Donegal. I am looking closely at the question of an Inspectorate. A new independent Inspectorate with appropriate powers might be very well placed to conduct the necessary investigations in such cases.”<sup>39</sup>

The general picture therefore appears to be that police accountability is coming under increased public scrutiny in both jurisdictions. The appointment of the new Police Board and the police Ombudsman in

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<sup>38</sup> Amnesty International EUR 29/01/00 August 2000.

<sup>39</sup> Dail Reports 7 February 2001, Questions, column 84.

Northern Ireland may fuel the debate on the establishment of an Inspectorate or Police Ombudsman in the Republic of Ireland.

## Human Rights

It would seem that traditionally human rights issues did not have high priority in the training and practices of the RUC. Livingstone (2001) claims that, while police in Northern Ireland have had a very difficult job in the past thirty years, they have nevertheless infringed the human rights of others primarily in the areas of public order policing, conduct of search and arrest operations, and treatment of suspects in custody. In fact, in 1999 the Patten report revealed that only two out of 700 training sessions were given over to human rights. Recommendation 4 of the Patten Report proposes that:

“all police officers and police civilians should be trained (and updated as required) in the fundamental principles and standards of human rights and the practical implications for policing. The human rights dimension should be integrated in to every module of police training.”

Recommendation 5 asserts that:

“awareness of human rights issues and respect for human rights in the performance of duty should be an important element in the appraisal of individuals in the police service.”

It was also recommended that the monitoring of human rights performance should be the responsibility of the Policing Board. The Chief Constable accepted all of these.

As a result, one of the major objectives of the PSNI is that principles arising out of human rights declarations will be central to its working practices. An Assistant Chief Constable has been designated as the ‘Police Human Rights Champion’. At interview, this officer claimed:

“No other profession working in the Criminal Justice System has the potential to infringe Human Rights as much as the police. Equally no other profession has the capacity to protect Human Rights in a democracy as much as police officers.”

The Police Human Rights Champion is responsible for implementing a comprehensive programme of action to focus policing in Northern Ireland on a human rights based approach as recommended by Patten. The recruits to the PSNI will be issued with a Human Rights Code of Ethics, based on international human rights standards, which will become the discipline code to which all officers must adhere. A new oath, which expresses an explicit commitment to the upholding human rights, will be taken by all new officers. Existing officers may take the oath but, because they have already been attested, cannot be required to do so. This has caused disquiet among some politicians and human rights activists who have called for all officers to be required to take the oath as recommended by Patten. The Office of the Oversight Commissioner has also expressed concern in this regard

The Police and Criminal Evidence Act (PACE), which regulates how suspects are detained and questioned and the Regulation of Investigatory Powers Act (RIPA) which governs the conduct of covert operations are further attempts to safeguard human rights. The Office of Ombudsman operates

with independent investigators and may investigate complaints against the police as well as instigating inquiries where no specific complaint has been made.

The ACC in the PSNI with responsibility for implementing Patten's human rights recommendations, has pointed out that there is overlap between the programme suggested by the Council of Europe and the first recommendation of the Patten Report. It seemed a good idea therefore for the PSNI to base its programme on the European model. This divides policing into seven component parts: basic values; staff; training; management practice; operational policing; structure; and accountability. The implications of this are that the proposed approach to human rights extends beyond traditional areas of concern, with a specific focus on culture, values training and the selection process used in recruitment.

Modelling human rights on the European Code gives it a wider perspective and presents an opportunity for officers to learn from best practice elsewhere. Many European states share the difficulties of balancing competing human rights: examples of this include victims and suspects, the right to education, and the right to protest. In Northern Ireland there are particular problems such as the conflicting claims of marchers and residents. Many officers emphasised to us that the police also have suffered from political violence and intimidation and that their right to work without threat or attack is often overlooked.

In the Republic of Ireland a Garda Working Group was set up in 1997 to create a coherent human rights programme for the Garda Síochána. A number of initiatives emerged from the process:

- A series of outreach consultation forums
- A human rights training programme
- A human rights committee
- An awareness campaign
- A human rights audit

By 1999 the Community Relations Department could report that:

“Preparations are being made to establish a comprehensive training package at the Garda College in Templemore to create awareness among members of the force of the special difficulties experienced by foreigners in Ireland.”<sup>40</sup>

In April 1999, as part of this initiative, a human rights conference was organised to assist the Garda Síochána in providing a police service in a multi-ethnic and multi-cultural Ireland. Discussion days were organised to take cognisance of the contributions from community groups, minority groups and NGOs who had participated in the conference. According to the programme details these seminars would:

“Identify areas of mutual concern regarding human rights and policing in the community, and to consider appropriate interventions to manage these issues. The

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<sup>40</sup> Garda Review 08/99 Volume 27 (7)

outreach structures will form the basis for the development of long-term partnerships.”<sup>41</sup>

On one such discussion day held in October 2000 in Dublin, fears were expressed by contributors that the organisation might not be willing or able to adapt to a new role that involved consultative policing rather than law enforcement, because this required a considerable shift in the understanding and perception of individual Gardaí. Others voiced fears that political will may be absent within the Department of Justice, Equality and Law Reform to embark on such a community-oriented initiative.

It would appear that human rights issues exist both within the organisation and also in the relationship between it and the general community. For example, one contributor referred to the problem of bullying within the Garda Síochána, and argued that the public must see “evidence of human rights abuses within the organisation speedily and satisfactorily addressed with openness and transparency.”<sup>42</sup> According to one survey on bullying within the organisation, 46.8% of inspectors and sergeants had come across the problem, and while 24.4% had only seen it once, 12.5% saw it frequently.<sup>43</sup>

Despite many of the above problems, the Council of Europe’s Human Rights Quarterly deemed the process of Garda consultation with the community as praiseworthy, and in fact awarded the service a prize for innovation in its anti-discrimination programme.

A number of human rights activists consulted during this study, however, had some reservations, and pointed out by that, although the work done by the Garda Working Group was commendable, much more needed to be done to inculcate human rights into the Garda Síochána itself. A prominent lawyer - involved in the project Working Group – argued that the decision to place human rights on the training curriculum was not in itself enough. Human rights needed to be inculcated into the culture of the organisation in order to affect policing methods. With particular reference to the Garda Working Group, it was accepted that, while it had demonstrated imaginative plans, it often lacked the level of resources needed to implement them: more generally it was argued that the implementation of human rights principles required a significant manpower input.

In the course of interviews and discussion during this study, the centrality of human rights issues was constantly emphasised, perhaps more than anything else; for many, differences in approach to human rights issues will have a significant impact on the quality of the co-operation between the two police services in Ireland that current political and social change appears to demand.

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<sup>41</sup> Garda Human Rights Working Group (2001)

<sup>42</sup> *ibid.*

<sup>43</sup> Garda Review Volume 27 (5)

## The Political Context

In simple terms, the disparity of political aspiration in Northern Ireland can be represented as a Unionist desire to maintain the union with Britain and a Nationalist wish for a united Ireland. The latter was enshrined in Articles 2 and 3 of the Irish Constitution. While these have now been repealed, there remains a heritage of mistrust regarding sovereignty on the one hand, and aspiration for unity on the other.

Since the Anglo Irish Agreement (1985) both governments, and the two police forces, have always maintained publicly that excellent co-operation existed between them. There were periods, however, during the 'shoot to kill' controversy when the two forces regarded each other with suspicion and politicians were vociferous in their disagreements. Regular meetings after the Anglo Irish Agreement put cross border co-operation in policing on a more formal footing. However, a former Chief Constable in the RUC told us that this worked alongside the existing informal co-operation which;

“was all done without fuss because if the politicians had got their hands on it they would have blown their tops.”

An Ulster Unionist emphasised the determination of his constituents to remain British citizens, but beyond that he was in favour of having the highest permissible level of co-operation. Referring to the inability of either police force to follow criminals across the border, he claimed that there was a lot to be said for flexible arrangements on the border. He qualified this, however, by saying:

“I don't know how you do it, because society, and I include society in the Republic, are not ready for that yet.”

The Democratic Unionist Party, cautious of anything that could be perceived as a step towards a united Ireland, was rather more circumspect in relation to greater co-operation. Their representative said he saw no role for secondment or liaison of officers from the Republic of Ireland unless it was put in an international framework. He claimed that, while it is in everybody's interest to co-operate to prevent criminality, the difficulty is that some politicians have a particular nationalist agenda that includes the development of cross border mechanisms. He agreed that it was common sense, for example, to try to decrease the fatal accident rate on the roads of Ireland, and that convicted paedophiles should not be able to move freely from one jurisdiction to another without records. He insisted, however, that co-operation on matters of this kind should be put in a European context and function according to what is recognised best practice in other countries.

A Progressive Unionist Party representative claimed that if cross border co-operation would make for more efficiency, transference of knowledge, sharing of ideas and good practice, then he was in favour of it. He was willing to support secondment of officers to share expertise on specific issues, and believed that when the protocols were in place and the processes were seen to work, fear in the Unionist community would diminish. In keeping with several other sources, he made the point that if cross border co-operation is good for policing then intrinsically it is a good thing.

At the time of interviewing, the SDLP spokesman on policing said that initial agreement had not yet been reached and until that had been achieved he saw no value in discussing north/south co-operation. That agreement has now been reached and the SDLP have taken their seats on the Policing Board. Their spokesman was of the opinion that co-operation was important in terms of building confidence and relationships, and in opening up the new police service to external influences. He also expressed the view that he would not be surprised '*if there was some institutional resistance at various levels in the south of Ireland to Patten.*'

A Sinn Féin representative expressed the view that there would be no benefit in co-operation at this point in time. He pointed out that the priority of the party was to redress grievances and have complaints about the RUC/PSNI dealt with. He believed that:

"If we get the proper legislation then we can deal with co-operation. The legislation, if it is good legislation, should deal with the whole of the island."

He also claimed that the emergency legislation existing North and South is a corruption of democratic accountability and that in order to have a proper police service and a proper judiciary it must be repealed.

Despite the wide range of views among political parties in their responses and aspirations regarding policing, it is of some significance that, with the exception of Sinn Féin, all parties in the North have taken their places on the new Policing Board. This has happened despite what would appear to be significant political disparities in relation to such matters as the provenance of the new Board, how it can be identified with, and the full range of its objectives.

In the Republic of Ireland, the Minister for Justice, Equality and Law Reform responding to a question regarding more effective arrangement of cross-border police co-operation stated:

"...the Patten Report on policing in Northern Ireland acknowledged that there was already a very high level of co-operation between the Garda Síochána and the RUC. That report set out a number of recommendations for improved co-operation between the Police Service for Northern Ireland and the Gardaí. It is intended that implementation of these recommendations will be pursued under the auspices of the British-Irish Inter-Governmental Conference."<sup>44</sup>

In this context, it was made clear during our interview with the Garda Deputy Commissioner that the Department of Justice, Equality and Law Reform supports operational co-operation that does not require fundamental legislative changes. The Department's role is to identify the requirements for an agreement which, when formulated by the British and Irish Governments, will form the basis of administrative compliance to the Implementation Plan. In practice it will enable co-operation to occur in areas such as secondment and joint training exercises. Further co-operation would be driven by the implementation of European Union legislation.

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<sup>44</sup> Question Time, Dail Éireann, 13 April, 2000



The Patten Report, while obviously being directed to the specific context of Northern Ireland, is increasingly being regarded as a definitive model for modern policing in general. This has motivated commentators to highlight deficiencies in policing in the Republic of Ireland. The Irish Labour Party has repeatedly demanded reform. Ruairí Quinn, the party leader, has said that “it is not acceptable that the people in this State should have a less accountable police force than the people of Northern Ireland.”<sup>45</sup> The Labour Deputy Leader and Spokesperson on Justice, Brendan Howlin TD stated:

“Policing in Northern Ireland is currently undergoing a dramatic transformation, and while the problems of policing in a politically divided society are somewhat different, I believe that there are many lessons we can learn from the Patten Report and the process of change now going on there.”<sup>46</sup>

In November 2000 the Labour Party issued ‘Proposals for Legislation for A Garda Authority and Garda Ombudsman’. The document, which is influenced by the Patten Report, states that implementation of Patten’s proposals will put policing in Northern Ireland on a more modern footing than that of the Garda Síochána.<sup>47</sup> Northern Ireland’s First Minister, David Trimble, agrees. He is on record as having stated that “the police force in Northern Ireland is far more accountable than that in the Republic of Ireland.”<sup>48</sup>

When asked by Mr Howlin for comment on the matter, the Minister for Justice, Equality and Law Reform initially dismissed the idea of a Garda Ombudsman, saying it was a matter relevant to Northern Ireland because of the unique situation there. In February 2001, during a debate, the Minister responded to Mr Howlin that:

“what might be suitable in one jurisdiction might not be suitable in another I don’t believe that it is desirable to transpose unquestioningly a system that operates in one jurisdiction into another jurisdiction.”<sup>49</sup>

A Labour TD commented that if what occurred in Abbeylara had occurred in the North the Police Ombudsman there would have been one of the first on the scene.<sup>50</sup> It is clear therefore that the same questions once asked about the Royal Ulster Constabulary are now being asked about the Garda Síochána. One veteran Fine Gael politician expressed his anxiety in an interview:

“I’m a bit concerned that in the present circumstances because of abuses and indications of corruption that the Guards are beginning to lose that [public] confidence at a time when they need it very badly. Recent events, particularly Donegal, have confirmed that a very serious look has to be taken at the Gardaí. Certainly the Patten Report should be digested in terms of what useful lessons there are for the Guards.”

Another politician commented on the relevance of the Patten recommendations to the Garda Síochána:

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<sup>45</sup> Irish Times, Friday October 5<sup>th</sup> 2001, ‘Labour to press for Garda Ombudsman’.

<sup>46</sup> Press Release Labour Party, issued on Monday 9<sup>th</sup> April, 2001,

<sup>47</sup> Press Release Labour Party November 2000

<sup>48</sup> The Guardian, dated Sunday December 3<sup>rd</sup> 2000, ‘Copy Patten reforms call to Garda’

<sup>49</sup> Dail Eireann Reports, Vol 530, 7<sup>th</sup> February 2001, column 84.

<sup>50</sup> Press release on Labour website.

“I would have thought that a full implementation of the Patten Report would have done substantial (work) for our force here ... and I regret the fact that most of the focus on the Patten Report was on Northern Ireland. There are huge areas of Patten that are immediately applicable to the Republic and we could learn much from it in terms of re-organisation of our own force”

Farrell (2000) claims that the logic of the Irish Government’s demand that Patten be implemented in the North meant the principles of the report should extend to policing south of the border. He stated:

“The Garda Síochána is now unique in these islands in being a hierarchical national body answerable only to the Minister for Justice, and perhaps even answerable to him as far as operational matters are concerned”<sup>51</sup>.

Another TD commented at interview on the possible implications that the Patten recommendations might have for policing in the Republic of Ireland:

“I had a lot of dealings with Gardaí and with the Commissioner and I found them very open to new ideas. I would have thought that though there’s a recognition that in many respects in relation to Patten that they’re behind the times and of course the fact that the Guards are becoming increasingly involved with other police forces, that they’re attending police academies, that they’re involved with peacekeeping operations – I think these things will increase their receptivity to new ideas...I would imagine that for the Guards to accept Patten would be a very fundamental change!”

One Dublin North TD expressed a more radical view at interview:

“Attitudes here towards the RUC were dominated by the political attitude in relation to the North. The changes that have taken place as a result of Patten, I think, will ensure that the law-abiding element of the community would welcome people from the PSNI here ... it would be a welcome development welcomed by the majority of people.”

It is likely that the implementation of Patten’s recommendations in Northern Ireland will have significant ramifications in the Republic of Ireland. It is possible that the Report may influence such things as the appointment of an independent police inspectorate<sup>52</sup> and the current discussions about setting-up a police ombudsman’s office in the Republic of Ireland. In fact, at the time of writing, the appointment of a Police Ombudsman is being discussed at a British-Irish Inter-Governmental Conference. Furthermore an interchange of training officers has also taken place. The extent to which such parallel ‘Patten inspired’ initiatives continue to emerge will perhaps give an indication of the development of cross-border police co-operation as a whole.

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<sup>51</sup> The Guardian Sunday December 3, 2000, ‘Copy Patten reform, call to Garda’.

<sup>52</sup> The Irish Times, October 10<sup>th</sup> 2001