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***Commentary on 1996 Primary Inspection report by
Her Majesty's Inspectorate of Constabulary with
reference to the Royal Ulster Constabulary
March 1997***

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The Committee on the Administration of Justice (CAJ) believes that Her Majesty's Inspector of Constabulary's (HMIC) report appears to confirm in many regards several of our own serious misgivings about the RUC's handling of difficult public order situations, and their resort to plastic bullets, over the summer months last year. We welcome many of the proposed procedures which HMIC suggests will ensure greater discipline and greater accountability in future.

However, in our opinion HMIC's report alone could not hope to deal with the many questions which arose around policing and we continue to insist that only an independent international inquiry can do that. As indicated in CAJ's own report on the summer's events, The Misrule of Law, the HMIC's remit and expertise did not allow him to address a number of crucial questions. For example he could not and has not addressed the value of a public debate about whether plastic bullets are an appropriate form of crowd control; the army use of plastic bullets; the controversial political questions around police tactics over the summer; many of the concerns raised by the public and specialist groups external to the RUC. Most importantly, the government in assigning this major task to the HMIC as part of his regular review process, gave little indication that they understood the gravity of the situation and the extent of damage done to police/community relations. What was needed was a more fundamental reassessment of policing.

Accordingly, the following commentary firstly discusses the report's findings, and then in conclusion, indicates the outstanding concerns and issues that still await answers. Together with the Standing Advisory Commission for Human Rights, the trade union movement and the Community Relations Council, CAJ continues to urge that the government establish an independent inquiry.

1. Overall assessment of RUC behaviour in July and August: The HMIC (p.2) says "The response to the major public disorders of July and August 1996 demonstrated the RUC's commitment to the impartial policing of a divided society, peaceful resolution of conflict whenever possible, and resort to minimum force only as a last resort". However, from his own account of events, HMI was not at Drumcree, Garvaghy, or Derry, where the charges of partiality of policing, and indiscriminate resort to plastic bullets, were most serious. CAJ found this finding to be a very strong endorsement of police action, which was contradicted by much of the evidence in our report. This begs the question as to the consultation process engaged in by HMIC, since surely such a ringing endorsement of police action overall ought to rest upon discussions both with the police and with the community the police serves? HMIC to our knowledge engaged in no such discussions beyond the RUC.

2. Public order (para 6.62 - 6.74): CAJ found this section very interesting. It in many ways confirmed our own findings about the summer.

It is worth noting in particular, HMIC's findings to the effect that:

- the RUC were under-strength (especially in rural areas) sometimes by as much as 34%;
- officers served excessive periods of duty (up to five days in some cases without adequate rest). "...it is clearly unsatisfactory to expect officers to remain fully functional under such conditions" (para 6.69)
- presumably to respond to some of this pressure, he encourages more exchange of information and know how with forces in England and Wales - calling them in where that could be of help. "Many British forces are trained to a very high standard in public disorder policing and over recent years have faced very serious and organised violence.... there is merit in considering initiatives in public order management developed in England and Wales, for example, the publication of more comprehensive guidelines for the organisers of demonstrations". (para 6.73)
- HMIC says that protective equipment available to Mobile Support Unit - MSU - officers is not as good as in England and Wales (without flame proof overalls); and he recommends better communications (6.72)

with regard to training, he says:

- public order training was deficient (50% of MSU officers did not get any training in the year ending September 1995. A catch-up programme, urgently agreed at the end of 1995, was then delayed by the closure of the training centre, and even when it re-opened could not provide training involving petrol bombs because of a lack of facilities. Many of the concerns raised in our report relate to MSU officers);
- 12 hour daily sessions were put on to try and ensure thousands of people could get some training before the marching season;
- that the training courses "whilst addressing the major points, were minimal for those officers who were untrained and especially for level II officers who had not worked as a team before. The overwhelming scale of the disorders that occurred necessitated the deployment of many inadequately trained officers in unprotected vehicles" (6.66)
- "confrontational skills training" are to be welcomed but he noted that "there is only a very limited input on social skills and defusing situations without resorting to force" and he bemoans the low level of officers who have gone through the training to date (6.74).

with regard to command structures:

- the report says that there were problems about the commitment to the command structure when only about a quarter of superintendents have undergone appropriate training "While HMIC fully accepts many senior officers have considerable public order experience, this may not always be

recent and a coherent response under pressure is dependent upon every one understanding their role and the tactical options available. He also suggests that a proportion of commanders should attend public order training in Britain, both to learn different skills and tactical options and to assess their own methods in a different training environment" (6:68)

■ HMIC argues that those responsible for the deployment and management of MSUs "be selected on the basis of having an understanding of, and proven track record in, public order matters, and be able to act as tactical advisers" (6.70)

■ "Overall responsibility for the maintenance and development of the police response to public disorder is, in the view of HMIC, too fragmented... He supports all training being together and the devolution of authority for operations to local commanders but the present unsatisfactory communications between the various elements should be improved. A very experienced training inspector has been tasked with reviewing the wider aspects of public order and he is well advanced in his research, but he should not be expected to progress into the body of his work without clear terms of reference which have the united support of senior operational commanders. Already, some units are starting to conduct their own review. The events of this last summer make this work vital and urgent". (6.71)

The tenor of these findings and recommendations will surely be of concern to the RUC and to those responsible for policing. They suggest that the police were operating below par, with insufficient training and with inadequate and fragmentary command structures. It would appear that, if such an analysis is accepted, several of the concerns CAJ raised about

- the handling of sit-down protesters
- the practice of hemming people in
- the use of landrovers
- poor communication with the public
- the erratic and uneven treatment of people

are problems that could be addressed by his recommendations regarding improved training and more stringent command structures.

At the same time, we were disappointed that HMIC apparently did not consider it appropriate to discuss some of the operational decision making which gave rise to public criticism. In the CAJ report, for example, we cite incidents where the police appeared inconsistent as to when they would stay and when they would leave a location, and when they should intervene and when they should not. Only an expert on policing public order situations could comment in detail on the extent to which there were satisfactory operational reasons for the variations in policy approaches we witnessed. It would have been very important to have an assessment as to any patterns which might suggest that certain divisions or units had particular problems.

If it is not the responsibility of HMIC to carry out such a study, surely it is incumbent on him to ascertain that such an assessment is being carried out by someone else? Without tracing problematic patterns of behaviour, command or training with regard to particular officers/divisions, blanket recommendations for change will have only a limited impact.

3. Plastic bullets: CAJ found this section of HMIC's report of particular interest.

Our conclusion, on the basis of the comments and recommendations made, is that HMIC shared some of the same concerns mentioned in our report. In particular, it is worth noting that:

- HMI “suggests the reporting procedures should include a clear statement by the senior officer present of his assessment of the potential threat to life from the overall incident. Separately, the guidelines for the use of baton guns should have greater clarity of precision” (6.78)
- he also recommends (recc 16) that the RUC guidelines reflect precisely the ACPD Manual of Guidance.
- he makes a variety of proposals regarding training: ie that technical proficiency and judgement cannot be assessed alone in a training context but that the selection process for training bear in mind candidates’ physical and psychological suitability (6.80)
- also, senior officers undergoing regular public order command training should look at the use of baton guns and alternative tactical options (6.81)
- most importantly, “HMI.. is of the view that their issue (ie plastic bullets) should be governed by the formal assessment of intelligence and tension indicators. There is a risk that in those areas where baton guns are routinely issued, they will be treated as a piece of everyday equipment; the issue and potential subsequent use of these weapons should be regarded as a major step, carrying with it the potential to escalate as well as defuse public disorder. In addition, constables required to use this weapon deserve the more active involvement of their senior officers in the responsibility for its use” (6.82). He recommends (recc 18) that the authority levels for the issue and control of baton guns should be reviewed.
- he goes on to say that “currently baton gunners are deployed individually and tend to act independently. In England and Wales, although they have not to date been used, the recommended method is to deploy baton gunners in dedicated teams complete with integral evidence-gathering capability”
- furthermore “Provision of integral evidence gathering teams has the dual advantage of enhancing intelligence and providing evidence in the event of any post-incident enquiry. Currently baton gunners are always accompanied by a ‘spotter’ who assists in target identification and provides corroborative evidence of the circumstances in which action was taken. Reports have to be submitted by gunners each time a weapon is used, these are submitted through local commanders, who are expected to scrutinise them for any breaches of the law or force instructions, to the complaints and discipline branch where they are filed and can be used in the event of any subsequent complaint. HMI is disappointed that these reports are not more thoroughly analysed for any indicators they may give as to improvement needed in training, deployment or operational guidelines. (para 6.85)
- in recc 19 he specifically recommends that “reports on the use of plastic baton rounds should be thoroughly analysed so that all possible lessons are learned for the future”.

It is impossible in reading these comments and recommendations not to conclude that HMIC felt that at least on occasion plastic bullets were resorted

to too easily and with insufficient caution. This bears out our own findings. While he does not share the civil libertarian commitment to ending the use of this weapon, HMIC clearly recognises the seriousness of the weapon and the potential it holds for exacerbating rather than defusing tension.

Whilst we welcome all of the proposals which go some way to exercising greater control in future, CAJ considers it unfortunate that the opportunity was not taken by the authorities to encourage a public discussion of acceptable crowd control tactics. HMIC, while endorsing the continued use of plastic bullets, also notes that it is the responsibility of government and of the legislature, not the police, to determine appropriate policing methods. Our own assessment of the situation on the ground (confirmed, we believe, in large part by HMIC's findings) is that this is a lethal weapon which lends itself all too easily to serious abuses of people's rights. Whereas HMIC clearly thinks that greater stringency in the use of the weapon and greater accountability will resolve the problems, CAJ feels that nothing short of their withdrawal is acceptable

Moreover, one of the disadvantages of HMIC's report (as noted earlier) is the fact that, in seeking to address broader policy questions, he does not address specific incidents or patterns. The report's reader is no wiser, for example, as to why HMIC thinks that such a large proportion of the plastic bullets were fired in Derry? Why were almost half of the plastic bullets fired over the summer, fired in one three-night period in one small location? What role did exhaustion, inexperience, inadequate training, poor command structures, a combination of all of these, and/or other factors which HMIC did not examine, play in bringing about this situation?

Last but not least, we could not understand why HMIC did not recommend that the guidelines for the use of plastic bullet guns be formally placed into the public domain, since this would be an important way of securing greater public accountability for their use.

4. Appendix D and Plastic Bullets: Obviously much of this appendix merely extrapolates on points already made in the body of the report. However, there were one or two additional comments to be made in its regard.

- While the mechanism for accountability may change in the light of Dr Hayes' recommendations, we welcomed the spirit behind HMIC's recommendation that "ICPC should be invited to supervise any serious complaint involving the use of plastic baton rounds, as a reassurance to the public of the thoroughness and impartiality of its investigation" (para 7)
- we certainly welcome a review of the guidelines to ensure that they comply with national and international standards about what constitutes "reasonable force" (see paras 9 and 11 & recommendation 16)
- Any review of the authority levels seems to us also to be welcomed see para 17 "HMI considers responsibility for the issue of baton guns should rest with sub-divisional commanders". He argues that even in emergency situations, where lesser authority is necessary, the appropriate sub-division commander should be informed as soon as practicable.

5. Conclusions: As noted at the outset, CAJ welcomes many of HMIC's recommendations and believes that they confirm many of the concerns which our observers raised with us and which are recounted in our report. We will be seeking further discussions with the RUC, the NIO and others, to learn what follow up is intended for the numerous proposals made.

At the same time, we remain concerned at the fact that HMIC made no obvious attempt to examine what occurred in a series of very serious incidents:

- the firing of large numbers of plastic bullets in Derry, many at people not engaged in any public disorder;
- the near-curfew on the Ormeau Road;
- the delays in the police investigation of the death of Dermot McShane;
- the incident in Altnagelvin hospital between police and civilians.

CAJ's report cites a series of questions which still remain unanswered:

- was there any truth to press allegations that Catholic officers were not relied on to do extra shifts or certain kinds of duty?
- what lessons are to be learnt for the future about potential conflicts of interest between police holding membership of the Loyal Orders and policing demonstrations and protests which are seen as critical of the Orders?
- what action is being taken to deal with sectarianism within the force?
- are there any lessons to be learnt about the use - or non-use - of local officers in dealing with public order disturbances?
- what measures can be taken to protect police officers, while providing sufficient identification so that genuine complaints against individual officers can be pursued?

Regarding plastic bullets, HMIC did not answer questions such as:

- the breakdown of usage by date, region, incident and police/army division;
- why were there contradictions in the official statistics provided about plastic bullets fired?
- are there patterns in usage which suggest that certain individuals or divisions resorted too quickly to this weapon?
- do the guidelines allow the deployment of plastic bullet guns in non-threatening situations, where they serve largely as a form of deterrence or intimidation?

Last but not least, apart from asserting at the outset that the RUC are committed to the impartial policing of a divided society (see point 1 of this memo), HMIC does not address the very serious charges of partiality levelled at the force. To quote from *The Misrule of Law*:

“Plastic bullets, in our opinion, are totally unacceptable. We have no doubt, however, that even people who would argue that they be maintained within the armoury of weapons available to the police, would not attempt to justify the deployment of plastic bullets in a sectarian or biased way. We therefore

need to investigate closely why it was considered necessary to discharge 662 plastic bullets in the period between 7 and 11 July (the period of unionist protests) and more than eight times as many (5340) between 11 and 14 July (the period of nationalist protests).”

Our report goes on to examine the number of attacks recorded on the police and the damage done to property, but no obvious answers to the dramatic increase in plastic bullet usage could be found in a study of these statistics. Unfortunately HMIC’s report provides very few insights into this situation, and until clear answers are forthcoming, the police cannot be surprised at continuing charges of sectarianism.

Our overall sense is that HMIC has provided some important insights into how the RUC can react to public disorder more effectively in future. Unfortunately, the nature of the problems is of such a magnitude that a more fundamental assessment of policing was required. CAJ will continue to lobby for such a fundamental reassessment since it is in the interests of all in society (including the police themselves) to address problems openly, to discipline individuals found to have been in breach of internal disciplinary or criminal codes, to set standards for future behaviour, and to contribute to the construction of a police service which is truly representative, accountable, and acceptable to everyone living in Northern Ireland.