

Policing the Police



**A report on the policing of events during
the summer of 1997 in Northern Ireland**

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What is the CAJ?

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights.

CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends.

Its membership is drawn from across the whole community.

The Committee seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, the Lawyers Committee for Human rights and Human Rights Watch, and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include – publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include prisons, policing, emergency laws, the criminal justice system, the use of lethal force, children's rights, gender equality, racism, religious discrimination and advocacy for a Bill of Rights.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award.

Introduction

The Committee on the Administration of Justice (CAJ) is a cross community group which works for a just and peaceful society in Northern Ireland where the human rights of all are protected. In 1996, CAJ sent observers to marches and protests in different parts of Northern Ireland. As a result of this first-hand experience, and drawing upon a number of detailed witness statements, the organisation published a major study entitled **The Misrule of Law**.¹ The report focused on the policing of contentious parades and demonstrations and brought into the public domain a civil liberties perspective on the events of that summer. CAJ's observers monitored the extent to which the policing of a whole series of events was carried out in an impartial and even-handed way vis-à-vis the rights of marchers and protesters. When violent conflict erupted, the observers monitored the effectiveness of the police in meeting their responsibilities under international human rights law to restore public order with minimum force.

The Misrule of Law concluded that:

“No one could doubt the difficulties which face any police service trying to maintain public order at a time of great tension and upheaval. In Northern Ireland, police officers face the additional risk of possibly being shot at. Indeed it is because of, not in spite of, such difficulties that it is important

¹ The Misrule of Law is available from the CAJ or at bookshops for £5; ISBN 1 873285 43 4

that we examine carefully police policy and tactics. Many of the concerns raised in this report relate to police tactics, since on some occasions our observers concluded that the police were using inappropriate – and indeed often ineffective – measures. In other instances, while the tactics were not necessarily wrong, their logic was not always clear. For example, we raise specific examples of occasions when the police chose to intervene or not to do so, to don riot gear, or not to do so, and we suggest that there needs to be an international and independent inquiry to ascertain if there are any justifiable operational reasons for these decisions.

A large section of the report is taken up with the issue of plastic bullets. CAJ objects as a matter of principle to the use of plastic bullets: their deployment and use cannot be justified. However, we witnessed numerous situations when this weapon was being clearly abused, even in terms of what we understand to be the official guidelines governing its use. The bullets were frequently fired indiscriminately. They often wounded people not at all engaged in violent activity. The number of plastic bullets used in Derry Londonderry in three nights of disturbances is particularly disturbing (nearly half the total fired throughout the summer) and the level of firing at nationalist demonstrators generally begs questions about the possibly sectarian use of the weapon.”

The report went on to raise concerns about several serious incidents: the death of Dermot McShane who was knocked over by an army saxon; a disturbance which broke out in the casualty unit of Altnagelvin Hospital between police and civilians; and events around Drumcree and the Ormeau Road. CAJ argued for

the establishment of an independent and international inquiry, but the proposal was not accepted by the government of the day.

Falling a long way short of CAJ's proposal, the government did, however, ask Her Majesty's Inspectorate of Constabulary (HMIC) to ensure, as part of his routine inspection, that a particularly close study be made of plastic bullet usage. CAJ was critical of the fact that this investigation was not carried out by an independent body, and that there was no role for public input. CAJ later noted, however, that Her Majesty's Inspector appeared to come to many of the same conclusions as ourselves.²

² See 1996 Primary Inspection of the RUC by Her Majesty's Inspector of Constabulary (ISBN 1 85893 757 4 – Stationery Office – December 1996) and CAJ commentary (S.48, March 1997)

Summer 1997

CAJ had two objectives in writing **The Misrule of Law**. Firstly, we wanted to provide an independent critique of the policing of the public order problems experienced during the summer of 1996. Secondly, and more importantly, we wanted to ensure that lessons be learnt from the experience. With this objective in mind, we sent observers again this year to a variety of marches and protests. We have prepared the current commentary on the policing of the 1997 "marching season", on the basis of our observing operation, and in the light of the concerns raised last year.

Policing and public order:

Moving people obstructing the road

Last year, CAJ witnessed many situations where the police moved in to remove protesters from the street and we criticised the unprofessional way in which this sometimes appeared to be done. Interestingly, there were fewer examples witnessed of protesters being physically moved this year. However, we can cite some observer accounts from Newtownbutler (3 August), which suggest that there is still much to be learnt about dealing effectively and peaceably with non-violent protest:

"At 5.45 an announcement was made by the Officer in Charge at the scene that local residents were potentially causing a breach of the peace and that they

should move 200 metres down the street to the other side of Land Rovers stationed at the end of the village. The announcement was made over a tannoy. This was the only announcement and one minute later at least fifty police in full riot dress, who were stretched from one side of the street to the other, began moving in formation down the street. The riot shields were thrust in front of each officer and used to physically force residents down the main street. Residents were pushed back 30-40 metres and some residents resisted whilst some of the residents' leaders tried to prevent trouble. The push forward with shields recommenced and as residents continued to resist being pushed, truncheons were drawn by some RUC officers and some residents were struck".

Another observer commenting on the same event said:

"The advance of the RUC line was quickening pace and as it met with the residents it continued to advance forcing the residents along using the riot shields to push the residents along. Attempts by the residents to hold their line was met with pushing and batoning by the RUC. Momentarily the RUC halted and some of the residents committee moved in between the line of RUC and residents and appealed for restraint on both sides. Then the RUC advanced again, it was at this stage that the RUC advance became more aggressive. The residents attempted to hold their position and pushed and lashed out at the RUC line which did have

raised shields for protection. The RUC in turn began to aggressively baton the residents. On several occasions, I witnessed a number of RUC officers repeatedly raising their batons above their heads and striking out at the residents, some officers were also using their shields to strike residents on the face and head."

A third observer commented that though there was what might be called an "unruly element" amongst the protesters, "the crowd included some older residents, women and children. In other words it should be stressed that this was not by any means a crowd that was going to create serious public order problems".

Though CAJ observers were not present during the night of the 5/6 July on the Garvaghy Road (we were, however, there throughout the 6th July – see on for observer comments), we took several witness statements as to what occurred at that time. To cite one example:

"There was no announcement from the police that they were going to clear the road or that the sit-down protest was illegal. The police were not wearing any numbers. One policeman came out of a Land Rover onto the footpath which was on the left hand side of the road. He was swinging his baton and he came over to us and said "surprise, surprise". They were all wearing balaclavas and we could only see their eyes. When one policeman said that, I asked him for his number and he laughed. He put his shoulder forward and there was nothing on it.

... There was constant verbal abuse from the police. They said things like "We will do what your neighbours did. What about Robbie Hamill?" (a Catholic man kicked to death by a loyalist gang, allegedly within view of an RUC patrol which did not intervene)... I also saw a nurse trying to help a man who had been injured and was herself shot in the leg. The plastic bullet firing was constant on about two or three occasions. The plastic bullets were fired before any stones were fired..."

One of the problems of close physical contact between police and demonstrators is the risk posed by handguns. In 1996, we raised the problem about police officers going in close in order to move demonstrators and yet keeping their guns in easy reach in their holsters. In the absence of any public inquiry into the events of last year, or any detailed response from the RUC, we are still unaware what the operational guidelines are in this regard. It appears to us to be highly dangerous, for both the police and civilians, for police to go into close encounters with a firearm within easy reach. An observer in Bellaghy (7 July) said *"the officers despite having both batons and shields (ie having both hands in use and therefore not in a position anyway to use a pistol as well) carried holstered small arms"*. In Crumlin (5 September) an observer reporting on a tussle between a protester and an RUC officer commented: *"During this struggle the gun belonging to the RUC officer fell out of its holster. The RUC officer, not realising this, got up off the ground, and walked several feet before realising that his gun was dragging behind him - it was still attached to the safety cord of the officer's belt"*.

Communication

The Misrule of Law reported that "many observers felt that communication skills were crucially lacking at important moments". This criticism was reinforced by a number of incidents this year.

There were a number of examples, such as those cited earlier from Newtownbutler, where an advance warning was given about police intentions, but it was considered wholly inadequate. Elsewhere, on the Springfield Road (28 June) and on the Garvaghy Road (6 July), warnings were either not given or not heard. Rapid police deployment to move people on, or the resort to plastic bullet firing, needs at the very least to be preceded by ample and clear warnings, if one is to minimise the physical danger to all concerned.

Communication, however, is to some extent a matter of dialogue and building trust. In a recommendation last year CAJ suggested that any review of public order policing ought to look at improving police liaison with parade stewards and community representatives. Several experiences this year suggested that communication between the police and local people was, if anything, worse than last year. On occasion the police seemed willing to impart information to journalists or observers, but not willing to engage with those directly involved in the dispute, such as the residents' groups (Bellaghy, 30 June). On at least one occasion our observers were given information by the police which proved to be incorrect, and which seemed to have been furnished with a view to misleading people (Newtownbutler, 6

July). On another occasion a contentious march had been cancelled, but the police appeared to make no attempt to defuse the situation by informing the protesters of this fact (Newry, 29 August).

In one town, local people reported a deterioration in the level of communication with the police. Whereas in earlier years the local residents group said that the police had directly, or via a local solicitor, kept them informed of the march schedule, there had been no advance communication at all in 1996. Ironically, the very fact that the police get greater advance warning of marches and protests (as a result of a legislative change about the notification of such events), may be a factor in the worsening of local information-exchanges. Perhaps the police hesitate to make too many people aware in advance of their plans either to force a march through or re-route it, for fear it would only give time to organise opposition. However, if this is the case, it is to ignore the rights of both parties concerned, the potential existing on all sides to work together for the common good, and also the possibility of mounting a legitimate legal challenge. HMIC in his report spoke of the need for greater police training for coping with public order situations. Specifically, he noted: "*Whilst a quarter of the instruction is referred to as avoidance tactics, there is only a limited input on social skills and defusing situations without resorting to violence*".³ Greater communication at the local level is clearly a crucial element if the police are to be successful in helping defuse, rather than merely police, conflict.

³ para. 6.74, HMIC report, 1996

Nor do such failures in communication only cause problems between the police and different groups. Additionally, they risk exacerbating relations between the marchers and any protesters. So, for example, on at least one occasion (in Dunloy) residents told our observers that it was an RUC decision to block the marchers from reaching the Orange Hall, and while residents would have protested them going through the village, they would not have tried to prevent the Order from reaching the Hall itself. The police may well have decided that this claim was either not true, or not feasible, and it is clearly an extremely difficult judgement-call to make. The risk, however, of such action is clear. On grounds of public safety, the police intervene and thwart the intention of the marchers. Their intervention leaves the marchers blaming the protesters for a decision which the latter did not necessarily seek. Similarly, the protesters are likely to become increasingly alienated from the police, and the marchers, if they are never to be allowed to hold a peaceful demonstration, and are always assumed to be planning for violent confrontation. In this way, police decision-making becomes part of the problem.

To cite a positive experience of communication, CAJ observers were under the impression that communications between the police and the others in Pomeroy (29 August) were such as to directly contribute to lessening tensions. If this could be done in Pomeroy, it is not clear why it cannot be regular police practice.

Use of Land Rovers

We did not witness any serious injuries caused by security vehicles this summer, but there were, again, several incidents reported in which Land Rovers were involved. To quote from CAJ observer reports:

(Springfield Road, Belfast, 28 June 1997) – *“Police Land Rovers continue speeding around in a provocative manner. Still not clear what the purpose of their continued presence is.... The use of Land Rovers to disperse crowds is clearly of concern, especially given the lack of prior warning regarding police intentions”.*

Same venue, different CAJ observer: *“The same problem arose as last year, when the police did not move away once the march had gone. When the jeeps started moving, there was a lot of confusion as to where they were going, in what order and why”.*

Accounts from yet another colleague talk of Land Rovers going at speed and swerving around. The “cat and mouse” playacting which had been witnessed last year was repeated this year with the RUC Land Rovers being stoned as they moved up and down the road *“a number of jeeps moving backwards and forwards, some at speed, providing opportunities for target practice”* and *“RUC officers inside could clearly be seen (from the passenger window side) laughing”.*

(Newtownbutler, 3 August) – *“At various points during the stand-off youths either leant against, sat or stood on one or more of the Land Rovers next to the shop. At certain times, the police driver(s) decided to move the youths away or dislodge them off the Land Rovers. The drivers would attempt this by revving the engine and ‘jerking’ the Land Rover either forward or back sharply. On one particular occasion whilst the driver of a Land Rover attempted to dislodge a youth standing on the roof, a teenage girl who was standing on a window ledge beside the Land Rover had to pull back tight against the window to prevent herself from falling or getting caught between the Land Rover and a wall”.*

A further problem relating to Land Rovers this year was the fact that sometimes they were seen with no license plates, which of course renders later identification difficult should anyone want to register a complaint.

Police presence

This year again, there were many examples of inconsistent police tactics, with both good and bad policing practices being observed. There seemed, for example, on occasion a greater recognition that donning riot gear can by itself increase the level of tension. In several instances, police in riot gear were seen towards the rear positions, where they could be easily moved forward when needed but were out of immediate sight for as long as the situation remained calm. In other situations, the deliberate lowering of riot shields visibly lessened tension. There were

many examples of the police moving away from a possible area of confrontation speedily once a march or protest was over and where their continued presence might only serve to stoke rather than ease tensions. There were instances of the police being subjected to verbal and physical abuse, and remaining unmoved.

We have however already highlighted some examples of the police staying on when their continued presence appeared uncalled for, and served only to place themselves and innocent bystanders at risk: *“There seemed to be absolutely no justification for what happened after the march had passed. If the vehicles had gone in an ordered way, there would have been no one injured, and it would have been over an hour and a half earlier”*. (Springfield Road, 28 June). In other instances, no action was taken even though observers thought that intervention might have been useful, an obvious example being the public consumption of alcohol in situations which might, and on occasion did, lead to a breach of the peace (for example the Ormeau Road 29 June, Short Strand 1 July and most obviously Derry Londonderry 9 August, where problems did subsequently arise). Since last year, the police have been given new powers to control alcohol at such gatherings, but there were no obvious signs of these powers being exercised.

In one very serious incident in Bellaghy (the night of July 5/6) eyewitness accounts suggested that police officers were drunk on duty *“I smelled drink off the breath of at least three or four of the policemen there – a strong smell of alcohol”*. *“I thought the police were drunk. The one in the white shirt had to be drunk.*

He was taking everyone on and swinging his baton wildly... Someone later said he was reeking of drink”.

Policing and charges of sectarianism

In the Bellaghy incident noted above, reference was made in several statements to the sectarian remarks made by police; an observer commented on the fact that the occupants of one Land Rover had placed a Union Jack in the window facing a group of residents (Bellaghy, 22 June); a local newspaper photograph caught another Land Rover in Dunloy on 12 July displaying a logo of King Rat (the nickname given to a prominent loyalist paramilitary); on another occasion, a senior officer on duty in Pomeroy on 29 August was seen to accept and display on his chest a sticker from the local flute band (some officers were seen to make excuses, and others accepted the stickers but did not display them); statements have to our knowledge been submitted to the police regarding allegations of sectarian behaviour and language on the part of police officers elsewhere.

Plastic Bullets

It is exceedingly worrying that after the allegations of indiscriminate and excessive use of plastic bullets in 1996, some 2500 plastic bullets were fired again this year between Saturday 5th July and Friday 11th July 1997.⁴ This is well over twice the annual average of bullets fired in the years between 1982 and 1995. Yet again this year, serious injuries were caused. In one case, a 14-year old boy went into a coma and was in intensive care; a 13 year old girl had major trauma to her face and mouth as a result of a plastic bullet.

While some of the problems highlighted last year were experienced again this year, there were also a number of new issues.

- a. We were very pleased that, in August 1997, the guidelines for plastic bullet usage were at last placed in the public domain.⁵ This was a necessary first step towards rendering security forces publicly accountable for their use of plastic bullets, and yet the issuing of the guidelines came about solely because of persistent parliamentary questions. Such official reluctance in rendering the guidance public cannot be justified.
- b. The publication and debate of the guidelines highlighted several disturbing facts. Firstly, it appears that in

⁴ Statistics provided by the RUC Press Office, 13 July 1997.

⁵ The guidelines are available from CAJ.

Northern Ireland, the army and the police are operating different sets of guidelines. We were not reassured by the official comment that *“though the language used may differ, the rationale is the same”* (correspondence to CAJ from the Civil Secretary writing on behalf of the army, 5 August 1997). Given the very active involvement of the army this year in public order policing, the existence of different guidelines on the ground is worrying. This discrepancy in standards is all the more serious when placed within the context of the relevant domestic legislation, which is much less rigorous than is to be found in the international and European legislation providing minimal standards governing the justifiable use of force.

- c. Furthermore, the concerns enunciated by Her Majesty’s Inspector of Constabulary regarding the discrepancies between the guidelines applicable in Northern Ireland, and those applicable in England and Wales, became more obvious once they were all rendered public. Ironically, although plastic bullets have never been used in England and Wales, the guidelines for their use are much more restrictive than those applying in Northern Ireland. Despite the deaths already of over 17 people (half of them children) as a result of plastic and rubber bullets, the guidelines here allow individual riot gunners to determine when plastic bullets can be fired (a very senior officer must take this decision in Britain). In England and Wales, plastic bullets can only be fired to protect life; in Northern Ireland, they can be fired to

protect life, to protect property, to preserve the peace, or to prevent and detect crime. In England and Wales warnings must be given unless circumstances dictate otherwise; in Northern Ireland, warnings ought to be given if circumstances allow. CAJ observers have never heard a warning being given in advance of the firing of plastic bullets.

- d. It is disturbing to see the discrepancies in the different sets of guidelines. However, it is even more disturbing to see that plastic bullets appear to be routinely used in Northern Ireland. They have never been used in Britain (even at times of serious public disorder in Toxteth, Broadwater Farm, poll tax riots, etc.). This makes it all the more incomprehensible that when the Ministry of Defence realised that a large batch of defective bullets might be in circulation, it apparently took them more than fifteen months to inform the RUC of this fact (ie the only police force in the UK that needed the information). This would appear to mean that many, if not all, of the plastic bullets fired in 1996 were defective.
- e. This defective batch was withdrawn in advance of this year's events but another defective batch has since been discovered, and may have been used during this year's disturbances. It is unclear how such expensive materials (£6 per bullet) can be supplied in such large numbers and not meet basic safety standards. It is our understanding from press inquiries that nearly 300,000 bullets have now had to be withdrawn. While one must

be grateful that such defects are eventually discovered and faulty bullets are withdrawn from use, it is disturbing that a weapon which is already so lethal, and has killed and maimed so many people, can be put into the police armoury of response before sufficient testing was done. The Police Authority, responsible for the purchase of plastic bullets, has yet to explain how these defects were not detected before the bullets were put into service.

Already we are aware, both from witness statements and the reports of our own CAJ observers, of situations in which plastic bullets were fired which would seem to be in contravention of the guidelines as we now know them to be. For example:

- a. At no point did an observer hear a warning being given regarding the decision of the security forces to fire plastic bullets
- b. In previous justifications of the resort to the use of plastic bullets, the police have most frequently alluded to the problem of petrol bombs. There was serious stone throwing on the Garvaghy Road Sunday 6 July but only one petrol bomb to our knowledge. While one petrol bomb was witnessed, nearly eighty plastic bullets were counted. Even more inexplicably, our observers recount that the firing of plastic bullets began before the petrol bomb was thrown.

- c. Observers reported on the problems of bullets ricocheting “I can see one bounce past me at about 100-150 yards away from the line of soldiers”; and “one particular problem with the rounds fired was that attempts to target projectile-throwing youths meant that rounds ricocheted further down the street, in one observed case striking two girls on the head and arm”. (Garvaghy Road, 6 July)
- d. Several observers noted that at times of calm plastic bullet guns were used to intimidate. (For example, the Springfield Road 28 June, Bellaghy 7 July, Newtownbutler 3 August)

A recent specialist report prepared for the European Parliament concluded with regard to plastic bullets that: “Paradoxically, whilst these weapons were meant to provide a new series of flexible responses, their ultimate effect was to programme their targets into traditional anti-state activities and procedures. In other words, their most invidious characteristic may be to undermine non-violence as a means of public protest”.⁶ This same report went on to recommend that the European Parliament should be asked to reaffirm its demand in May 1982 to ban the use of plastic bullets.

One of the problems highlighted by HMIC in his 1996 Inspection report was the inadequate safety gear available to police officers

⁶ p.25, STOA report, PE 166 499, April 1997; for recommendations see p.39

at times of serious public disorder. CAJ observers noted that the riot gear had dramatically changed this year, with the addition of fireproof balaclavas, other forms of fire-resistant protection, and often personal mini-fire extinguishers. On the one hand, this safety development is to be welcomed – both because it ensures that the police can carry out their responsibilities in greater personal safety, but also because that sense of security ought to enable them to respond more effectively in situations of particular tension. If the alleged reason for using plastic bullets is the necessity to protect the police in emergency situations where there is a serious physical threat posed, any increased capacity of the police to withstand attack (especially the horror of petrol bomb attacks) should minimise the likelihood of such emergencies arising. However, the firing of 2500 plastic bullets in a matter of days does not on the face of it reflect any such change.

On the other hand, the addition of balaclavas in particular to the uniform of the police can hardly be welcomed by those who want to develop a police service which is acceptable to local communities. The greater anonymity and distance lent to the riot gear by this addition is yet further away from the desirable principle of ‘policing by consent’. It certainly makes it all the more important for police officers to have some form of identification clearly visible.

Police accountability

Last year, **The Misrule of Law** raised certain problems around the issue of individual officers' identification numbers. We recognised that there might be some security concerns in linking a named officer and a specific ID number, but also argued that there ought to be ways around this problem which would allow individual officers to be identified by civilians at least to his/her senior commanders. If there is no such system, it is next to impossible for civilians (observers or others) to pursue any complaints they might have.

We asked our observers to see if they faced any similar problems this year, and the reports showed a variation in police practice. Whether identification numbers were displayed or not varied from place to place. Sometimes all officers had numbers, sometimes very few had them, and different reasons for the absence of numbers were frequently given to our observers. When this concern was conveyed to the Chief Constable's Office, we were given no satisfactory explanations.⁷

The situation was very serious on the Garvaghy Road on 6 July where our observers noted initially that the great majority of police visible up and down the lines of Land Rovers had their epaulettes (and numbers) clearly displayed. However, and this is

⁷ In a letter from the Chief Constable's office dated 27 October 1997, we were however informed that "the Chief Constable has issued a reminder to his commanders of the requirement that sergeants and constables should wear numerals on the epaulettes of all outer garments".

particularly disturbing, at key geographical points (especially road junctions onto the main road) officers did not have their numbers displayed. After careful verification, it was evident that it was exactly at many of those points where confrontations between the public and the police could be considered most likely that police numbers were not visible.

Nor is the problem of accountability one for individual officers alone. The Chief Constable was asked for a statistical breakdown of police and army use of plastic bullets per incident, by date, and the circumstances which gave rise to their use. CAJ was informed⁸ that statistics were not available in the format requested despite HMIC's recommendation⁹ from last year which emphasised the importance of record-keeping and analysis of plastic bullet usage. The fact that there still, a year later, continues to be uncertainty regarding the numbers of bullets fired in 1996 shows just how weak are the current record-keeping and accountability mechanisms.

If the public does not get satisfactory answers from the police, then they should be able to rely on a strong and independent watchdog group to act on their behalf and secure answers to issues of grave public concern. CAJ correspondence with the Police Authority has, however, not provided any reassurance that police accountability is being secured by that body.

⁸ letters from the Chief Constable's office dated 21st July and 27th October 1997

⁹ recommendation 19, HMIC report 1996

After a delay of several months, the Authority, in a letter dated 31 July, reassured CAJ that it had been engaged in a comprehensive review of the policy on plastic bullets and that *“At the present time a report on the review is being finalised and will be considered by the full membership of the Authority during the coming weeks... It is the Authority’s intention at the appropriate time to make a public statement outlining its policy on PBRs (plastic baton rounds/plastic bullets) and we will be happy to arrange to meet with a delegation from the CAJ in order to discuss the various issues which arise from our findings”*. CAJ was extremely disappointed to learn that the Authority seems to be completing a review into plastic bullet usage without directly involving those organisations which have been raising concerns about the issue over a long period.¹⁰ This does not bode well for the openness of the process, or the credibility of the eventual recommendations.

The Secretary of State also has certain responsibilities vis-à-vis the police. Yet, in correspondence with the Secretary of State’s office, we were told amongst other things that *“the security forces must be in a position to defend lives and property and that requires that baton rounds remain available”*.¹¹ This statement, and those since from Adam Ingram, the Minister of State with responsibility for policing, would seem to fly directly in the face of HMIC’s recommendations, which argued that the RUC guidelines

should be brought into line with those operating in England and Wales which allow them to be used only when life is at risk, and not in defence of property.

Finally, we brought all our correspondence to the attention of HMIC expressing concern at the different sets of guidelines in operation in Northern Ireland, the divergencies between the guidelines in different jurisdictions, and the unsatisfactory responses we have had to date from our various correspondents. His one sentence reply informed us that he had received and read our correspondence.

¹⁰ A further letter dated 16 October 1997 from PANI states that the publication of their report has been delayed and the Authority “might consider the matter again at either at its November or December meeting”. CAJ “can be assured that Members are fully aware of your position on the matter”.

¹¹ Letter to CAJ from Secretary of State’s Office, 24 June 1997

Specific problems arising this year:

a. decision making process

A crucial concern about the events on the Garvagh Road this year was the nature of the decision making process. Despite the efforts of the Secretary of State to reach a local accommodation, and changes to the advance notification period of marches to allow for more mediation efforts, there was a failure to communicate the decision in advance to all the relevant parties. This both prevented any opportunity to challenge the decision through the courts, and increased tension and uncertainty in the area. Last minute attempts by legal representatives of the residents to ascertain the situation, so as to take legal remedies, were reportedly ignored by the Secretary of State's Office. Additionally, there is a strong perception in the area that residents were deliberately misled by way of security force deployment and activity. This was another factor contributing to anger, tension and resentment. Press accounts of a leaked Civil Service document after the event, suggesting that the decision may have been taken in principle quite some time previously, served only to compound the situation.

As important, however, as the process of informing people of the decision was the justification given for the decision itself. While fully understanding the difficult situation facing government, both on the Garvagh Road on the 6th July, and on the Ormeau Road on the 12th July, the public pronouncements made at the time by the Secretary of State and the Orange Order were problematic.

The argument for allowing the march to go ahead on the Garvagh Road, and the argument for the Orange Order choosing to re-route on the Ormeau Road on the 12th, seemed in both instances to be the fear of serious violence. Public safety, while obviously important, should not be the sole criterion when making decisions about whether a march/protest/public meeting may or may not go ahead. We believe that principles of international human rights and the proper balancing of rights should be central to all decision making around the marching issue.

Last year a decision was taken to allow the Drumcree march. That decision was also justified on the grounds of the threat and actuality of violence. This year the reason given for the decision being taken to allow the march to proceed down the Garvagh Road, but not down the Ormeau Road, was similarly the fear of violent opposition. We believe that this stance undermines the concept of the rule of law, encourages resort to violence in order to achieve one's aims, and leaves the rights of a minority (whoever they might be) unprotected. The primary responsibility of government is to provide security to all those living within its jurisdiction. The single most reliable principle by which democratic societies can ensure security of person and property is the rule of law, and therefore any setbacks to the rule of law are deeply damaging to the whole community. Such setbacks should indeed be of concern to everyone interested in establishing a just and peaceful society.

b. army involvement in public order policing

Very marked this year was the large-scale presence of the army at most if not all venues where a contentious parade, march or protest was expected. This situation raised a number of concerns:

- firstly, the army are meant to act in support of the RUC, but we learnt in the course of correspondence that there are different sets of guidelines for plastic bullet use in Northern Ireland, one for the army and one for the police.
- secondly, if problems arise with the army on the ground, it is unclear if this an issue to be pursued with the army or with the police. For example, what authority, if any, does the Police Authority have over army behaviour, if the Authority is concerned that the army is not following normal police procedure?
- it was not always clear to eyewitnesses whether the army were regular forces since some were seen to be wearing unusual blue boilersuit type uniforms.

All the problems around police accountability are that much more relevant when applied to the army. Public order policing is a very difficult inter-face between police and public, and that much more difficult when carried out by the army. When our observers report, as they did "*Soldiers in the buffer zone are regularly raising their SA80s to use the telescopic sights to 'pan' the*

crowd" (Bellaghy, 7 July) we know that it is an unacceptable form of intimidation from the perspective of civilians engaged in non-violent action - but is it in fact contrary to army guidelines? If so, to whom should complaints be made - to the Independent Assessor of Military Complaints Systems, or to the police who have primacy over the army in such situations?

c. police and army videoing

The videoing of various public order events was highly visible this year, even at times and in places where there was no obvious disorder, and where the legality of the gathering was not necessarily in question. In Newtownbutler (6 July) one observer commented: "*the police were photographing everybody with both still and video cameras*". In Bellaghy (7 July) an observer noted: "*An army photographer with SLR camera and zoom lens took photographs of, it appeared, selected individuals who were being openly pointed out by an RUC officer. The RUC officer also had an SLR camera with a wide angle lens. This officer took photographs which, because of the wide angle lens, would encompass large sections of the crowd. This RUC photographer seemed particularly interested in photographing one person and those people to whom he spoke*". Elsewhere (in Derry Londonderry on 12 July) an observer noted: "*(Saxons and Land Rovers) were followed by a Land Rover with a video camera mounted on top which proceeded to film the crowd...the video can only have photographed those at the front of the crowd, ie*

the stewards. It was unclear if this was an illegal demonstration... and in any event there was no public warning that this was an illegal demonstration and that people should disperse. Why then, were they videoing the crowd? Incidentally, they also deliberately took shots of us (the observers)".

Even if the police were videoing certain events with a view to later taking criminal proceedings, it is not obvious why the army would be involved in videoing people.

Looking Ahead

Parades Commission

At the time of writing, draft legislation is being discussed which will give decision making powers to the Parades Commission. While welcoming much of the proposal, CAJ's experience over the last two years is that the conflict of rights over marching will only be resolved if the following criteria are met:

- the rights of marchers and of residents are treated with equal weight and respect, in accordance with international human rights legal principles;
- decisions look beyond public order and public safety to also look at a balancing of rights, proportionality, the need to promote tolerance and broad-mindedness, and the weight and importance of the rights being protected or potentially curtailed;
- local accommodations are sought as far as possible between the parties directly concerned but within an agreed framework of rights. The latter allows one to assert one's own rights but also imposes a responsibility on people to respect the rights of others.

It is clear to us from this list that it is not possible for the police to be decision makers in such matters. The nature of policing is such that, in any discussion, public order will often be given an

over-riding priority, when in fact issues around the balancing of rights must also get due attention. The role of the police must therefore be limited to (a) advising those involved directly in the decision making process (particularly on policing issues and the public safety considerations), and (b) impartially policing implementation of the decisions once taken.

why it is that all police officers are not wearing some form of identification.

Northern Ireland cannot afford these problems to be repeated again in 1998. Changes on the ground are needed. Effective and fair policing is in the interests of the Loyal Orders, the residents, and all of us living here. It is urgent that work starts toward this end immediately.

Independent Monitoring

It is our belief that there will still be a need for the independent monitoring of policing in the years to come. Policing is carried out in the name of society as a whole and, as such, it must be fair to all, and seen to be so. To the extent of our resources, CAJ will continue to play such a role.

Future Policing

Before summer 1998, it is urgent that the Secretary of State, Chief Constable, and the Police Authority for Northern Ireland consult about the nature of public order policing. The criticisms outlined in this report are not new: to a large extent they reiterate our findings in 1996. We are no clearer why certain marches are allowed through, others are not, why and when plastic bullets are to be fired, what the respective roles of police and army are, and

Proposed Actions:

1. write to the following commenting on the concerns raised in this document and asking for their reactions.

▪ **the Secretary of State,
Stormont Castle
Stormont Estate
Upper Newtownards Road
BELFAST 4.**

▪ **Chief Constable,
RUC Headquarters
Knock Road
BELFAST 5.**

▪ **Chair of the Police Authority
for Northern Ireland,
River House
High Street
BELFAST 1.**

2. copy your correspondence to colleagues, to trade unions, community groups, churches, and local politicians (and MPs, TDs, Congress people) drawing attention to the issues and asking for their support for change

3. if you would like further information/action proposals contact CAJ (we have a video, other publications and a regular newsletter which will all be useful in the campaign).

Publication list

- No. 1 **The Administration of Justice in Northern Ireland:** the proceedings of a conference held in Belfast on June 13th, 1981 (no longer in print)
- No. 2 **Emergency Laws in Northern Ireland:** a conference report, 1982 (no longer in print)
- No. 3 **Complaints Against the Police in Northern Ireland,** 1982. (price £2.50)
- No. 4 **Procedures for Handling Complaints Against the Police,** 1983 (updated by pamphlet No.16)
- No. 5 **Emergency Laws: suggestions for reform in Northern Ireland,** 1983 (£1.50)
- No. 6 **Consultation between the Police and the Public,** 1985 (price £3.00)
- No. 7 **Ways of Protecting Minority Rights in Northern Ireland,** 1985 (price £4.00)
- No. 8 **Plastic Bullets and the Law,** 1985 (updated by pamphlet No. 15)
- No. 9 **"The Blessings of Liberty":** An American Perspective on a Bill of Rights for Northern Ireland, 1986 (price £2.50)
- No. 10 **The Stalker Affair: More questions than answers,** 1988 (price £3.00)
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- No. 21 **A Bill of Rights for Northern Ireland,** 1993 (price £2.00)
- No. 22 **Staid agus Stadas Gaeilge i dTuaisceart na hEireann -** The Irish Language in Northern Ireland: The UK Government's approach to the Irish Language in light of the European Charter for Regional or Minority Languages, 1993 (price £3.50/IR£3.50)
- No. 23 **A Fresh look at Complaints against the Police,** 1993 (price £3.50/IR£3.50)
- No. 24 **Adding Insult to Injury?** Allegations of Harassment and the use of Lethal Force by the Security Forces in Northern Ireland, 1994 (price £3.50/IR£3.50)
- No. 25 **The States We are In: Civil Rights in Ireland, North and South -** proceedings of a conference held in Dublin by the Irish Council of Civil Liberties and the CAJ, 1993 (price £3.50)
- No. 26 **Civil Liberties in Northern Ireland: The CAJ Handbook** (2nd edition), June 1993 (price £6.00)
- No. 27 **"Harassment: It's part of life here..."** Survey of young people's attitudes to and experience of harassment by the security forces, December 1994 (price £5.00)
- No. 28 **No Emergency, No Emergency Law: Emergency Legislation related to Northern Ireland the case for repeal,** March 1995 (price £4.00)
- No. 29 **Right to Silence debate,** the Northern Ireland Experience (May 1994) (price £3.00)
- No. 30 **Human Rights: The Agenda for Change - Human Rights, the Northern Ireland Conflict and The Peace Process** (includes

- S23 **Submission on the killings of Pearse Jordan, Gerard Maginn & Patrick Finucane, to the UN Special Rapporteur, 1993** (price £2.50)
- S24 **Submission to United Nations Commission on Human Rights, 1994** (price £1.00)
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