Part II

The Criminal Justice Process

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Policing in Transition

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Introduction

On an international scale, Northern Ireland's policing of security affairs have long occupied a distinct and 'elevated' position over the past four decades. Indeed, the political, economic and research attention devoted to both understanding and framing the polity's emergent transitional character have far outstripped that afforded to other jurisdictions in the United Kingdom and beyond in the Western world (Topping and Byrne 2012c). So too on a variety of political and policing plains, the journey out of a protracted, internal armed conflict towards a (relatively) peaceful and democratic society has presented global 'lessons' on conflict transformation, police reform, and not least 'hope' for other countries ravaged by violent, internal strife (Campbell et al 2003; Brogden 2005; Mulcahy 2006; Ellison and O'Reilly 2008).

But most significantly, the issue of policing has always been (and remains) central to the wider political progress and *status quo* of the country's transitional landscape (Dickson 2000; Topping 2008a). With policing and its delivery having become entwined with the socio-political discourse of the country's conflict, it may be observed that 'implicitly, bargaining about policing became meta-bargaining as to the very nature of the conflict' (Campbell et al 2003: 342). To this extent, the 'direction' of the transition has been intimately tied to a consensus that 'if policing can somehow be "got right" many of the other pieces of the jigsaw will slot into place' (O'Rawe and Moore 2001: 181). Furthermore, it must also be understood that the task of 'getting policing right' was (and still is) symptomatic of the complex interaction between the social, cultural and political interfaces of the traditionally divided communities which comprise the jurisdiction (Shirlow and Murtagh 2006).

In specific reference to police reform, conflict and the wider 'peace process' in Northern Ireland, the Belfast Agreement was reached on 10 April 1998, as a significant milestone in the history of the region's troubled affairs (Bew 2007). Consolidating the progress made from the republican and loyalist ceasefires of 1994, this all-party political settlement sought to establish the foundations for

resolving the intractable social and political divisions of the country (McGarry and O'Leary 2004). Out of the 1998 Agreement, a watershed development came in the form of the Independent Commission on Policing for Northern Ireland (ICP)—as an independent, international body tasked with reforming not just the incumbent Royal Ulster Constabulary (RUC) as a police organisation, but constructing an entirely new policing *architecture* designed to provide a new beginning for policing; to reconnect the police with those whom they were meant to serve; and deliver an effective, efficient, impartial and accountable police service for an entire population (Ryder 1997; ICP 1999; Tomlinson 2000; O'Rawe 2003; Topping 2008b). Chaired by the former Governor of Hong Kong, Chris Patten, the eventual ICP recommendations (otherwise known as the 'Patten Report') published in 1999 were 'viewed as symptomatic of a perceived need for an end to incremental and politically nuanced "tinkering" with policing, and the beginning of a substantial, inclusive and permanently acceptable change process' (Topping 2008b: 778–79).

On a broad level, the ICP has generally been hailed as the most 'significant' and 'complex blueprint' for police reform ever attempted in the world through 175 recommendations for policing change—resulting in the creation of the Police Service of Northern Ireland (PSNI) on 4 November 2001 (OOC 2006; Bayley 2007). On the one hand, narratives as to the success of the ICP reform process cannot ignore evidence that the 'spirit' of a 'new beginning' to policing was ultimately 'gutted' and 'diluted' in terms of how the wide-ranging recommendations were translated into legislative form under the Police (Northern Ireland) Act 2000 (Hillyard and Tomlinson 2000; McEvoy et al 2002).[1] There was significant resistance in unionist quarters to such wholesale change of the RUC as a *de facto* partisan police force (mainly) serving Protestant communities (Mulcahy 2006). Such dilution may be considered a function of unionist sentiment towards the ICP, described by the former Ulster Unionist leader and Nobel Peace Prize winner, David Trimble, as 'a gratuitous insult and [the] most shoddy piece of work seen in his entire life' (Anderson 2007: 14).

Yet on the other hand, neither can evidence related to the scale of change and reform to the policing institutions be underestimated on a practical level. As confirmed by the Office of the Oversight Commissioner (OOC)—established out of the ICP to ensure a 'faithful and comprehensive' implementation of the 175 recommendations across 772 performance indicators (ICP 1999: paragraph 19.2)—the vast majority have now been completed (OOC 2007). Notwithstanding the *additional* 1070 subsequent recommendations directed at the PSNI from the new policing structures (including the Northern Ireland Policing Board (NIPB) and Office of the Police Ombudsman for Northern Ireland (OPONI)), it is impossible to argue against the weight of change momentum, epitomised through

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[1] See also, C Shearing, 'Patten Has Been Gutted: Clifford Shearing An Independent Member of the Patten Commission on the RUC Speaks Out' *The Guardian*, 14 November 2000.

the PSNI and all they have come to stand for in the post-ICP period (Topping 2008a).

But aside from the practicalities of such significant and permanent change to the policing landscape, it is also important to note that since 2007, the police institutions have had cross-party support for the first time in history, as an inclusive political endorsement of the wider reform process.[2] Similarly, autonomous policing and justice powers have been devolved to the Northern Ireland Executive for the first time since 1972, cementing the contention that policing still remains wedded to wider political progress.[3]

As part of the broad policing narrative associated with the transition from conflict to peace, at a superficial level it would appear that policing in Northern Ireland, as the last piece of the peace process 'jigsaw' has indeed been slotted into place (O'Rawe 2003). Yet at the same time, it may be claimed the policing and security dynamics underpinning transitional democracies tend neither to be static nor linear in their progression, especially where the source of conflict in the first place is a function of deep-rooted history, culture, political tradition—as well as societal receptiveness to change (Teitel 2000). Indeed, this may be observed through the constant 'tension' and fragility surrounding political progress and community support for the policing institutions according to wider events and developments—themselves grounded in the legacy of the conflict.[4]

In this respect, the remainder of the chapter seeks to engage with the various factors underpinning the contemporary policing environment in Northern Ireland as part of the more 'normalised' security landscape in 2014. Beyond the outwardly positive picture of the country's progress towards peace at an international level, it is of note that little academic attention is generally paid to the parameters of police reform as an *evolving*, transitional democracy; and where the issue of policing remains a 'work in progress' (Topping and Byrne 2012c). Indeed, it was one of the former Oversight Commissioners, David Bayley, who observed that 'Northern Ireland fatigue' has obscured both international and academic interest into the polity's affairs, with the ideals of police reform and change tenuously tied to the empirical realities of their outworking (Bayley 2007). Capturing this position in relation to the contemporary 'state' of policing and security affairs, it is thus apt to note Mulcahy (1999: 278), who identifies that precisely because of such change around policing, 'in the aftermath of a … conflict, peace itself can constitute a crisis to the extent that it undermines the policies, practices and assumptions ingrained and institutionalized over the years'.

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[2] See *Belfast Telegraph*, 'Blair Hails Historic Decision by Sinn Féin Leadership', 29 January 2007; *Belfast Telegraph*, 'The Miracle of Belfast', 4 May 2007; *Belfast Telegraph*, 'Sinn Féin to Take its Seats on the Northern Ireland Policing Board', 14 May 2007.

[3] H McDonald and N Watt, 'Stormont Votes to Take Over Northern Ireland Policing Powers' *The Guardian*, 9 March 2010.

[4] T Whitehead, 'Northern Ireland Tensions at Boling Point Over Gerry Adams Arrest' *The Telegraph*, 3 May 2014.

The Nature of Policing Change

To examine the nature of the policing 'change' in Northern Ireland, it is important to set that task, bestowed upon the ICP, in more specific context. As noted by Moxon-Browne (1983: 28), 'to seek a solution to the Northern Ireland problem is to pursue a mirage in the desert: a better ploy would be to irrigate the desert until the landscape looks more interesting'. The ICP reform process, as the 'irrigating' mechanism, was therefore about a 'commitment to a fresh start … the opportunity to take best practice from elsewhere and lead the way in overcoming some of the toughest challenges in modern policing' (ICP 1999: paragraph 1.5). As part of this 'change dialectic' (O'Rawe 2003), the ICP was *generally* about engendering a paradigmatic shift within the RUC—creating a movement away from their status as a 'reactive, hierarchical, militaristic and counter-insurgency *force* into a proactive … *service* working with the grain of the communities it policed' (Topping and Byrne 2012c: 160). However, central to understanding the *specific* nature of these reforms is a need to move beyond the ICP recommendations as a homogeneous 'block' of change 'forced' upon the RUC; and consider the reform process in two interrelated, but distinct 'streams' (Kempa and Shearing 2005).

This first stream, which has largely reached the end of its natural life cycle, is that related to the 'system' of policing, or that which could more broadly be attributed to the physical manifestations of police change. These reforms included, for example, the name of the PSNI, badges, uniform, recruitment processes and human rights training which were espoused in the publication of the nineteenth and final report of the OOC back in 2007, demarcating an end to this phase of reform (Ellison 2007; OOC 2007). But it is the second 'stream', 'concerned with broader questions around the governance of security, or policing more broadly conceived' (Kempa and Shearing 2005: 5) which resonates closely with the social and political vagaries of police reform grounded in the transitional, community context of Northern Ireland. Underlying this second stream was the central focus for the ICP—namely recommendation 44—which states 'Policing with the Community should be the core function of the entire police service' (ICP 1999: paragraph 7.9).

Indeed, community policing, or 'policing with the community' under the rubric of the ICP may be understood as central to many police organisations across the globe (Oliver and Bartgis 1998; Brogden 2005; Brogden and Nijhar 2005). At a cursory level, community policing simultaneously represents a plethora of divergent police organisational practices, styles, philosophies—concerned primarily with the provision of a local, tailored and community-anchored policing service (Loader 2000; Dixon 2004). Yet beyond theoretical contentions, the ICP's core recommendation acquires additional, distinct meanings as part of the transitional landscape within which policing is situated. On the one hand, the delivery of community policing in Northern Ireland is symbolic of a movement away from the police merely enforcing the rule of law *upon* particular populations, towards

engendering more legitimate, consensual styles of policing and working *with* communities previously distanced from the state police apparatus during the conflict (Hillyard 1988; Ellison 2000, 2007; Topping 2008a).

But on the other hand, the practical delivery (and success or otherwise) of community policing as a primary goal of the PSNI additionally allows an extraction of meaning from underlying social and political trends impacting upon this style of policing delivery (Kempa et al 1999; Topping and Byrne 2012a). As shall be observed, through the lens of the ICP's core policing approach, policing delivery is also linked to the fact 'the police have … the capacity to tell us something about the normative ordering of society' (Ellison and Martin 2000: 694).

It must also be noted from the outset that in spite of the significant police organisational and political progress related to policing witnessed since 1999, current research indicates that beyond pockets of good practice, much of the post-ICP policing landscape has been characterised by an indeterminate 'drift' with regard to the full implementation of a community policing ethos within the PSNI (Byrne and Monaghan 2008; Topping 2008b; Topping and Byrne 2012a). While the PSNI has changed 'vertically' in the sense of its movement away from counter-insurgency to community policing; and 'horizontally' in terms of downsizing and 'normalising', research continues to contradict the 'official' picture of full community support and police–community relations in the country (NIPB 2013).

Across the country, alienation of republican/nationalist (and to a lesser extent loyalist/unionist) communities from any normal conception of policing remains apparent. With a sizeable minority of the population distanced from, or ambivalent towards, engagement with the PSNI, and deriving 'satisfaction' with the PSNI through its absence at a local level, contemporary research points towards the significant limitations associated with the community policing project on behalf of the PSNI (Ellison and Mulcahy 2001; Mulcahy 2006; Topping 2009). As succinctly captured by Topping (2008b: 791–92):

> It is clear the PSNI's 'policing with the community' philosophy has struggled beneath the sheer weight of division and diversity within Northern Ireland's transitional landscape … while the PSNI have been radically transformed in line with [the ICP's] first 'stream' of reforms, the changes to policing on the ground through his second 'stream' have largely been negligible … in many areas of Northern Ireland, policing largely mirrors the reactive style of policing characteristic of the conflict, albeit in a peace-time context.

More specifically, and related to policing as a function of the normative ordering of the country's post-conflict space, it is critical to consider that republican/nationalist *and* loyalist/unionist communities too, have had the very basis of their policing experiences and expectations drastically altered. Within loyalist areas traditionally supportive of the police (and formerly the RUC), there exists a perception of a 'diminished' policing service, primarily due to the significantly reduced numbers of PSNI officers (circa 6900) available to deliver community-oriented policing in comparison with the RUC 'heyday' which peaked at 13,500 officers (Mulcahy 2000; Topping 2008b). Similarly, the RUC, as a police service once 'theirs' has been

removed and replaced, and in many cases 'vilified'—raising issues of legitimacy and affinity with the rule of law as exercised through the PSNI (Lundy 2011; Cadwallader 2013).

Within republican communities, it is also evident that the PSNI is perceived to have 'missed the mark' in regard to the delivering of a more 'normalised', community-oriented policing service—as was promised politically and expected locally—following the political negotiations of 2007 when Sinn Féin (as the largest republican/nationalist party in the country), supported the policing institutions for the first time in their history (Topping 2008b).

Yet in taking a step away from such broad critiques levelled at the PSNI as to its ability (or otherwise) to deliver the ICP's central tenet of reform and change, or indeed the altered community experiences of a police service in transition at the community level, it must be remembered that dynamics which comprise the country's conflicted democracy cannot easily be separated from policing, nor viewed without reference to the other (Teitel 2000). In this respect—and exploring issues which impact upon policing and the rule of law—it is vital to consider the wider operating environment within which policing is situated, both to qualify and calibrate the nature of policing against ongoing tensions and contradictions within the polity. Similarly, such an approach also assists with understandings that beyond the 'change dialectic' are many factors which continue to remain outside the control of the PSNI, but which laterally influence the police–community nexus set within a highly segregated society currently under a 'severe' terrorist threat (Shirlow and Murtagh 2006; Frampton 2010).[5]

The Contested Environment and Parameters of Transitional Policing

In terms of considering the operational parameters of current policing arrangements in the country, the majority of academic and policy attention over the past 15 years has concentrated either upon the reform of the policing institutions, or their interaction with (mainly) urban, working class loyalist and republican communities (Byrne and Monaghan 2008). Yet comparatively little attention has been directed at the transitional 'climate' in which policing is actually delivered. Thus, the following sections will 'map' the parameters of the environment which in turn defines the limits to policing delivery—and especially so where it may be observed that those conditions are by no means conducive to the delivery of

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[5] See also H McDonald and M Townsend, 'For Ireland's Hardcore Dissidents 'The Queen is a Legitimate Target' *The Observer*, 24 April 2011; *BBC News*, 'Union Flag Protests: Police Attacked and Traffic Disrupted', 12 January 2013, available at www.bbc.co.uk/news/uk-northern-ireland-20985521.

'normal' policing within any 'Peelian' conception of the term as part of the post-conflict setting (Kelling 2005; Frampton 2010).[6]

Furthermore, the contemporary, transitional landscape of Northern Ireland may be observed as presenting not just difficulties for the PSNI and communities *per se*, but also evidences a number of counterfactual narratives around the idea that the 'policing project' has been completed. This is turn helps to provide both understanding of, and insight into, the complex dynamics underpinning the 'positive peace' in the country—or merely the removal of everyday cultural and structural violence—as it emerges from conflict (Holen and Eide 2000; Ellison and Mulcahy 2001; Topping 2009).

The Criminological Landscape

An initial enquiry would suggest that in spite of Northern Ireland's transition from conflict to (relative) peace it suffers from comparatively low levels of crime. Unlike the often compared transitional democracy of South Africa (Shaw and Shearing 1998; Altebeker 2005), the 'official' low crime projection of the country has endured and been bolstered by the significant political progress which has facilitated the historical devolution of policing and justice powers to Stormont, as noted above (Van Dijk et al 1990). Such low crime levels within this 'criminological netherworld' (Ellison and Mulcahy 2001) have tended to be explicated through a Durkheimian school of 'solidarity in conflict', in conjunction with the detailed sociological accounts of close-knit communities and 'grapevines' prevalent across the country (Brewer 2001). Furthermore, the 'official' (and compelling) state-based narratives of crime, policing and security add further weight to the conception of a low crime, safe society (PSNI 2013).

From the first International Victim Survey in 1989 reporting Northern Ireland as Europe's low crime comparator (Van Dijk et al 1990; Brogden 2000), contemporary evidence points to the lowest levels of conflict-related violence on record; the lowest levels of recorded crime in the past 12 years; along with victimisation rates at 13.8 per cent—the lowest since records began in 1998, comparing favourably to England and Wales (Toner and Freel 2010). Furthermore, the NIPB continues to claim that satisfaction levels with the PSNI remain at record highs (Lyness et al 2004; NIPB, 2013). Although by the same token, research by the NIPB indicates that crime rates in terms of what can be defined as predominantly Protestant or Catholic areas vary significantly—with higher crime rates generally within Catholic wards in comparison to Protestant wards and the national average (NIPB 2007). Similarly, official statistics by the PSNI indicate that the general trend towards

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[6] See also H McDonald, 'One in Seven Northern Ireland Nationalists Sympathise with Dissident Terrorists' *The Guardian*, 6 October 2010; H McDonald, 'Northern Ireland Terror Threat At "Severe" Level' *The Guardian*, 4 February 2011; H McDonald, 'Police Say 1200 Officers Have Been Hurt in Northern Ireland Riots in Seven Years' *The Guardian*, 4 September 2012.

decreases in crime must be tempered with the fact that violent crime has risen by approximately 59 per cent since 1998/99 (Topping and Byrne 2012b). However, it is important to note that beyond criminological projections underpinning policing 'success', a number of additional, underlying factors must also be considered as part of the debate and which contest narratives as to how far Northern Ireland's transition has really come within a policing and security framework.

Normal Policing, Exceptional Environment?

In regard to understanding the PSNI's ability and capacity to deliver policing within a contested environment, they may be viewed as a relatively 'young' organisation. While the changes wrought by the reform process were certainly short of full 'lustration' (Teitel 2000), the ICP's attempts at rebalancing the Protestant/Catholic composition of the service to more closely reflect society, along with the generous severance packages totalling over £500m to remove the RUC 'old guard', has simultaneously transformed and depleted the PSNI's experiential base—and specifically that related to counterterrorism expertise.[7] As argued by Topping and Byrne (2012a), the overall impact of this process has been to reduce the PSNI's strategic and operational abilities to deal with the counterterrorism environment in which they operate (Frampton 2010).[8]

Looking in more detail at this environment, it must be acknowledged that violent dissident republicanism is still an everyday feature of the security landscape in the country.[9] While such a threat is in no way comparable to that posed by mainstream republicans during the height of the conflict, it is within this tenebrous landscape that viable explosive devices and attempts to kill members of the PSNI and security forces remain an unpalatable fact of the post-conflict environment.[10] Indeed, the main perpetrators of such activities are the so-called 'dissident' republican factions, including: the Continuity Irish Republican Army (CIRA), first formed in 1986 as the paramilitary wing of the splinter political party Republican Sinn Féin; the Real IRA, first formed in 1997 through a split with the mainstream Provisional IRA over the Belfast Agreement of 1998; and Óglaigh na hÉireann (OHN), considered an umbrella group for disaffected republicans since 2005 (Tonge 2004; IMC 2006).

The contemporary efforts of these groups as part of the ongoing terrorist threat have resulted in the recent deaths of British soldiers in March 2009; the murder of

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[7] *BBC News*, 'Number of PSNI Officers Fell Too Quickly—Matt Baggott', 4 December 2010, available at www.bbc.co.uk/news/uk-northern-ireland-11919158; *BBC News*, '50:50 Police Recruitment "Achieved a Lot"'—Baggott', 18 April 2011, available at www.bbc.co.uk/news/uk-northern-ireland-13112723.

[8] See also *Belfast Telegraph*, 'Fears for Police Officers' Health', 21 August 2013.

[9] *Belfast Telegraph*, 'Mortar Bomb Found at Derry PSNI Station', 11 October 2013.

[10] *BBC News*, 'Timeline of Dissident Republican Activity', 1 December 2014, available at www.bbc.com/news/uk-northern-ireland-10866072.

PSNI constables Carol and Kerr in April 2012; and prison officer Black in 2012).[11] It is thus a feature of the 'exceptional' policing landscape that, at the time of writing, the terrorist threat remains at 'severe' as classified by MI5 (IMC 2010). [12] It must also be noted that such terrorist activity emanates not only from republican paramilitaries, but also from loyalist groupings where paramilitary structures remain in place and command the capacity both to control local communities and orchestrate mass public disorder.[13]

Yet as part of aligning the PSNI's community policing goals with such counter-terrorism realities, one of the most contested terrains lies with both the 'framing' and acceptance as to the state of this 'conflicted peace'. In spite of the officially graded 'severe' terrorist threat, the nature of this paradox has been captured by Her Majesty's Inspectorate of Constabulary (HMIC), detailing that:

> There is a source of contention amongst some officers and the Police Federation … when information is provided to the media (and other government departments) by PSNI on bombings and shootings. If asked by the media how many 'terrorist attacks' (bombings or shootings) have taken place in Northern Ireland, or when presenting figures connected to terrorism, PSNI responds with a figure around 25% of the absolute total (HMIC 2011: 26).

In this respect, the *actual* state of 'peace' and the security situation has thus become a matter of interpretation, which itself politicises transitional security affairs beyond their technical definition (Topping and Byrne 2012a). In addition to attempts by the PSNI to move away from their counter-insurgency 'roots' (Ryder 1997), the exigencies of dealing with an ongoing terrorist threat has necessarily stifled community-led policing approaches. At a cursory level, this paradox has been further evidenced by the former Chief Constable of the PSNI, Sir Hugh Orde, who stated:

> The threat of domestic terrorism is always present in Northern Ireland … because officers are now more visible in communities where historically they would have not patrolled on foot or on bicycle, they are more vulnerable to attack (cited in Marchant 2007: 5).

Thus, a significant increase in allocations to the terrorist security budget in 2011 to £245 million[14] has not been matched by equivalent funding directed at bolstering

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[11] *Belfast Telegraph*, 'Civilians Targeted by Dissident Republicans', 27 October 2008; *Belfast Telegraph*, 'Dissident Republicans Blamed for Gun Attack on Police', 27 August 2008; *Belfast Telegraph*, 'Dissident Vowed to Kill Catholic Officer After McGuinness Visit', 26 November 2008; *Belfast Telegraph*, 'Dissident Threat Severe After MI5 Attack', 13 April 2010; *Irish News*, 'Bombers Trying To Kill Officers: Detective', 11 September 2008; *Belfast Telegraph*, 'Real IRA Determined to Murder PSNI Officers', 5 January 2009; H McDonald and M Townsend, 'For Ireland's Hardcore Dissidents "The Queen is a Legitimate Target"' *The Observer*, 24 April 2011; *Belfast Telegraph*, 'Ambush Killers Denounced at Funeral of Prison Officer David Black', 7 November 2012.

[12] See also V Kearney, 'Dissident Threat Level Increases' *BBC News*, 22 April 2010, available at news.bbc.co.uk/2/hi/uk_news/northern_ireland/8638255.stm; J Owen and K Dutta, 'More People Go Armed as Ulster Dissident Threat Grows' *The Independent*, 5 June 2011.

[13] H McDonald, 'The Truth About Belfast's Riots' *The Guardian*, 27 June 2011.

[14] *BBC News*, 'Matt Baggott Welcomes Extra £245m for Police', 18 February 2011, available at www.bbc.co.uk/news/uk-northern-ireland-12500020.

community policing strategies and operations beyond sweeping policy promises by the former Chief Constable Matt Baggott (PSNI 2011); although the direction of community policing and its development within the PSNI may change under the new Chief Constable, George Hamilton, appointed in June 2014.

This position in which the PSNI finds itself has also been confirmed in a physical, sense insofar as HMIC have additionally posed questions about the PSNI's organisational 'shape' when juxtaposed with its outward 'policing with the community' ethos. It is therefore interesting to observe that HMIC have confirmed that the PSNI actually retains a relatively militaristic, hierarchical structure oriented towards public order and counter-insurgency capabilities compared with what are described as 'most similar forces' in England and Wales (HMIC 2007). With six times as many officers dedicated to public order policing roles, and four times the number of officers allocated to intelligence-type duties compared with 'most similar forces', it is indicative that during the same period, only 35 per cent of District Commanders in Northern Ireland have claimed to be carrying out policing under what may be conceived as 'normal' community conditions (HMIC 2007). With the country's police-to-population ratio also one of the highest in the Western world (approximately 1:250), PSNI capacity remains a critical issue as part of dealing with the current terrorist threat, especially where 'mutual aid' from police forces in England and Wales remains an exception rather than the norm (Bullock 2008).[15] At the same time, however, such facts actually predate the now heightened, 'severe' terrorist threat as noted, notwithstanding the return of mass public disorder to the streets of the country and daily, disruptive bomb alerts.[16]

In this regard, the post-conflict environment remains challenging for the delivery of policing by the PSNI not only in and of itself, but also in terms of the competing narratives about the state of policing affairs in the country. In spite of the dominant political narrative of reformed, 'normalised' policing, the evidence points to the *exceptional* nature of the security landscape (in terms of both the police and the policed) as the empirical reality. With an obvious disjuncture between community policing and counterterrorism agendas, it is Topping and Byrne who summarise the current *status quo* insofar as:

> Once in place, counter-terrorism structures cannot suddenly be removed where a terrorist threat remains in place … This is especially so when: i) recent data suggests that only 10 per cent of PSNI's organisation capacity is actually dedicated to what might be defined as neighbourhood policing duties … and ii) holistic, community-level contact between the PSNI and many working-class Loyalist and Republican communities in Northern Ireland has yet to move beyond 'critical engagement' where contact with police remains at best an option of last resort (2012c: 164–65).

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[15] See also C Cromie, 'Hundreds of G8 Police to Return to Northern Ireland for Twelfth Parades' *Belfast Telegraph*, 9 July 2013.

[16] *UTV News*, 'Stolen Car Sparked '14th Alert in Month', 14 October 24 2013, available at www.u.tv/News/Stolen-car-sparked-14th-alert-in-month/d6fb5706-6b32-41a1-a236-00be4acb3963.

Paramilitary Policing: The Security Interlopers

Below the level of national counterterrorism concerns in Northern Ireland, no account of post-conflict policing affairs would be complete without reference to the ongoing delivery of paramilitary 'policing' or 'justice'. As Brewer (2001) contends, the legitimacy of the state police and alternatives to state policing provision have a long pedigree within the context of the polity—as a blunt capacity for communities to simply 'sort things out'. This is especially so within republican (and to a lesser extent loyalist) communities during the conflict and post-conflict periods of history, where ideological and political opposition to the formal criminal justice apparatus have acted as the 'justification' for extra-juridical, violent and brutal punishment attacks and shootings as a form of localised social control (Morrissey and Pease 1982; Hillyard 1985; Brewer et al 1998; Silke 1999; Feenan 2002; Knox 2002; Monaghan 2008). However, aside from descriptive accounts of such grim, 'back-alley' justice, further complexities to the post-ICP policing environment may be observed as part of identifying the 'place' of these paramilitary interlopers beyond simple ascriptions of terrorist labels.

An initial enquiry into the levels of combined paramilitary shootings and assaults in Northern Ireland would point to what has been a general decline in their use as a form of 'policing' at a community level—having reduced from a peak of 298 in 2003/04 to 63 in 2012/13—although tempered by a rise between 2005 and 2010 (PSNI 2013). While difficult to explain empirically, these recent rises may in part be due to the PSNI failing to meet community expectations around the delivery of 'new' policing promised at the political table (see further below). But on the one hand, the wider downward trends may be linked to political progress, with all-party political and community support for the PSNI as the fulcrum upon which the 'new beginning' to policing has turned (Topping 2008a). To an extent, it may be argued that new-found state police legitimacy effected through the reform process has manifested itself through communities 'distancing' themselves from such 'policing' regimes of the past. But on the other hand, as argued by Topping and Byrne (2012b: 51):

> A difficulty with this over-simplistic political frame of assessment is that localized paramilitary policing tends to be conflated with the national terrorist threat … and packaged as an isolated aberration of the peace-time landscape … by 'othering' the actual levels and effects of paramilitary violence … the PSNI and Government have effectively ignored the cries of communities that 'people still go to the paramilitaries in regard to certain crime issues rather than going to the police'.

Set against perceived and actual deficits of a 'normal' policing service at a community level, an enduring and overlapping legacy of the conflict relates to a 'blurring' of the boundaries in regard to social control and 'police primacy' as to who could or should deliver policing within the contested transitional space (Minnaar 2002). In large part, this ambiguity and ambivalence in many republican and loyalist communities relates to the uneven *spread* and *effects* of the wider police reform in

those localities—a fact seldom acknowledged in a sophisticated, empirical fashion beyond government recourse to blunt measures set forth by the NIPB (Topping 2012). In spite of NIPB and PSNI stoic adherence to 'record' accounts of confidence in the policing institutions, localised studies continue to question both the veracity and validity of such claims (Byrne and Monaghan 2008; Ellison and Shirlow 2008; Topping 2008b, 2009; NIPB 2013). Thus, at the 'edges' of competing policing narratives there exists what may be called: '"a relationship crisis" between PSNI and urban, working-class [areas] … which in turn has manifested itself in terms of renewed support, and increased levels of, paramilitary policing in those areas' (Topping and Byrne 2012b: 46).

In terms of framing the continuing presence of these 'security interlopers', it might be expected that significant police reform and political progress made over the past 15 years would have removed a substantial pillar of community self-justification for turning to paramilitary actors as a policing resource (Topping and Byrne 2012c). Yet it is precisely because of the lack of uniform perception that policing on the ground has changed beyond the first 'stream' of reforms, that questions have been raised, in both republican and loyalist communities, as to whether the political 'hard-sell' of the police reform process has been matched by improvements locally (Kempa and Shearing 2005). It is thus possible to observe that nestled within these policing fissures are 'security vacuums' across the country 'in which paramilitarism still survives … "selling" the legitimacy of their activity through filling the perceived "deficit" of state policing provision—as policing entrepreneurs seeking to reinvigorate the credentials of the security "business" of the conflict' (Topping and Byrne 2012b: 47).

While in one respect the PSNI is undoubtedly constrained in the delivery of a 'normalised' policing service due to the omnipresent terrorist threat in the country, it would also appear that both the PSNI and government, as part of the transition, have *undervalued* the importance of providing an effective community policing service. Indeed, research associated with paramilitary policing across both communities during the conflict would point to the fact that it is viewed as a swift and visible form of policing and justice at the local level (McGarry and Morrissey 1989; Feenan 2002; Monaghan 2008). Yet in the post-conflict period of the country's history, so too research continues to point to the fact that paramilitary policing is used as a 'benchmark' with which to compare the speed and utility of the PSNI's response to local criminality—itself often deemed to be lacking (Byrne and Monaghan 2008; Topping 2009). This is especially so where communities being promised a new start to policing at a political level face a very different reality.

Significantly, any such calculations about current levels of paramilitary policing in the country cannot be viewed without reference to the bitterly divided nature of the region, with a variety of physical, social and cultural barriers still demarcating 'the other' religion (Shirlow and Murtagh 2006). Substantive barometers of such ethno-national segregation are evidenced through social housing provision— over 98 per cent in Belfast and 71 per cent nationally is allocated on a religious

basis (Byrne et al 2006). Here, it may be argued that in addition to the operational comparisons made between paramilitary policing and the service delivered by the PSNI, many of these segregated communities are still alive as homogeneous, Weberian 'political communities'—necessary for the support of paramilitary actors (Cavanaugh 1997). In this regard, generating change at a local, rather than political level, around the paramilitary policing 'option' is a more complex and deep-rooted calculation than simply seeing more PSNI officers on the streets.

In essence, the continuing nature of paramilitary policing—which is distinct from the broader terrorist threat—may also be viewed as a battleground where the PSNI has not so much credibility to 'lose' as a new organisation, but has legitimacy to gain. As outlined above, gaining police operational legitimacy is clearly a more complex proposition than that presupposed by the 'tick box' success of change outlined by the OOC (OOC 2007). As contended by Ellison (2007), it was the very 'externalised' nature of the police reform process in Northern Ireland which divorced measures of success from such contested and conflicted policing realities on the ground. But significantly, it remains a fact that the paramilitary interlopers play a part in the country's low crime narrative as constructed by the very policing institutions attempting to supplant them. Therefore, communities emerging from the shadow of conflict and who are attempting to move away from paramilitary policing have not just become desensitised to the use of violence as a means of policing (Monaghan 2008). But rather, within the post-conflict space such communities have become more sensitive to the need for someone at a local level to enforce social order and control (PSNI or otherwise), as a means of maintaining the low levels of crime which they are being told exist (Brewer et al 1998; Shaw and Shearing 1998; Topping and Byrne 2012a).

Shadow Policing: Legitimate Security from Below

In addition to the dynamics impacting upon the PSNI's delivery of policing as outlined, a third key element of the transitional policing 'jigsaw' relates to the generation of security 'from below' by legitimate, non-state actors located within Northern Ireland's civil society. Traditionally, attention focused on the production of security has tended to centre upon the polemics of security provision—either examining that delivered under the auspices of the PSNI, or that of our paramilitary actors. Beyond the 'official' criminological picture of Northern Ireland as a low crime society, the available evidence would suggest that a significant 'blind spot' exists in this regard—related to an insufficient interrogation of the operational reality underpinning the etiology of policing and security 'production'. This is especially so with the presumption of causal security relations having remained firmly with the PSNI (Topping and Byrne 2012a). Thus, chances to conceive policing in language (or by actors) *other* than that set by the policing institutions as part of the reform process have remained limited—especially where non-traditional policing discourse challenges the orthodoxy of the PSNI's organisational

'expertise' on crime control (Topping and Byrne 2012c). Yet as pointed to by the ICP, and substantiated by one of the ICP commissioners, Clifford Shearing:

> Here in Northern Ireland—and in many other unsettled political contexts—another form of 'non-state' agent is particularly important in challenging the monopoly over the business of policing of the public police: civic bodies of various forms, including, but certainly not limited to, agencies that deploy violence as part of their practices of control (Kempa and Shearing 2005: 7).

On a practical level (and outside the paramilitary paradigm), a substantial 'reservoir' of non-state 'policing' in Northern Ireland developed out of the security exigencies associated with the conflict (Brogden 1998), often as 'alternatives' to the provision of policing by the state—either because of legitimacy issues, or due to the constraining nature of the security environment within republican and loyalist areas (Hamilton et al 1995; Topping and Byrne 2012a). More specifically, and developing out of what may be termed a policing and security 'vacuum', the historical separation of mainly working class republican and nationalist communities from state police intervention has further generated a sense of 'security liminality' in which the normal processes of 'Peelian' policing simply do not work (Mulcahy 2006; Byrne and Monaghan 2008). Thus, it is within these liminal 'spaces' in which a variety of actors beyond the state have existed (and continue to deliver policing as broadly conceived) within the complex policing environment. As considered by Morrow (2006: 73):

> Where the state could not provide protection, which was the starting point for many Catholics and Nationalists and could easily emerge for less well protected working class Protestant communities … there was an enormous reservoir of understanding for extra state [policing].

On a more philosophical and policy plain, 'alternative' layers of security production within a transition such as Northern Ireland also raise,

> important normative and policy issues about what attitudes democracies should take … does it [non-state policing] constitute a vital assistance to weak states faced with under-resourced police, or does it constitute a threat to the state by allowing a function to be conducted by private elements over which the state should have monopoly (Baker 2002: 30).

As reflected in the study by Acheson et al (2004), with a myriad of voluntary and community sector groups in the country involved in a variety of roles, the social 'presence' of civil society is an undeniable 'fact' of life (NICVA 2005; CJINI 2006). Although with approximately 5000 voluntary and community sector organisations in the country (with the majority not concerned with policing issues *per se*—see below) it must be noted that the 'extent and nature of community action is neither self-evident nor securely defined within clear boundaries (Acheson et al 2006: 19).

Specifically in regard to non-state policing and security production, little empirical attention (government or otherwise), has been paid to outlining, mapping or

detailing the actual contributions of this tranche of civil society to the policing landscape, or indeed to the country's 'low crime' status. Within government and PSNI circles, reticence to engage with this latent 'soft power' (Vaughan 2007) has been indicative of an attitude which has dismissed conceptions of community involvement and ownership in the process of policing and justice (McEvoy et al 2002: 197). A key example may be observed through returning to the ICP and recommendation 32, which stated that:

> District Councils should have the power to contribute an amount initially up to the equivalent of 3p in the pound towards the improved policing of the district, which could enable the District Policing Partnership Board to purchase additional services from the policing or other statutory agencies, or from the private sector (ICP 1999: paragraph 6.33).

Yet under a barrage of (unfounded political) criticism that such community-level taxation powers would provide an 'open door' for paramilitary entry into publicly funded security arrangements, recommendation 32 was the only provision of the 175 never to have been enacted in legislative form (Mulcahy 2006; Bayley 2007; Topping 2009). Indeed, such 'dampening' of holistic community partnership potential was also foreshadowed by the parallel Review of the Criminal Justice System in 2000. Here, the prospect for a 'fascinating experiment' in bringing together community energies as part of community-centred policing initiatives was ignored in favour of the bureaucratic metrics of reform, indicative of the ICP's much lauded first 'stream' of change (McEvoy et al 2002; Gormally 2004; Ellison and O'Rawe 2010).

In terms of a more detailed exploration of civil society contributions to the policing landscape, 'security vacuums' related to PSNI legitimacy, capacity and the rule of law—as well as terrorist and paramilitary dynamics—have further limited the PSNI's ability to engage in holistic approaches to social problems at a local level (Topping 2008b). It is thus within these 'vacuums' in which civil society organising around policing is most highly visible. As two of the only empirical studies specifically examining non-state policing provision in Northern Ireland, Topping (2009) and Topping and Byrne (2012a) have detailed that beyond the impact of any one organisation or grouping which contributes to policing in the country, it is the collective ability of civil society to mediate the 'gaps' of policing need which is of significance.

Across eight key operational domains which comprise: community advocacy; education and intervention; emergency response; interface violence; partnership working; crime prevention; mediation; and restorative justice—not only are such efforts at 'policing from below' highly focused, but so too the communities themselves may be viewed as highly organised in terms of community infrastructure underpinned by trust, social capital and normative shared values (Acheson et al 2004; Morrow 2006). It must be cautioned, nonetheless, that much of this organising is based upon insular, sectarian lines—perpetuating the divided, often self-serving delivery of security provision between republican and loyalist communities respectively (Shirlow and Murtagh 2006; Topping and Byrne 2012a).

Outside the parameters of security in a police-centric concept, for many urban, working class republican and loyalist communities who bore the brunt of the conflict (Shirlow and Murtagh 2006), security may thus be imagined on a more human level insofar as many of the deep-rooted social, economic and sectarian issues—for so long hidden under the veil of 'bigger' conflict-related issues—are now starting to emerge within post-conflict space. In this respect, and evidencing the holistic, rather than police organisational approaches, many of those bodies involved in non-state forms of social control do not readily associate their work within the context of a formal police framework. Indeed, evidence points to such efforts being charaterised as 'community development', 'good relations' or 'social justice' (CJINI 2007; Topping and Byrne 2012a). Capturing this approach, as summarily detailed by those at the coalface of such work,

> people are phoning us to deal with stuff rather than phoning the police … because we'll find a way of dealing with it. Sometimes people don't *see* the situation a child is in—they just see the crime and the consequences of it … it's trying to find ways of dealing with it without punishment beatings, or dragging them through the courts … it's local knowledge again (Topping 2009: 284).

Related to the complex dynamics which inform the relationship between the country's transition and community engagement with policing is the primacy of such non-state policing within many communities to the exclusion of the PSNI. Grounded in histories, politics and culture—along with continuing issues of PSNI legitimacy and capacity—many areas of civil society see the PSNI as an option of *last* rather than *first* resort on policing matters (Topping and Byrne 2012a). But additionally, and because of the delicate and sensitive nature of local social problems, such non-state bodies are often the only ones 'qualified' to deal with the problem in terms of community knowledge, capacity and respect (Topping and Byrne 2012a). As articulated in Topping (2009: 249) by an organisation dealing with interface violence in Belfast, such non-state policing primacy is seldom to do with the *politics* of policing, but rather the *necessity* of simply making communities safer:

> I think we'd [as a society] be a lot worse off without that. We're careful about making overstated claims about the community sector holding this place together for 30 years … but the cutting edge work on policing and security and parading and interfaces and all that … Frankly, no one else would have been *able* to do it.

Therefore, in taking a step away from the relations between the PSNI and civil society policing within the post-conflict space, it is somewhat ironic that 'forcing' the PSNI into such local non-state policing environments could actually destabilise community relations through the removal of local 'ownership' on local policing matters (Tonkiss and Passey 1999). Thus, precisely *how* to quantify or render (in a political and operational sense) non-state contributions more accessible to the police and *vice versa* without damaging the vitality of local policing efforts is another dilemma yet to be resolved as part of the transition from conflict to peace (Topping and Byrne 2012a).

Conclusion: The Complexity of 'Doing Policing' in Transition

In attempting to reconcile the variegated picture of policing in Northern Ireland, it is evident the reforms brought under the ICP were only the beginning of a change to the *police organisational* aspects of what is a complex *policing system* in the country—itself tied to political, social and historical dynamics informed by over 30 years of conflict. As part of the ICP process, by Western policing standards both the necessity for, and scale of, this 'blueprint' for reform has created one of the most overseen, accountable and human rights compliant police services anywhere in the world (O'Rawe 2003; Ellison 2007). Yet in reference to the issues of a continuing terrorist threat; of paramilitary 'policing', and of civil society contributions to the criminological landscape, it is undeniable that 'doing' policing in a transitional context, at least from a state perspective, is a task greater than the sum of the ICP's individual parts.

Beyond the first 'stream' of physical reforms embodied through the PSNI, the second 'stream' of delivering 'policing more broadly conceived' has become the new site of contest within the current phase of post-conflict history. With the PSNI's service simultaneously constrained and cajoled, on the one hand the majority of Northern Irish society peers down through a 'glass floor' of policing, gladly accepting that the conflict is over and that affairs are not as bad as they once were in the past. As if through a process of socio-political osmosis, this unproblematic majority, as those removed from the sharp edges of the criminological 'netherworld', almost expect that the outstanding issues of policing and security will somehow 'fix' themselves through the natural wastage of time.

On the other hand, however, this 'floor' also acts as a ceiling through which many republican and loyalist communities gaze upwardly, unable to reach that which has been promised as part of a new beginning to policing under the ICP. Thus, for communities at the sharp end of policing, terrorism and paramilitary activity, time moves more slowly, where the ripples of their problems still continue to be felt across Northern Ireland. With such sections of society absorbing the reality of more 'colourful' accounts of the conflicted peace set forth by government and the policing institutions, it is at such societal junctures where terrorism, paramilitiarism and alternatives sources of policing will continue to ferment—as part of the 'long shadow' cast by the 'unfinished business' of the conflict.

In terms of the harsh reality of policing within Northern Ireland's post-conflict space, successful claims as to the normalisation of policing cannot therefore be made where politics, terrorism and community resistances continue to dictate the police agenda. This is especially so when in 2014, nearly 15 years after the ICP, the 'new' vision of policing,

> may be supported by one community, yet across a peace divide in another, it must be conducted from the back of an armoured Land Rover where lethal force remains the ultimate (and necessary) expression of police power and legitimacy (Topping 2008a: 392).

As part of a more circumspect view of 'doing' policing in transition, it must also be remembered that while international attention continues to focus on the 'lessons' to emerge from a country, the optimism of the broad peace should also be tempered with caution. As Bayley (2008) contends, a degree of realism (if not pessimism) needs to accompany that which has been achieved. Both situated within, and funded by, an advanced Western industrial nation, Northern Ireland,

> is relevant to post-conflict reconstruction in what it has faced; it may be irrelevant in terms of what can be achieved. To put the point another way, if police reform requires what Northern Ireland has, then the prospects for it are bleak in all one or two of the world's other trouble spots (Bayley 2008: 240).

Additionally, policing is but one element of a wider criminal justice system which must collectively deal with a unique set of legacy and historical issues associated with the conflict. Thus, beyond the germane issues of 'everyday' crime, security and safety, the criminal justice system is simultaneously being 'stretched'—financially, socially, procedurally and politically—beyond the parameters of that which it was designed for as part of UK legal structures. But ultimately, it is the police who remain as the 'face' of security developments in the polity—both locally and globally.

Furthermore, until wider political gains can be made in relation to a shared society and dealing with the past, violence will undoubtedly remain as the lowest common denominator in the country as part of an ever thinning, but indelible 'green line' to be policed—as used to describe the 'space' in which PSNI has to operate. In this regard, if there is a key lesson for other countries emerging from conflict, it remains that an absence of violence is no guarantee of peace. And even with the best training, financing and oversight in the world, police responses to political problems will only every achieve so much.

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