



**A study of the treatment of
solicitors and barristers
by the police in Northern Ireland**

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 **police**
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Foreword by Nuala O’Loan, the Police Ombudsman for Northern Ireland

The Office of the Police Ombudsman is pleased to present the results of its study of the treatment of solicitors and barristers in Northern Ireland by police officers.

For a number of years there have been anecdotal reports of harassment and/or threats to members of the legal profession from serving members of the Royal Ulster Constabulary.

Two solicitors in Northern Ireland have lost their lives at the hands of terrorists. Despite lengthy, independent investigations, nobody has been convicted either of the murder of Patrick Finucane Solicitor on February 12 1989 or of Rosemary Nelson Solicitor on March 15 1999. While there is no evidence to suggest any police involvement in these murders, their effect on those practising criminal law in Northern Ireland, together with the ongoing allegations of harassment and threats expressed by some lawyers, led to my decision to commission this research.

My Office, supported by the Law Society and the Northern Ireland Bar Council, initiated research into this issue in 2001 to establish whether it was a commonplace problem or limited to a small number of isolated incidents.

A questionnaire was devised and sent to all members of the Bar Council of Northern Ireland and all members of the Law Society of Northern Ireland. It was designed to give all members of the legal profession the opportunity to comment on their experiences, irrespective of whether (by the nature of their work) they were in regular contact with the police.

98% of those surveyed did not report a problem in their dealings with police officers. However, 55 members of the legal profession said they had experienced some harassment or threats from police officers, either personally or through their clients. The following pages detail the range of those allegations.

I note that some respondents, referring to matters that predate the establishment of my Office, said they did not make a complaint about the alleged behaviour because they felt the police would not deal with the issue. I also note that some respondents said they believed that the establishment of my Office, offering an independent, impartial police complaints service, is proving to be a positive step.

I am of the view that a proper level of cooperation between members of the police service and of the legal profession is critical for the delivery of the criminal justice system. The introduction by the Police Service of Northern Ireland of a Force Order in relation to the treatment of solicitors is an important step in the right direction.

Nuala O’Loan
Police Ombudsman for Northern Ireland.



Summary

1. For a number of years there have been anecdotal reports of intimidation, harassment and/or threats made towards solicitors and barristers by members of the Royal Ulster Constabulary. The Police Ombudsman thus initiated a research study of the treatment of solicitors and barristers by the police. The research was supported by both the Law Society for Northern Ireland and the Northern Ireland Bar Council, whose assistance is gratefully acknowledged.
2. The research sought to provide information on the levels and nature of intimidation, harassment and/or threats made towards solicitors and barristers by police officers and the circumstances surrounding any such incidents. It also asked those respondents who had experienced mistreatment whether they had registered a complaint about this, and if so, with whom they had registered the complaint and what its outcome had been.
3. A questionnaire was sent by post to all solicitors and barristers in Northern Ireland. Of the 2,834 individuals contacted, 1,458 (52%) responded. This is a particularly high response rate for a postal survey.
4. The survey found that:
 - Fifty-five respondents (equivalent to 1.9% of the 2,834 people who were surveyed and to 3.8% of the 1,458 who responded) said they had experienced intimidation, harassment or threats from the police. Conversely, 1,403 respondents (96.2% of the 1,458 who responded) did not report such mistreatment.
 - Thirty-nine of these 55 respondents had experienced this mistreatment personally, while 33 had experienced it indirectly via a client.
 - Just under half of these 55 respondents said they had experienced only one or two incidents, but the majority said they had experienced them three or more times.
 - Just under half of these 55 respondents said they had experienced the most serious incident on police premises.
 - The nature of the most serious incident included:
 - Defamation of the respondent's character, profession or firm.
 - Direct physical threats or threats of arrest.
 - Police officers accusing respondents of being members of terrorist organisations
 - Police officers threatening to pass their details to terrorist or political organisations.

- Racist or sectarian abuse.
 - Unprofessional conduct by the police during the interview of clients.
 - Police officers raising their voices or making inappropriate comments.
- The great majority of the incidents reported by these 55 respondents occurred before the establishment of the Police Ombudsman's Office. Of those respondents who chose not to make a complaint about these incidents, most did so because they felt the police would not do anything about their complaints.
 - Three-quarters (17) of the 22 respondents who had complained made their complaint to the police. Other agencies to which complaints were made included: the Independent Commission for Police Complaints (ICPC), the Chief Constable of the RUC, the Law Society, other Solicitors, the Police Ombudsman and the Human Rights Commission.
 - One respondent said their complaint had been substantiated, while a further six were settled by Informal Resolution.
 - Although the majority of respondents said they were satisfied with their understanding of the complaints process, a high proportion were very dissatisfied with how seriously their complaints were taken by the police and with the outcome of their complaints when they had complained to the police. Opinions varied concerning the time taken for the system to work, in terms of receiving a reply and how long it took to resolve the complaint.
5. To provide qualitative data complementary to the quantitative data generated by the survey, a sample of the 55 respondents who said they had experienced intimidation, harassment and/or threats from the police were interviewed. Five main areas of concern emerged from the interviews carried out:
- Defamation of character
 - Delay in access to clients
 - Viewing the lawyer as a criminal
 - Intimidation during interview
 - Making complaints against the police

However, all the interviewees said they felt the incidents of intimidation and harassment they had experienced were of a relatively minor nature. Most saw the establishment of the Police Ombudsman's Office as a positive development in the oversight of the police, and expected there to be an improvement in the way complaints against the police would be dealt with. Indeed, this had already been the actual experience of a number of interviewees.

1. Introduction

1.1 The Office of the Police Ombudsman for Northern Ireland

The Office of the Police Ombudsman for Northern Ireland was set up by the Police (Northern Ireland) Act 1998 to provide an impartial and independent system for investigating complaints against the police in Northern Ireland. The Office is committed to carrying out research and consultation in order to improve the quality and effectiveness of the police complaints system and to inform the public about its powers of independent investigation.

1.2 Background to the research

It can be argued that levels of cooperation between the police and the legal profession are critical in providing the public with confidence in the criminal justice system. The first and main point of contact between a police officer and a lawyer is at the police station when a suspect has been arrested. There is a natural tension here between the role of the police officer in the effective investigation of crime and the role of the lawyer to advance and protect the legal rights of his or her client. This tension is necessary to ensure an appropriate balance between the powers of the police and the safeguards to the rights of the suspect. However, for a number of years there have been anecdotal reports of intimidation, harassment, and/or threats made towards solicitors and barristers by police officers.

These reports have come to the attention of agencies such as the United Nations, whose Special Rapporteur (Mr. Dato Param Cumaraswamy) has publicly commented upon them. For example, in his 1998 report (*Report on the Mission of the Special Rapporteur to the United Kingdom of Great Britain and Northern Ireland*), he concluded that members of the RUC had engaged in “activities [in respect of defence lawyers] which constitute intimidation, hindrance, harassment, or improper interference”. He went on to say that “[the RUC] failed to take note [of these complaints] and allowed the situation to deteriorate. There was, in my view, a complete indifference shown by the RUC to the allegations”. Other references to the allegations were made by Jane Winter of British-Irish Rights Watch in her report *Lawyers at Risk*.

In the light of these comments, as part of its programme of research the Police Ombudsman's Office initiated a project examining the treatment of solicitors and barristers by members of the Royal Ulster Constabulary (RUC).¹

¹ From 4 November 2001 the Royal Ulster Constabulary (RUC) has been renamed the Police Service of Northern Ireland

1.3 Aims of the research

The research sought to provide information on:

- The levels and nature of intimidation, harassment, and/or threats made towards solicitors and barristers by police officers. This would include any behaviour that could be construed as affecting the dignity of a person, including hostile, humiliating, disturbing or offensive behaviour. Some examples would be:
 - Physical conduct such as unwanted touching;
 - Verbal and written harassment through jokes, offensive language, sectarian remarks, etc.; and
 - Intrusion by pestering, spying, following, etc.
- The area of Northern Ireland in which the incidents took place.
- The physical location of incident (e.g. court building, police station).
- Any gender differences in respondents' experience of incidents.
- Whether a complaint against the police had been registered.
- With whom the complaint had been registered.
- The outcome of the registered complaint.
- Respondents' levels of satisfaction with the investigation of the complaint and its outcome.

It was determined that this information should be collected using both quantitative (i.e. survey) and qualitative (i.e. in-depth and/or semi-structured interview) methodologies. This combined approach would provide as much information as possible about any incidents that were reported as well as cross-validating the research results. The following sections of this Report describe the survey methodology and results, before summarising the outcomes of the interviews with respondents that took place later in the research process.

2. Survey Methodology

2.1 Participants

It was decided at an early stage of the project that all solicitors and barristers in Northern Ireland should be asked to participate in the survey.

The contact details of solicitors and barristers were taken from the registered membership lists of the Law Society for Northern Ireland and the Northern Ireland Bar Council (whose support and assistance are gratefully acknowledged). A total of 2,834 individuals were contacted, 495 (17%) barristers and 2,339 (83%) solicitors.

2.2 Questionnaire design

A survey questionnaire was designed by the Research Branch of the Police Ombudsman's Office after consultation with the Law Society and the Bar Council. The questionnaire consisted of twenty-two questions and included both closed and open-ended questions to allow for a full breadth of answers. Although lengthy (five pages), the questionnaire was viewed as being of the minimum length necessary in order to obtain all the desired information.

To facilitate confidentiality the questionnaire avoided questions that would identify the respondent, such as asking for their name and address. However, for analysis purposes each questionnaire was randomly given a unique reference number. Information on the questionnaire also indicated that any information returned would be held in strict confidence by the Police Ombudsman's Office.

An international coupon to be exchanged in any country of the Universal Postal Union for one or more postage stamps was sent with a reply-addressed envelope for those participants that were currently resident in a foreign country.

A pilot study was undertaken to validate the questionnaire. The results of this indicated that no adjustments to the questionnaire were necessary.

2.3 Procedure

The data were collected by the Research Branch of the Police Ombudsman's Office between June and October 2001.

Based on the contact details provided by the Law Society, each solicitor was mailed a covering letter, a questionnaire and a reply-paid envelope. Only the names of barristers were provided by the Bar Council, so survey mail shots were sent to the Bar Library and distributed to barristers through its internal mail system.

Participants who did not reply in approximately three weeks were sent a reminder letter with an additional copy of the questionnaire and a reply-paid envelope. The reminder letter indicated a deadline date for the questionnaire to be returned. Due to the possibility of postal delays, the few participants resident in foreign countries (apart from the Republic of Ireland) were not sent reminder details.

During the fieldwork some letters were received from solicitors and barristers specialising in civil practice who indicated that they felt the survey did not concern them. To clarify this situation, the reminder letter pointed out that the survey was looking at all lawyers even if they worked in civil practice, had retired or were currently working elsewhere.

Copies of the covering letter (Annex A), the questionnaire (Annex B) and the reminder letter (Annex C) are appended.

2.4 Analysis

The data from the questionnaire were held on a Microsoft Access database and then analysed using SPSS Version 10.1 for Windows.

3. Survey Results

3.1 Response rates

Of the 2,834 individuals who were contacted, 1,458 (52%) responded (see Table 1). This is a particularly high response rate to a postal survey.

Table 1: Response rates

Response	Number	%
Full response	1405	50%
Refused	37	1%
Non-contact	16	1%
No response	1376	48%
Total	2834	100%

3.2 Profile of respondents

Of those respondents who completed the questionnaire 17% were barristers and 83% solicitors. These are the same relative proportions as in the total of 2,834 individuals contacted.

60% of respondents were male and 40% were female. The gender breakdown of males and females for all solicitors and barristers in the total of 2,834 individuals contacted was 65% and 35% respectively.

60% of respondents said that they mainly worked in Belfast (see Table 2).

Table 2: Area of Northern Ireland in which respondents mainly worked

Area	Number	%
Belfast	841	60%
Co Down	127	9%
Co Antrim	107	8%
Co Armagh	74	5%
Co Tyrone	71	5%
Derry city	48	3%
Co Londonderry (Outside Derry city)	45	3%
Co Fermanagh	16	1%
Other	49	3%
Missing	27	2%
Total	1405	100%

3.3 Respondents' experiences of intimidation, harassment or threats from the police

3.3.1 Number of respondents who had experienced intimidation, harassment or threats from the police

Fifty-five respondents (four barristers and 51 solicitors) said that they had at some time experienced intimidation, harassment or threats from the police. This is equivalent to 1.9% of those people who were surveyed and to 3.8% of those who responded.

Of these 55 respondents, 37 (67%) were male and 18 (33%) female.

The largest proportion (45%) of the 55 respondents worked mainly in the Belfast area (see Table 3). A further 11 respondents (20%) worked mainly in County Tyrone. Most of the incidents reported by these latter respondents occurred in the Dungannon station area, but at some time ago in the past; there was no evidence of complaints of this nature occurring recently in this area.

Table 3: Area of Northern Ireland in which respondents mainly worked

Area	Number	%
Belfast	25	45%
Co Tyrone	11	20%
Co Down	5	9%
Co Armagh	4	7%
Derry City	2	4%
Co Londonderry (Outside Derry city)	2	4%
Co Antrim	2	4%
Co Fermanagh	2	4%
Missing	2	4%
Total	55	100%

3.3.2 How intimidation, harassment or threats from the police had been experienced

Table 4 shows that 39 respondents had experienced this mistreatment from the police personally, while 33 had experienced it via a client (for example, police officers had defamed a solicitor to the client, who had then subsequently reported this to the solicitor). Clearly some respondents had experienced this mistreatment both directly and indirectly.

Table 4: Whether intimidation, harassment or threats by the police experienced personally or via a client

Intimidated, harassed or threatened by the police	Personally		Via client	
	Number	%	Number	%
Yes	39	71%	33	60%
No	16	11%	5	9%
Missing	10	8%	17	31%
Total	55	100%	55	100%

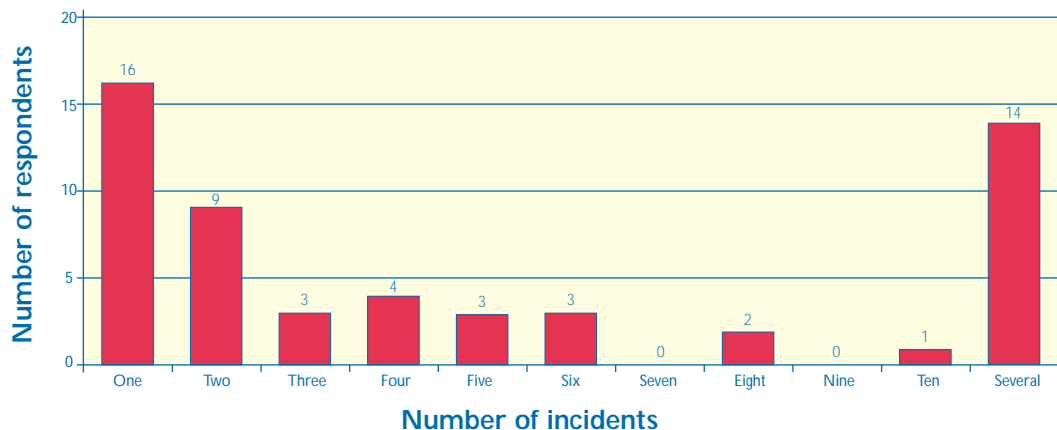
3.3.3 Number of incidents of intimidation, harassment or threats from the police experienced

Just under half (45%) of those 55 respondents said they had experienced only one or two incidents; the majority (55%) said they had experienced such incidents three or more times or “several” times (see Table 5 and Figure 1).

Table 5: Number of incidents experienced

Number of incidents	Number	%
One	16	29%
Two	9	16%
Three	3	5%
Four	4	7%
Five	3	5%
Six	3	5%
Eight	2	4%
Ten	1	2%
Several	14	26%
Total	55	100%

Figure 1: Number of incidents experienced



3.3.4 Locations where incidents of intimidation, harassment or threats from the police took place

Just under half (26, equivalent to 48%) of the 55 respondents said they had experienced the most serious incident on police premises, either at a police station or at a Holding Centre (see Table 6).

Table 6: Location of most serious incident

Location	Frequency	%
Police station	14	26%
Holding centre	12	22%
Court building	4	7%
City/town	23	41%
Other	1	2%
Missing	1	2%
Total	55	100%

3.3.5 Nature of intimidation, harassment or threats from the police experienced

When the 55 respondents were asked what was the nature of the most serious incident of intimidation, harassment or threats from the police experienced, the following responses were received:

- Police officers had made defamatory comments about their character, profession or firm.
- Police officers had made direct physical threats or threatened them with arrest.
- Respondents had been accused of being members of terrorist organisations.
- Police officers had threatened to pass their details on to terrorist or political organisations.
- Racist or sectarian abuse from police officers.
- Unprofessional conduct by police officers during the interview of clients.
- Police officers had raised their voices or made inappropriate comments.

3.3.6 Complaining about intimidation, harassment or threats from the police

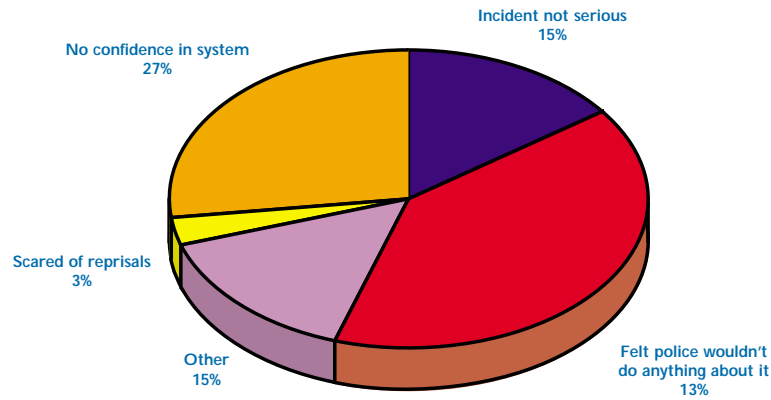
The majority of the 55 respondents (33, equivalent to 60%), however, chose not to make a complaint against the police about the most serious incident. Table 7 and Figure 2

show that the reason respondents most frequently gave for not making a complaint was that they felt the police would not do anything about it.

Table 7: Main reason why complaint not made

Reason	Number
Felt police wouldn't do anything about it	13
Incident was not serious enough	5
Had no confidence in the police complaints system	9
Scared of police reprisals	1
Other	5
Total	33

Figure 2: Reasons why complaint not made



Other explanations given for not making a complaint were as follows:

- After consideration the respondent decided not to take further action.
- The respondent felt that the police's behaviour was part of the system at the time, and it was accepted as such.
- The police appeared to 'back off' towards the end of the interview process and a senior colleague advised the respondent to simply forget about it.
- The respondents resolved the matter themselves.

3.3.7 Agency to which complaint was made about intimidation, harassment or threats from the police

Seventeen of the 22 respondents who complained made their complaint to the police (see Table 8), while seven complained to the Chief Constable (some respondents complained to more than one person or agency). Two respondents said they had

complained to the Police Ombudsman's Office. One of these complaints to the Police Ombudsman's Office resulted in recommendations to the Chief Constable regarding the type and standards of accommodation for Solicitors in a Holding Centre after investigation. The other complaint was subsequently withdrawn before investigation by the Police Ombudsman.

Table 8: Agency to which complaint made

Agency	Number
The Police	17
The Independent Commission for Police Complaints (ICPC)	8
The Chief Constable of the Royal Ulster Constabulary (RUC)	7
Law Society	6
Another solicitor	5
Police Ombudsman's Office	2
Human Rights Commission	2

3.3.8 Outcome of complaint about intimidation, harassment or threats from the police

Eighteen of these 22 respondents said their complaint had been investigated; three respondents said they did not know whether their complaint had been investigated, and one said that the RUC denied that anything was said.

Of the 18 respondents whose complaint had been investigated, only two said it had been looked at by the Police Ombudsman's Office (see Table 9).

Table 9: Which agency investigated complaint

Agency	Number
The Police	7
The Independent Commission for Police Complaints	8
Police Ombudsman's Office	2
Law Society	1
Total	18

Only one respondent said their complaint had been substantiated (see Table 10). Six were settled by Informal Resolution.

Table 10: Outcome of the investigation

Complaint outcome	Number
Complaint withdrawn	4
Informal resolution by the police	6
Complaint substantiated	1
Complaint unsubstantiated	4
Case ongoing	2
Other	1
Total	18

The following explanations were given by the four respondents who had withdrawn their complaints:

The respondent took the view that it was their client's word against that of the police, and that probably nothing would come of it. Also, the respondent was concerned that their complaint might affect their relations with the police in their area in the future.

The respondent was moving to another law firm and did not want this to affect the move.

The respondent was seeking Informal Resolution with the police but as nothing was forthcoming they withdrew to avoid distress.

The police's attitude disappointed the respondent who withdrew the complaint.

3.3.9 Respondents' satisfaction with the complaints system

Table 11 summarises the responses to five questions that were asked of those respondents who had complained about their experiences of intimidation, harassment or threats from the police. The questions dealt with respondents' satisfaction with various aspects of the complaints system. It should be noted, of course, that these comments related mainly to the former system as operated by the RUC.

Although the majority of respondents (eight out of 14) said that they were satisfied with their understanding of the complaints process, a large minority (six out of 14) were very dissatisfied with how seriously their complaint was taken and with the outcome of their complaint. Opinions varied concerning the time taken for the system to work, in terms of receiving a reply and how long it took to resolve the complaint.

Table 11: Satisfaction with complaints system

Satisfaction	Factor				
	How seriously the complaint was taken	Respondents' understanding of the complaints procedure	Time taken to receive a reply after incident first reported	Time taken to resolve complaint	The outcome of the complaint
	Number	Number	Number	Number	Number
Very satisfied	1	5	3	1	1
Quite satisfied	3	3	3	2	1
Neither satisfied nor dissatisfied	4	1	3	3	2
Quite dissatisfied	0	1	2	2	0
Very dissatisfied	6	2	2	3	6
Missing	0	2	1	1	2
Complaint still ongoing	N/A	N/A	N/A	2	2
Total	14	14	14	14	14

4. Interviews with Lawyers

4.1 Rationale

While the survey methodology yielded a good estimation of the prevalence of intimidation, harassment and threats, it was felt that more in-depth information about these incidents was needed. Consequently, in an effort to enhance and build upon the quantitative information derived from the survey, the 55 respondents who had referred to such incidents were asked whether they would be willing to be interviewed further.

4.2 Methodology

A letter was sent to each of the 55 respondents who said they had experienced intimidation and harassment by the police. The letter outlined and reminding them of the research process, and invited them to participate further in the research. Nine of the 55 respondents replied, and five agreed to be interviewed. A document containing the themes for the interview was given to the interviewees, along with an interview consent form. Two of the lawyers agreed to be interviewed on tape, and notes were taken for the other three.

The interview with each of the respondents covered the specific incidents that had been mentioned on their questionnaire returns. It also sought to explore any other incidents of intimidation and harassment that they had experienced. The interviewees were reminded of the format and subject of the research, and their responses as they had been laid out in the survey questionnaire. They were then apprised of the broad nature of the initial findings of the survey research as outlined at 3.3.5 (above). The interview then focused on the interviewee relating their experiences of harassment and intimidation from the police. Four broad topics were focussed on during the interviews:

- The number of incidents of intimidation and harassment that they had experienced; the nature of these; where, when, who was involved etc.
- The interviewees' perceptions and thoughts regarding these incidents; also what they thought the particular police officer's motivation was for acting in an intimidating manner.
- In the context of each incident, how seriously the individual lawyers took the police's behaviour; what validated this.
- How the interviewee dealt with and challenged the police's behaviour at the time or shortly after the incident, if at all. Whether a formal complaint was made, and the interviewees' perceptions of this process.

4.3 Themes and Issues

All of the interviewees made reference to their perception that the incidents of intimidation and harassment in which they were involved were of a 'low level' as opposed to the 'high level' aspects of police abuses towards lawyers that had been alleged to have occurred in such cases as the murder of Patrick Finucane or Rosemary Nelson. For example:

.....it (the incident of intimidation) wouldn't have been like that sort of high end of the scale, it was more what I would consider as the low end of the scale of the sort of complaint that you're carrying out research on (LA03)

Nevertheless, from all the interviews carried out, there emerged five areas of concern among the interviewees:

- Defamation of Character
- Delay in Access to Clients
- Viewing the Lawyer as a Criminal
- Intimidation during interview
- Making Complaints Against the Police

4.3.1 Defamation of Character

From the survey results presented above, the nature of the most serious incidents of harassment and intimidation involved police officers making defamatory comments about lawyers' character, profession or firm. The qualitative data from the subsequent interviews confirmed that this was regarded as a prevalent concern of the lawyers. A solicitor relates an instance when he was sitting in on an interview conducted by the police with a client who had been arrested on suspicion of having committed burglary:

.....initially, the interview was conducted in a proper fashion. Basically he (the police officer) objected to the line of representation which I became involved in, basically in the first instance tried to terminate the interview. The same police officer, I have been told by a particular client of mine, made reference to my character actually to my client. It was more in terms of defaming me in my occupation (LA03)

The situation referred to here is one in which the solicitor was merely carrying out his function within his remit in advising his client during interview. Also from this there is the implication of a police practice that appears to be attempting to undermine the suspect's confidence in their legal representation. The evidence of attempts to intimidate became direct when the police officer would approach the solicitor and emphasise what he was doing by way of talking about him to his client:

.....the thing that would annoy me more is the fact that many times he (the police officer) would come back to me and said that he had been talking about me to my client (LA03)

Another way in which police officers would attempt to undermine clients' confidence in the legal representation that they had from solicitors was to bring into question their motivation:

.....the client told me that they (the police officers) had said that I was only in this for the money, and that I couldn't care for him (the client) (LA04)

All the interviewees made reference to having had similar experiences in which police officers had referred either to a client or directly to the solicitor themselves that any representation was exclusively motivated by money.

An issue that was raised in the survey results was that of legal representatives being accused by police officers of being members of terrorist organisations. One solicitor referred to several incidents of this nature when he stated that a client had related to him what a police officer had said:

.....what do you want him to represent you for, he's nothing but a terrorist himself (LA02)

The solicitor in this instance was representing a client who had been detained under anti-terrorist legislation. According to the solicitor this kind of scenario, in which police officers would treat him as if he were a terrorist suspect himself, was extremely common. In a broader and well publicised context in Northern Ireland, the prominent defence lawyer Patrick Finucane was allegedly 'targeted' for such verbal abuse for some time before this escalated into death threats for being seen as 'unduly sympathetic' to the republican cause. However, the interviewee on this occasion stated that the incidents referred to had happened over ten years ago, and he remarked upon a general feeling of improvement in recent times.

4.3.2 Delay in Access to Clients

A second theme that came across from all of the interviewees was that of unreasonable and apparently unjustified delay in access to clients in police stations and custody suites. A female solicitor recounted one situation when she had been requested to represent a client who had been involved in public disorder during an Orange Order parade:

.....that evening I went over (to the police station) and it was a parade member who was charged with GBH (the client).and he was in custody and it was obviously very busy when I arrived and the rest of the parade members were in the waiting area, they were drinking.I waited a considerable amount of time to see a client, who in the end was not fit to be interviewed. But I suppose the nature of my complaint is surrounding having to wait in the waiting area with these guys.These guys (the parade members) were asking me questions, about 'who I was', they were openly going to the toilet beside me, urinating.I must have asked on 4 or 5 occasions to be let in.I was kept in the waiting area and it

was extremely intimidating.'well we're very busy we'll be with you'. And every time I went back I said 'look, I have been waiting some time, I really don't want to wait here, and can I please get to see my client?' And I was told 'no, you would just have to wait, we're very busy, we'll get to you' (LA01).

Clearly, from this recollection, the solicitor was not only concerned about the delay in being given access to her client but also that she was kept waiting in an inappropriate part of the police station where she felt intimidated by a rowdy, drunken mob.

Another female solicitor described an incident when she had been called to a police station to represent a client who had been arrested for burglary:

.....when I got to the police station, I was not allowed to see my client. I was aware that there was CCTV evidence, but they wouldn't let me see it, and as it turned out, this showed nothing.I made my way into the custody sergeant's office, and he became aggressive and physically pushed me out of the office and said that I was not allowed in there.I think that the police wanted to interview the client before I could 'get to him and tell him what to say' (LA04).

The implication above is that the police officer(s) involved appeared to have a view that denotes an aggressively adversarial relationship between themselves and legal representation. As well as the delay in seeing her client, there was also a delay in being given access to evidence that in any event was not substantial.

4.3.3 Viewing the Lawyer as a Criminal

Incidents of solicitors being viewed in the same light as the terrorist suspects whom they were representing have been described above. However, a general theme that emerged from this phase of the research was that the solicitors, when making representation for clients at police stations, had all felt that they were viewed by the police officers as having the same status as the alleged criminals. For example, two solicitors expressed the views:

.....the fact that as far as some police are concerned, there is no distinction between the criminal and the solicitor (LA03).

And.....

.....the general culture of the organisation is that they treat the solicitor the same as the client (LA02)

4.3.4 Intimidation during interview

Two of the interviewees described instances during police interviews when they were representing clients when they thought that the police officers were deliberately using

body language to develop an intimidating atmosphere for the interview:

.....in general, the atmosphere was deliberately in my view, made to be intimidating, both for me, and for my client (LA02).

And.....

.....the other officer just came into the interview and sat staring at me, his body language was very intimidating, I think he was trying to get at me (LA05)

4.3.5 Making Complaints Against the Police

As all the interviewees had related incidents involving harassment and intimidation by police officers, the issues surrounding whether or not they challenged the behaviour of the officers or proceeded with any formal complaints against the police were explored. A female solicitor who had experienced unreasonable delay and obstruction in seeing her client and was made to endure waiting in an inappropriate part of the police station relates her reasoning behind why she did not make a complaint against the police:

.....I did consider making a complaint, but I didn't, and of course I was giving in. Of course clients come to me and say yes of course I want to put in a complaint. You know I don't hold out much hope.all I want to ensure is that it wouldn't happen to anyone else and that I wouldn't go through that again or anyone else, or any colleagues.I did meet two police officers that I know to say this is what happened to me and I was really unhappy about it and that it shouldn't have happened. I felt OK and that it shouldn't have happened and that reassured me.I don't know if a complaint would be the right way to go, I think that what I would probably do now, and I did consider it at the time, is to go directly to the Divisional Commander and say what happened, this happened and shouldn't happen again.I felt intimidated at the time and I felt disappointed that I didn't give it more thought and I should have really. And I will not allow that to ever happen again, or if it did happen, I would certainly contact whoever was in charge directly, because I think that would be more effective. (LA01)

Again, a female solicitor who had experienced delay in accessing a client stated overtly that she had had no faith in the complaints system. However, she added that she would reserve judgement on the new system as the incident she referred to took place two or three years ago:

.....I did actually consider making a complaint at the time. I just decided not to, because I have no faith in the complaints system.this was two or three years ago.Well I would like to think that the system now is better, and I suppose I'll reserve any judgement on the outcomes (LA03)

When this issue of the establishment of the Office of the Police Ombudsman for Northern Ireland was raised in the interview, most of the interviewees saw it as a positive change in the oversight of the police:

.....there is a general feeling of improvement. The old C & D investigations were reasonably transparent, but the Police Ombudsman's investigations seem slightly better (LA02)

And

.....at the time, it was not worth making a complaint, though I would do so now (LA04)

It is clear from the views expressed here that there is a general expectation of improvement in the way complaints against the police are dealt with, and that in some cases this had been the interviewees' actual experience.



5. Discussion

Despite the postal methodology used the survey achieved the very high response rate of 52%, with 1,405 respondents providing a full response to the questionnaire. Fifty-five of these respondents (equivalent to 1.9% of those people who were surveyed and to 3.8% of those who responded) said they had experienced intimidation, harassment or threats from the police. Given the particular topic of the survey, along with the publicity it received and the support of the Law Society and the Bar Council, it can be argued that those solicitors and barristers who had experienced police mistreatment would have been more likely to respond to the survey than those that had not, and thus that this number represents nearly the totality of the experience of intimidation, harassment or threats from the police in the legal profession in Northern Ireland.

It is noticeable, however, that over half of the 55 respondents who said they had experienced incidents of mistreatment said they had experienced them three or more times. Thus, while it can be said that police mistreatment of lawyers is not widespread, there are a number of lawyers who appear to have been frequent targets of this type of behaviour from the police. Given the nature of this research and the requirements of confidentiality it is of course not possible to identify these.

A variety of inappropriate police behaviours were recorded, such as defamation, physical threat, threat of arrest and sectarian abuse. Some respondents were accused of being members of a terrorist organisation or having their details passed to a terrorist or political organisation. These behaviours were either experienced by the respondents directly, or they were made aware of them by comments made by their clients. It should be noted that police officers might on a number of occasions have made comments or threats to respondents' clients that were not passed on; clearly, this survey could not quantify these occurrences. It is also possible that remarks made by police officers to respondents' clients may have been exaggerated when passed on. It should also be noted that all of the respondents who were subsequently interviewed said they felt that the incidents of intimidation and harassment they had experienced were of a relatively minor nature.

The majority of the 55 respondents who had experienced intimidation, harassment and/or threats from the police chose not to make complaints about even the most serious incidents, mostly because they felt the police would not do anything about them (note that these incidents took place before the opening of the Police Ombudsman's Office). Furthermore, while allowing for the small sample size it is clear that those respondents who had gone through the complaints system (that is, the former system as operated by the RUC) were generally dissatisfied with their experiences. The failure of agencies to take complaints seriously was noted, and there was frequently dissatisfaction with complaint outcomes. It is hoped that the setting-up of the Police Ombudsman's Office and its well-documented and publicised powers of impartial and independent

investigation will mean that solicitors and barristers experiencing police mistreatment in the future will not be so discouraged from making complaints. Indeed, most of the respondents who were interviewed saw the establishment of the Police Ombudsman's Office as a positive development in the oversight of the police. There was an expectation of improvement in the way complaints against the police would be dealt with, and this had already been the actual experience of a number of interviewees.

The Police Ombudsman has already made recommendations regarding the treatment of defence solicitors and lawyers by the police, and is pleased that the PSNI responded positively to these (see Paragraph 3.3.7). It should be noted that the great majority of the allegations made by legal personnel in this study related to minor, low-level incidents that had taken place some time ago in the past, and the lawyers surveyed have themselves told us that there is no widespread or systemic police misconduct towards solicitors and lawyers taking place at the present time. However, any allegations of police misconduct towards legal personnel that are forthcoming in the future will be dealt with by the Police Ombudsman with the most rigorous investigation.



Annex A: Survey Questionnaire cover letter



Dear Mr/Mrs/Ms A N Other

Research on treatment of solicitors and barristers by the police

I am aware that there are allegations that in the course of their work, some solicitors and barristers have been subjected to threats, intimidation or harassment by police officers, either directly or indirectly via their clients. It is important to establish whether this is a common problem or is limited to a small number of isolated incidents.

To measure the extent and nature of the problem, I am carrying out a survey of all solicitors and barristers in Northern Ireland.

The survey has the full support and backing of the Law Society and the Bar Council.

I would be very grateful if you could take the time to complete the enclosed questionnaire and return it in the reply-paid envelope provided.

The information collected by the survey is completely confidential and no details will be released which would enable any respondents to be identified.

A full report of the findings of the research will be published later this year.

If you have any queries about the research, or require further information, please contact Dr Malcolm Ostermeyer, Director of Research & Policy, on 9082 8612.

Yours sincerely

NUALA O'LOAN (Mrs)
POLICE OMBUDSMAN FOR NORTHERN IRELAND



Annex B: Survey Questionnaire

Office of the Police Ombudsman for Northern Ireland

Then following questions ask about the extent and nature of any threats, intimidation or harassment by the police that you may have experienced in the course of your work. Please answer all the questions that apply to you. **All information will be treated in strict confidence and your co-operation would be very much appreciated.**

Q1. Are you..... (Please circle one response only)		
A barrister	1	Please Go To Q2
A solicitor	2	

Q2. <u>IN THE COURSE OF YOUR WORK</u>, have you ever been intimidated, harassed or threatened by the police, either personally or via a client? (Please circle one response on each line)			
Personally	Yes	No	If Yes to EITHER, Please Go To Q3 If No to BOTH, Please Go to Q21
Via Client	Yes	No	

Q3. Approximately how many incidents have occurred? <i>(Please insert the number of incidents)</i>
Please Go To Q4

N.B. IF MORE THAN ONE INCIDENT HAS OCCURRED, PLEASE ANSWER THE FOLLOWING QUESTIONS IN RELATION TO THE ONE YOU CONSIDER THE MOST SERIOUS.

Q4. Did the (most serious) incident happen to you personally or via a client? (Please circle one response only)		
Personally	1	Please Go To Q5
Via Client	2	

Q5. When did the (most serious) incident occur?		
Month	Year	Please Go To Q6

Q6. Where did the (most serious) incident occur? <u>Please include the actual geographical location of the incident e.g. Belfast, Coleraine, Portadown)</u>
Please Go To Q7



Q7. What was the nature of the (most serious) incident?
IF YOU HAVE ANY FURTHER INFORMATION/COMMENTS, PLEASE INCLUDE BELOW, ELSE GO TO Q8
Please Go To Q8

Q8. Did you make a complaint about the (most serious) incident? (Please circle one response only)		
Yes	1	Please Go To Q10
No	2	Please Go To Q9

Q9. What was the <u>main</u> reason you did not make a complaint about the (most serious) incident? (Please circle one response only)	
Felt police wouldn't do anything about it	1
Incident was not serious enough	2
Had no confidence in the police complaints system	3
Scared of police reprisals	4
Didn't want to make trouble for the police	5
Couldn't be bothered	6
Forgot	7
Didn't know how to complain about police behaviour	8
Other, please specify	9
Please Go To Q19	

Q10. To whom did you make your complaint? (Please circle one response on EACH line)		
	YES	NO
The police	1	2
The Independent Commission for Police Complaints (ICPC)	1	2
The Chief Constable of the Royal Ulster Constabulary (RUC)	1	2
Police Ombudsman	1	2
Another solicitor	1	2
Law Society	1	2
Bar Council	1	2
MP/MLA	1	2
A local politician e.g. councillor	1	2
Citizens Advice Bureau	1	2
Secretary of State	1	2
Human Rights Commission	1	2
Other (please specify)	1	2
Please Go To Q11		

Q11. When did you make your complaint? (Please circle one response only)		
On or before 5th November 2000	1	Please Go To Q12
On or after 6th November 2000	2	

Q12. Was the complaint investigated? (Please circle one response only)		
Yes	1	Please Go To Q14
No	2	Please Go To Q13

Q13. Why was the complaint not investigated?
Please Go To Q19

Q14. Who investigated the complaint?
Please Go To Q15

Q15. What was the outcome of the investigation? (Please circle one response only)	
Complaint withdrawn by you	1
Informal Resolution by the RUC	2
Complaint Substantiated	3
Complaint Unsubstantiated	4
Case Ongoing	5
Other (please specify)	8

Please Go To Q16

Please Go To Q17

Q16. Why did you withdraw the complaint?
Please Go To Q19

Q17. How satisfied or dissatisfied are you with each of the following aspects of the police complaints system? (Please circle one response on each line)						
	Very Satisfied	Quite Satisfied	Neither Satisfied nor Dissatisfied	Quite Dissatisfied	Very Dissatisfied	
How seriously your complaint was taken	1	2	3	4	5	
Understanding the complaints procedure	1	2	3	4	5	
The time taken to receive a reply after you first reported the incident	1	2	3	4	5	
The time taken to resolve the complaint	1	2	3	4	5	6 (N/A) Case Ongoing
The outcome of the complaint	1	2	3	4	5	6 (N/A) Case Ongoing
IF YOU WERE DISSATISFIED WITH <u>ANY</u> ASPECT OF THE COMPLAINTS SYSTEM, PLEASE GO TO Q18, ELSE GO TO Q19.						

Q18. Why were you dissatisfied?
Please Go To Q19

Q19. The Office of the Police Ombudsman may want to carry out further research on this topic. Would you be willing to take part in this research?

Yes	1	Please Go To Q20
No	2	Please Go To Q21

Q20. How would you like to be contacted? (Please give details)

Please Go To Q21

THAT IS THE END OF THE MAIN PART OF THE QUESTIONNAIRE. THE FOLLOWING QUESTIONS ASK FOR SOME INFORMATION ABOUT YOU.

Q21. Are you...?

Male	1	Please Go To Q22
Female	2	

Q22. In which area of the Province do you mainly work? (Please circle one response only)

Belfast	1
Londonderry City	2
Co Londonderry (Outside Derry City)	3
County Antrim	4
County Armagh	5
County Down	6
County Fermanagh	7
County Tyrone	8

THAT IS THE END OF THE SURVEY. THANK YOU FOR YOUR CO-OPERATION.

Reference Number

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Annex C: Reminder Letter



Dear Mr/Mrs/Ms A N Other

Research on treatment of solicitors and barristers by the police

The Police Ombudsman is aware that there are allegations that in the course of their work, some solicitors and barristers have been subjected to threats, intimidation or harassment by police officers, either directly or indirectly via their clients. It is important to establish whether this is a common problem or is limited to a small number of isolated incidents.

To measure the extent and nature of the problem, this Office is currently carrying out a survey of all solicitors and barristers in Northern Ireland.

You may have already received a questionnaire, which was sent to you in June. In case you did not receive it I have enclosed another, and I should be grateful if you would take the time to complete it and return it in the reply-paid envelope provided.

It is important that the number of completed questionnaires returned is maximised. Consequently I would ask that you complete and return the questionnaire even if you work in civil practice, have now retired or are currently working elsewhere.

If you have already completed and returned a questionnaire, please accept my apologies.

If you have any queries about the research or require further information please contact me on (028) 9082 8612.

A handwritten signature in blue ink, appearing to read "M Ostermeyer". The signature is written in a cursive style and is positioned above a horizontal line.

Malcolm Ostermeyer (Dr.)
Director of Research and Policy





Additional copies of this and other publications are available from:

Research Branch
Police Ombudsman for Northern Ireland
New Cathedral Buildings
11 Church Street
BELFAST
BT1 1PG

Telephone 028 9082 8616
Fax 028 9082 8615

E-mail: research@policeombudsman.org

Other publications currently available:

- Public Awareness of the Northern Ireland Police Complaints System (1) (February 2001)
- Public Awareness of the Northern Ireland Police Complaints System (2) (June 2001)
- The Police Ombudsman for Northern Ireland: Early Days (October 2001)
- A Statement by the Police Ombudsman for Northern Ireland on her investigation of matters relating to the Omagh bombing on August 15 1998 (December 2001)
- A Summary of Reports by the Police Ombudsman for Northern Ireland on the discharge of baton rounds by police officers during 2001 and 2002 (May 2002)

These publications and other information about the work of the Police Ombudsman for Northern Ireland are also available on the Internet at:

<http://www.policeombudsman.org>