



# The Return of “Captain Moonlight”:<sup>1</sup> Informal Justice in Northern Ireland

RACHEL MONAGHAN

School of Policy Studies  
University of Ulster  
Newtownabbey, Northern Ireland

*In the working-class areas of Northern Ireland alternative forms of justice operating in parallel to the State’s criminal justice system exist. This informal criminal justice system, administered by paramilitaries, includes threats, warnings, beatings, shootings, and executions. Informal justice mechanisms emerged in the early days of “the Troubles” and have continued to develop. This article maps the development of informal justice in both republican and loyalist areas of Northern Ireland and examines the ways in which paramilitaries “police” their communities and mete out “punishments.”*

Since the beginning of “the Troubles” in 1968 alternative forms of justice have emerged in the working-class areas of Northern Ireland. Such justice operates outside the formal State system and is undertaken by paramilitaries. This article examines the nature of this informal justice, identifying activities liable for “punishment,” procedures involved, types of “punishment” meted out, and noting changes over time. Given that informal justice is not an entirely new phenomenon in Ireland, a brief historical overview will be provided before the main focus of the article is addressed; namely, informal justice throughout the period of “the Troubles.”

## Historical Overview

Prior to colonization by the English in the sixteenth century,<sup>2</sup> the indigenous Irish population had developed their own set of customary laws, customs, and institutions embodied in the Brehon Laws. As Michael Davitt explains:

Brehon in Irish means judge, and an Irishman would speak of the “Brehon” law just as you would say the national law or the law of the land; now, however, we speak of the Brehon law in the same way as we speak of the Draconian code, and to signify the old law of Ireland, before the days of

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Address correspondence to Rachel Monaghan, School of Policy Studies, University of Ulster at Jordanstown, Newtownabbey, Co. Antrim BT37 0QB, Northern Ireland.

conquest began. The Brehons were the judges, next in importance to the chiefs, and their persons were sacred.<sup>3</sup>

This system acted as both a legal and a social code ensuring the smooth running of the rural hierarchical communities found in Ireland at this time. Accordingly, the legitimacy and authority of the system was dependent on the cohesiveness of the community. The hierarchical nature of the community resulted in the status of the victim and offender being taken into account when sentences were passed. Other factors considered included the extent of the damage and any accompanying circumstances, such as provocation. Sentences aimed to restore harmony and to re-integrate the offender into the community. Subsequently, the Brehon courts did not rely on physical punishment, and fines were given for most offenses, including murder. Expulsion from the community was reserved for habitual criminals and perpetrators of “vile” crimes.<sup>4</sup> Thus, the Brehon system can be seen to have espoused a restorative approach to justice as opposed to merely exacting retribution on behalf of the victim and larger community. With colonization the system was suppressed and eventually died out around the beginning of the seventeenth century, following the extension of English law to Ireland.

Informal justice systems were also developed by secret organizations in the eighteenth and nineteenth centuries. Organizations such as the Whiteboys, the Rightboys, and the Ribbonmen were exclusively agrarian in origin and enjoyed the support of the rural population. Subsequently they were primarily concerned with protecting those who worked on the land, namely tenants, laborers, and small holders from arbitrary acts by landholders. In addition, they opposed the payment of dues they felt were “illegal,” for example taxes or tithes levied for the establishment of the Protestant Church.<sup>5</sup> In terms of their activism, they pulled down fences, filled in ditches, killed cattle, burned houses, physically assaulted landowners and their agents, and took action against “collaborators” or informers. For example, individuals suspected of informing had part of their lips and tongues cut off. In some cases, sinister public warnings were given. Donnelly notes that the Whiteboys “erected gallows, made coffins, and dug graves in the public roads, all obviously intended as portents of the fate awaiting those who refused to obey their mandates.”<sup>6</sup> These secret agrarian organizations emerged particularly in times of economic depression or hardship and tended to disappear once conditions improved.

The nineteenth century saw the emergence of revolutionary agrarian societies associated with the Irish national movement. These societies were concerned with securing fundamental changes in Irish agrarian conditions. To this end they worked closely with tenant farmers and refused to recognize the legitimacy of the British system of justice. For example, the Irish National Land League organized resistance to bailiffs and established alternative arbitration courts known as Land League courts. These courts sought to impose a “moral law” that entailed rents being withheld, evicted farms being kept empty, unilateral fixing of new rents, and the ostracism or community boycott of landlords. Transgressors of this “moral law” were subject to a range of “punishments,” including the firing of warning shots into people’s houses, the infliction of injuries to the person, for instance ear-clipping or gunshot wounds to the legs, and in some cases death.<sup>7</sup> The government eventually imposed martial law and outlawed the Land League in 1881. However, violent agrarian agitation continued through the 1880s until it dwindled away.<sup>8</sup>

In parallel to the development of revolutionary agrarian societies, the Irish Republican Brotherhood (IRB) was formally constituted in 1858. The IRB was a secret political society solely focused on the national question, the removal of British rule, and the

establishment of an Irish Republic. Following an unsuccessful rebellion in 1867, they established a Supreme Council, which claimed political authority in Ireland. In subsequent years the IRB formed provisional governments, adopted constitutions, and decreed their enactments as the laws of the Irish Republic.<sup>9</sup> Like the Irish Land League, the IRB refused to recognize the legitimacy of the British system of justice and dealt with local disputes. Laws of membership and secrecy governed individuals within the organization. Violations of these codes were met with violence; for example, those suspected of being "traitors" were executed.<sup>10</sup>

Increased agitation by Irish nationalists continued throughout the nineteenth and early twentieth century. In the 1918 General Election, Sinn Féin won 78 out of the 100 Irish seats and subsequently declared itself the provisional government of Ireland, Dáil Éireann. In August 1919, Sinn Féin established a scheme of national arbitration courts to deal with land disputes. These courts required the consent of both parties in order for them to work. Although intended as a national measure, the scheme was only fully operationalized in West Clare and relied on Sinn Féin personnel with moral authority in the local area.<sup>11</sup> These courts were replaced by Dáil Courts, which operated simultaneously with the "official" courts between 1920 and 1922. The Dáil Courts dealt with a spectrum of offenses, ranging from rowdiness, theft, and property damage, to licensing laws, and bank and post office robberies. Judges were able to order the return of stolen property, the payment of restitution or fines, beatings, banishment from the area and, given the non-existence of Dáil Éireann gaols, the removal of a guilty party to an island for the duration of their sentence.<sup>12</sup> The organization of the Dáil Courts was hierarchical and they operated at the Parish, District, and Supreme Court levels. The Parish Courts dealt with claims of less than £10, petty crime, and eviction from low rent accommodation. Evidence was gathered and presented to three judges elected from the local community. As representatives of the local people, judges took their duties very seriously, as it was considered a great honor to be elected.<sup>13</sup> As Kotsonouris notes, the Parish Courts were central to the acceptability of the system and were very much "consumer-driven," as they provided a cheap and immediate access to justice.<sup>14</sup> Furthermore, they tended to operate on the basis of conciliation; this is in part reflected in the range of "punishments" open to them and a local need for solidarity and affability. Accordingly, they received public support and had little difficulty enforcing their decrees and, where required, Irish Republican Army (IRA) Volunteers imposed the sentences of the court. In 1922 the Free State Government was established and the British court system in Ireland passed to the Saorstá Éireann. Subsequently, the Dáil Courts were suppressed. With the passing of the Dáil Éireann Courts (Winding-up) Act 1923, the Dáil courts were declared illegal and their decrees rendered unenforceable.

Historically then, informal justice in Ireland can be seen to have used both restorative and retributive styles of "punishment." The Brehon system operated a restorative justice approach, imposing fines for most offenses, and reserved its most severe "punishment"—expulsion from the community—for habitual criminals and those found guilty of particularly "vile" crimes. In contrast, revolutionary agrarian societies and secret organizations such as the Whiteboys and IRB relied more on retribution and the imposition of physical "punishments." Informers or traitors were usually harshly dealt with and often lost part of their lips or tongues and in some instances their lives. The courts established by Dáil Éireann combined both retributive and restorative justice approaches, especially at the local level. Beatings and expulsions could be ordered by the judges and enforced by IRA Volunteers. Sentences involving non-violent "punishments" could be given and offenders made to make good for the damage or pay a fine. These

experiences have given rise to more recent conceptions of informal justice by the republican movement and their need for an alternative legality in Northern Ireland. It is this area that the article now addresses.

### Informal Justice in Republican Areas

Since the beginning of “the Troubles” alternative or informal justice and policing mechanisms have developed in Catholic working-class communities. Citizen Defence Committees (CDCs) were established in most areas and provide the earliest example of organized activities. Their primary aim was to protect Catholic enclaves from loyalist attacks. To this end they erected and supervised barricades and mounted foot and car patrols.<sup>15</sup> As Connolly notes,

modern self-policing was a spontaneous community self-defence response, not something initiated or controlled by a revolutionary organization. Probably the earliest example of self-policing was that in and around the barricades in 1968 at a time when the IRA was a moribund organization.<sup>16</sup>

With the introduction of internment without trial, the Catholic Ex-Servicemen’s Association<sup>17</sup> supplemented the activities of the CDCs in Belfast and supervised the barricades in places such as Ballymurphy.<sup>18</sup>

In the nationalist areas of the Bogside, Brandywell, and Creggan in Derry the local defense association set up a “police force” to deal with petty crime. “Punishment” usually took the form of a stern lecture regarding the need for solidarity in the area.<sup>19</sup> In the early 1970s, for a brief period, the Free Derry Police operated independently of republican paramilitaries, with its chief being a former international footballer who had given up his career to undertake the position.<sup>20</sup>

In contrast, in the “no-go” areas of nationalist Belfast the republican paramilitaries assumed an early policing and justice role.<sup>21</sup> The Provisional IRA, formed as a result of a split in the republican movement in December 1969, is the most active of the republican paramilitaries in the area of informal justice. In the late autumn of 1970, the IRA launched a purge of “antisocial” elements in the Ballymurphy area. Those targeted included alleged local criminals, minor drug abusers, teenage girls suspected of fraternizing with British soldiers, and anyone believed to be connected to, or having sympathy with, the State. Many were forced to leave the area; others were subjected to a variety of “punishments.” For example, a local woman was tarred and feathered and left tied to a lamppost while 2 local “gangsters,” Arthur McKenna and Alexander McVicar, were shot dead.<sup>22</sup> The IRA’s decision to assume a policing role is based in part on a need to ensure the organization’s own security and survival. As Burton notes,

informing is particularly threatening. It attacks the fabric of the community in its capitalization on what cannot be controlled, the public nature of knowledge. . . . Systematic informing would rip the district apart and smash its tentative organizations laying it open for a Protestant or British Army takeover.<sup>23</sup>

The informal justice of the IRA is also a response to community pressure for the organization “to do something” about crime in nationalist areas. Thus, activities liable for “punishment” can be divided into two main categories, “political” and “normal” crime. “Political” crime would include informing, misuse of the organization’s name, or

collaborating or fraternizing with the "enemy," whereas vandalism, car theft, joyriding, muggings, the selling of alcohol to minors, rape, and drug-dealing would constitute "normal" crime. "Normal" crime also encompasses "antisocial behavior." Activities considered antisocial by the paramilitaries are diverse in nature and range from youths gathering at street corners, the playing of music too loudly, the verbal abuse of old age pensioners, the dumping of rubbish, and fighting with their Volunteers.

Furthermore, "people's courts" also operated in "no-go" areas. These courts consisted of committees of locally elected people who would come together to deal with neighborhood disputes and minor criminal offenses. The concept of community courts was debated openly at the time (early 1970s) in the local republican press and stressed a restorative justice approach.<sup>24</sup> Sentences handed down by the "people's courts" were of a community service nature. However, these courts were relatively short lived due to a number of factors, including harassment of committee members by security forces, insufficient resources, and the partiality of neighbors; sanctions imposed by neighbors did not carry the same legitimacy and weight as those imposed by the IRA.<sup>25</sup>

A special IRA unit established for dealing with crime and the republican youth movement, Na Fianna Éireann, undertook early policing activities.<sup>26</sup> Incidents were investigated and those found guilty were subject to a variety of "punishments." Individuals deemed responsible for house and shop break-ins were compelled to re-imburse their victims and return stolen goods. In cases involving children, the IRA approached the parents and requested greater parental control.<sup>27</sup> In situations where an alleged offender refused to cooperate or had ignored previous warnings, they were then liable for "suitable punishment." The most usual type of "punishment" meted out by the IRA at this time was a "kneecapping," the shooting of an individual anywhere in the leg. As Munck notes, "the 'hard core' criminal is pursued relentlessly, the ordinary hood is to be reformed."<sup>28</sup> Individuals suspected of informing were dealt with the severest and their "punishment" depended on the type of information passed on to the security forces; in some cases they were merely "kneecapped" but usually they were shot dead. Reports in both *An Phoblacht* and the *Andersonstown News* carry details of such shootings:

with three men from the area being shot in the leg in the past two week period, it seems evident that the provisional Irish Republican Army have now began the new "get tough" tactics which have been expected for some time.<sup>29</sup>

The Provisionals claimed responsibility for shooting a man in the knee in Derry's Creggan Estate for alleged "touting."<sup>30</sup>

In February of 1975, the IRA declared a cease-fire that was to last into the following year. With the ending of this cease-fire, the "incident centers" established by Sinn Féin to monitor breaches of the truce evolved into "advice centers." These centers were labeled locally as "Provo Police Stations," as they were easily accessible to the local community, and people took their complaints to them. This development marked a shift in the administration of informal justice in republican working-class areas. Informal justice was taken out of the hands of the IRA field commanders and moved to the control of the emerging Sinn Féin. According to Joe Austin, a Sinn Féin councillor for north Belfast, once a crime or incident of antisocial behavior had been reported to Sinn Féin and the details recorded, an investigation would be launched by the Civil Administration Officers (CAOs) assigned to deal with the case. After all the details were collected and

information gathered from local people verified, a decision would be made regarding the next step. If an offender had been identified, they would be brought before the CAOs and allowed to defend themselves, although in practice this did not always happen because of limited resources and demands on the system. A further decision would then be taken as to whether a warning should be issued or if the case should be passed to the IRA for them to carry out a “punishment.”<sup>31</sup> If the offenders were not known, then a warning would often be placed in local newsletters, the republican press, and sometimes via a leaflet drop in the area. The IRA has, over the years, developed a graduated scale or tariff system consistent with the seriousness of the offense under consideration. This tariff ranges from warnings, threats, curfew, fines or restitution, placarding, tarring and feathering, beatings, shootings, exiling, and ultimately death.<sup>32</sup> The “punishment” ordered in theory would be influenced by mitigating factors such as age, gender, past criminal record, and family background, particularly those from a strong republican tradition. In some cases those due to be punished are told to turn up at a certain time and place in order to receive their “punishment.” Failure to do so often results in a harsher “punishment.” In practice, however, the level of “punishment” can be arbitrarily brutal or lenient, depending on whether the offender was “connected” in some way to known paramilitaries or influential members of the republican movement. Furthermore, some individuals have been punished as a result of mistaken identity.<sup>33</sup> For example, John Brown, a 79-year-old man, was mistakenly identified as a pedophile and shot in both knees and ankles. In some cases, the IRA has publicly apologized to the person concerned or placed an apology in the local republican press.

The IRA appears to have been reluctant to shoot women and those found “touting” or informing or fraternizing with the “enemy” were often tarred and feathered or had their heads shaved.<sup>34</sup> It has been suggested that within the nationalist community there existed a reluctance “to accept wounding as a legitimate form of punishment for female offenders.”<sup>35</sup> The “disappearance” of Jean McConville by the IRA in December 1972 from her home in Belfast’s Divis flats is contrary to this and may explain why her body has never been recovered. The IRA contends that McConville admitted to being an Army informer, a claim strongly contested by relatives.<sup>36</sup> Her body has never been found despite recent digs for the “disappeared.”<sup>37</sup> Burton suggests that tarring and feathering represents an expulsion ritual in that the punished individual knows that they are to leave the area.<sup>38</sup> A further reluctance to shoot those aged 16 or under can also be detected, as an anonymous youth worker explains,

the rule is that the Provos don’t “punish”—that is, don’t shoot or severely beat—kids under sixteen. Some of our younger kids have been “branded”—that is, made to stand against a lamppost, or outside church on a Sunday, with a placard around their necks saying, “I am a hood,” or “I am a joy-rider.” It’s the softest option the Provos can take—public shaming.<sup>39</sup>

Other “punishments” used against those “too young to be kneecapped” include curfewing, tar and feathering, being tied up and publicly painted, and the punishing of parents. For instance, a 39-year-old father was shot after “repeatedly ignoring IRA warnings to discipline two of his sons who had been involved in persistent acts of anti-social behaviour.”<sup>40</sup>

The use of shootings as a “punishment” peaked in 1975, with 139 being recorded by the Royal Ulster Constabulary (RUC). It should be noted that the IRA is not the only republican paramilitary organization to undertake “punishments.” Having said this, it is

fair to assume that it is probably responsible for the majority of "punishment" shootings given its size, resources, and support or control of working-class Catholic areas. Silke suggests the peak can be attributed to the cease-fire of 1975 in that Sinn Féin was attempting to establish itself as a political power in nationalist areas and that there were more IRA Volunteers available to mete out "punishments."<sup>41</sup> However, not all "punishment" shootings are the same; a gunshot wound to the fleshy part of the thigh heals relatively quickly compared to injuries to the bone that can lead to permanent maiming. The seriousness of the crime will affect the number of times an individual is shot, the calibre of weapon used, and the proximity of the wound to the joints.<sup>42</sup>

Since the early 1980s the RUC has kept statistics on the number of "punishment" beatings reported to them. Although beatings occurred in the 1970s they were not reported in the republican press in the same manner as shootings. Beatings administered vary and can be inflicted by either the Volunteers' own fists and feet or the use of an implement. Implements used include baseball bats with and without nails in them, hurley sticks, pickaxe handles, iron bars, hammers, and sledgehammers. Those beaten may be tied upright to fence railings, thereby leaving them unable to shield themselves. Individuals have also had breezeblocks dropped onto their limbs.

With the adoption by the IRA of a cellular structure, an IRA Auxiliary made up of former prisoners, low-calibre members, and new recruits took over responsibility for "punishments." Other IRA members regard them with distaste: "They're . . . the dregs of the organization, people who aren't any good at anything else but beating people up."<sup>43</sup>

In addition to physical "punishments," the IRA can order people out of a local area, city, Northern Ireland, or Ireland. The exiling or expulsion of alleged criminals can vary in time from six months to a year and so on. In some cases, people are ordered out indefinitely. Expulsion orders are usually accompanied by both a leeway period of between 24 and 48 hours and an "or else." Such orders are attractive to paramilitaries as they remove undesirable elements from the community and are less brutal than other forms of "punishments." Males, females, youngsters under 16 and, in some instances, whole families have been exiled.

Not only does the IRA take action against alleged criminals but it also punishes its own members for disobeying orders or breaching internal codes. "Punishments" range from a beating for leaving a gun out of an armory to being shot for "bringing the movement into disgrace." This would include self-gain robberies or misusing the organization's name. To this end an internal police force known as the "Nutting Squad" was established that deals with matters concerning IRA Volunteers.<sup>44</sup> In addition, the IRA has also targeted other republican paramilitary groups. In the 1970s, the IRA launched purges against the Official IRA<sup>45</sup> in some parts of Belfast and in October 1992 took action against the Irish People's Liberation Organisation (IPLO).<sup>46</sup> The IPLO had a history of criminal activities, including a gang rape of a woman in the Divis flats complex and involvement in the growing drug trade. The IRA's action resulted in the execution of one IPLO member and the shooting of a further 20 members with assault rifles in Belfast.<sup>47</sup> The IPLO disbanded shortly after this.

Throughout the period of "the Troubles" the IRA has sought alternatives to physical "punishments." This can be seen in Figure 1 in terms of fluctuations of the number of individuals punished. In 1982 the IRA embarked on a reconsideration of its policy of "punishment" after acknowledging that shootings do not solve the problem of rising crime.<sup>48</sup> A wide-ranging debate occurred within republican circles and in nationalist areas generally as to how to combat crime. Physical action was still taken but against

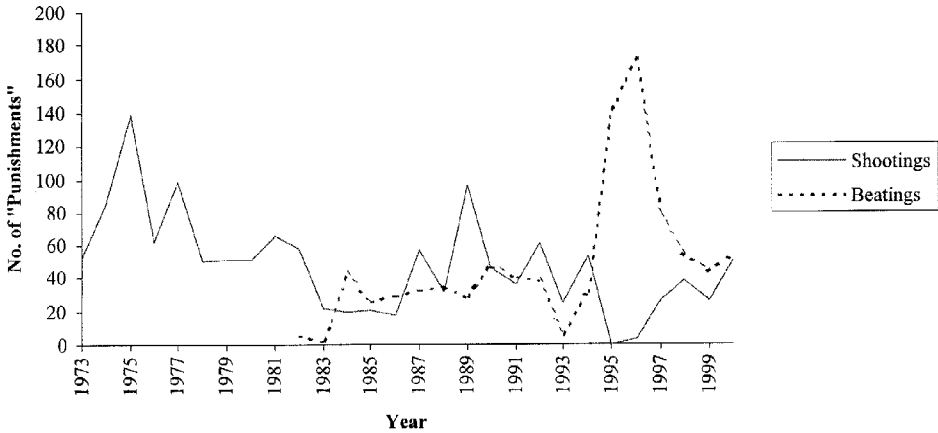


Figure 1. "Punishment" by Republicans.

mainly persistent criminals, an identifiable hard-core element. In contrast, the young hood was to be involved in a process of discussion with the republican movement as to the consequences of their behavior for their victim and larger community. They were spared "punishment" if they made a public commitment to desist from their previous activities and gave a written undertaking to the IRA. If this undertaking was broken then they could expect to be dealt with more severely. By 1984 the crime problem in nationalist areas had increased and letters began appearing in the republican press calling for the IRA to reconsider its policy on hoods, which it did. More recently the IRA and Sinn Féin have thrown their support behind Community Restorative Justice projects that are being established in republican areas.

The use of "punishment" beatings has escalated since the early 1980s and in 1996 172 were recorded by the RUC. This sharp increase coincided with the IRA ending its cease-fire with the Canary Wharf bombing on 9 February 1996; the cease-fire was restored on 19 July 1997. Overall the general increase in the number of beatings and corresponding decrease in the number of shootings is linked to the IRA's maintenance of its cease-fires undertaken since 1994. This change reflects moves by the organization not to implicate its political representatives in charges that the cease-fires have been broken and thereby lead to their exclusion from the peace process. Under the terms of inclusion in the multiparty talks that culminated in the Belfast Agreement (April 1998), political parties were required to affirm their commitment to six fundamental principles (the Mitchell Principles) of democracy and nonviolence.<sup>49</sup> The sixth principle urges that "punishment" killings and beatings cease and political parties take effective steps to prevent such actions. Indeed, in 1994 the year in which the cease-fires were instated there were no reported "punishment" shootings by republicans although beatings increased by over 400 percent. The IRA have also been linked to the execution of at least 11 drug dealers since 1994, which have been claimed by a group calling itself Direct Action Against Drugs. Furthermore, in August 1999, they were directly implicated in the murder of Charles Bennett, a suspected informer. The then Northern Ireland Secretary of State, Mo Mowlam, ruled that, although the IRA had breached its cease-fire, the cessation as a whole had not broken down and no sanctions were taken against Sinn Féin.



A shift in policy toward the punishing of women and young people under the age of 16 can also be observed. The IRA has taken to physically punishing women. In 1985, they executed alleged informer Catherine Mahon. Her body was found with that of her husband's in an entry in the Turf Lodge area of Belfast.<sup>50</sup> According to RUC statistics no females were shot in the period between 1990 and 2000, although this is contrary to the IRA's claim of executing Caroline Moreland in July 1994 for informing.<sup>51</sup> For the period between 1989 and 2000, 23 females received "punishment" beatings. The RUC are unable to provide a gender breakdown of victims prior to 1989. Young persons under the age of 16 are also liable for more physical "punishments." For example, a 16-year-old boy was beaten with hurley sticks and iron bars by at least seven masked men in Newry, while a 15-year-old was beaten with hammers and baseball bats in a nationalist area of Derry.<sup>52</sup>

As noted earlier the IRA is not the only republican paramilitary group to mete out "punishments." The Official IRA also "kneecapped" alleged criminals in the early 1970s; indeed a number of individuals received "kneecappings" from both the Officials and the Provisionals. The Irish National Liberation Army (INLA),<sup>53</sup> although publicly distancing itself from a law and order role, has shot a number of alleged criminals and informers dead. For instance, in April 1984, John George, an alleged criminal, was found shot dead at his home in Twinbrook. The INLA has also taken action against its own members suspected of informing. In June 1991, it executed INLA member Gerard Burns. His body was found at the back of a house in Ballymurphy. The now defunct IPLO also undertook similar "punishment" actions. More recently, the Continuity IRA<sup>54</sup> has moved into the administration of informal justice and claimed responsibility for a "punishment" beating and the exiling of a drug dealer.

### Informal Justice in Loyalist Areas

Mechanisms of informal justice can also be found in working-class Protestant areas and are administered by loyalist paramilitaries. Unlike their republican opposites, loyalist paramilitaries do not cite historical precedents for their involvement in such activities. Rather, the use of informal justice and "punishments" is explained in a more instrumental way. Loyalist paramilitaries mete out "punishment" to individuals involved in crime or antisocial activities, to members of their own grouping, and to members of rival groupings as a result of feuds.<sup>55</sup> In addition, the threat of "punishment" has been used as a method of press-ganging new recruits.<sup>56</sup>

Since the early 1970s loyalist paramilitaries have assumed a policing role in the communities in which they operate. Indeed, the largest loyalist paramilitary group, the Ulster Defence Association (UDA), was established in 1971 as a result of the amalgamation of Protestant vigilante groups and defense associations in Belfast. The UDA adopted as its motto *Codenta Arma Togae*, meaning "law before violence" and sought "to see law restored everywhere, including the no-go areas" of nationalist Belfast.<sup>57</sup> The UDA assumed the role of area defenders against attacks from Catholics and the IRA, mounted roadblocks, patrolled the streets, and gathered evidence against petty criminals. The Ulster Volunteer Force (UVF)<sup>58</sup> also adopted a policing role. For example, it established a special patrol group in the Shankill area of Belfast. If an individual was caught by the patrol then they were either warned to stay out of trouble or handed over to the police. Patrols by paramilitaries were not designed to usurp the RUC but to assist them. Paramilitaries reserved the right to mete out their own form of justice if the police and courts did not adequately deal with offenders.

Like their republican counterparts, loyalist paramilitaries take action against “political” and “normal” crime. Incidents can be brought directly to the paramilitary group or they become aware of an incident themselves. Most groups claim to carry out an investigation before deciding on whether an individual will or will not be punished. Unlike the IRA, who have different units assigned to deal with “internal” and “external” discipline, loyalist paramilitaries employ the same personnel, usually Active Service Units.<sup>59</sup> The accused have little chance to defend themselves. Loyalists also punish individuals who are perceived to have offended their members in some way; behavior that causes offense can range from stealing a member’s wallet to sleeping with their wife. Loyalist paramilitaries have used many of the same methods of “punishment” as republicans, including warnings, placarding, tar and feathering, beatings, shootings, exiling, and execution. However, the use of warnings by loyalist groups is not widespread. A number of individuals interviewed as part of the Violence Research Project at the University of Ulster<sup>60</sup> stated that they had received no prior warning to their “punishment.” As one interviewee explains,

two car loads came and got me and took me away and they stabbed me, left me with thirty-six stitches in the stomach, and told me to come back at seven o’clock [for a beating]. . . . In fact when they took me away I thought I was just going away to be questioned because I hadn’t done anything.<sup>61</sup>

Offenses of a sexual nature attract harsh “punishments” and those punished are usually shot or badly beaten. In one case, an ex-Presbyterian minister given a warning by the police for possession of an illegal homosexual pornographic video, died from injuries sustained from a UVF “punishment” beating. For many loyalist groups, drug dealing is seen as an acceptable way to raise funds although the leaders of the main loyalist paramilitaries publicly deny this. Silke suggests that the vast majority of internal “punishments” by loyalist paramilitaries involves money, for example swindling, skimming funds from the group, payment of misappropriate “cuts,” or self-gain robberies.<sup>62</sup> Members suspected of informing are usually executed. For example, in November 1981 the Ulster Freedom Fighters (UFF) shot dead Arthur Bettice, a UDA member, at his home in the Shankill.<sup>63</sup> Some paramilitary members join the organization to avoid being “punished” either by the group they joined or by a rival grouping. One interviewee subjected to a “punishment” attack by one loyalist paramilitary group joined another group as it “sort of offered me protection from these other guys.”<sup>64</sup> Once a member it is very difficult to leave a paramilitary group given the illegal nature of their activities.

Actions are also taken against rival groups; in recent times these tend to be centered around feuds involving drugs. Feuds between the rival loyalist paramilitary groups are nothing new, as Bruce notes: “like any two competing organisations, the UDA and UVF have rarely been on good terms for long.”<sup>65</sup> In the early 1970s disagreements were limited to fist fights but in March 1975 this escalated into a more violent feud in Belfast. Two UDA men were shot dead by the UVF. The UDA retaliated by attacking a bar in east Belfast, wounding two UVF men and targeting the homes of 10 UVF men, firing shots at them. The UVF countered with bomb attacks against the homes of 3 UDA men in east Belfast.<sup>66</sup> In light of this attack, the east Belfast UDA issued a press statement condemning the use of bombs against them:

we ask the loyalist community to try and imagine the depraved mind of the UVF “loyalist,” planning and assembling a bomb to plant in a Protestant home. . . . While we reserve the right to and indeed will take retaliatory

action against the UVF or any splinter group connected with them, we will not, repeat not, be drawn to the depths of depravity by bombing loyalist homes and endangering of innocent women and children.<sup>67</sup>

More recently, a feud linked to a drugs and turf war developed between the UDA/UFF and the UVF on the Shankill and spread to other areas of Northern Ireland, including Ballymena, Carrickfergus, and Coleraine.<sup>68</sup> Seven men lost their lives in the feud that lasted from July until December 2000 and unlike the 1975 feud, "innocent women and children" were endangered. Indeed, an 11-year-old girl was shot in the back in Coleraine and more than 281 households in the Shankill area approached the Housing Executive<sup>69</sup> for assistance after being forcibly evicted from their homes or decided to leave, in fear of intimidation.<sup>70</sup> British soldiers were redeployed in the areas affected by the feud.

As shown in Figure 2, In the period between 1973 and 1985, RUC statistics show that loyalist paramilitaries carried out 317 "punishment" shootings and beatings. Between 1986 and 2000 this figure had increased to 1,499. It should also be noted that RUC statistics only record cases reported to them and thus represent only the tip of the iceberg. This also true of republican "punishments." The signing of the Anglo-Irish Agreement in November 1985 is cited as the reason for this dramatic increase as many loyalists felt betrayed by the British State. The Agreement established "a joint ministerial conference of British and Irish ministers, backed by a permanent secretariat . . . to monitor political, security, legal and other issues of concern to the Nationalist minority."<sup>71</sup> A policing vacuum began to develop in working-class Protestant areas due to the growing mistrust between the communities and the RUC. The police had begun to direct counterterrorism measures against loyalist paramilitaries and to enforce bans on loyalist marches. This situation has been exacerbated by community perceptions of the perceived leniency of the formal criminal justice system, the inability of the RUC to deal with ordinary crime, and the recruitment of petty criminals as informers. For example, in 1989 the West Belfast Brigade of the UVF shot a convicted sex offender in the legs and elbows and ordered him to leave the area after he received a lenient sentence from the court. The use of "punishment" beatings over shootings has been visible since the cease-fires of 1994 by the major loyalist paramilitaries. As Winston notes, this "change came about as a result of the cease-fire emphasis on removing the gun from the political picture."<sup>72</sup> Like their republican counterparts, loyalist paramilitaries have tried to deflect criticism from their political representatives regarding the maintenance of their cease-fires and have increasingly resorted to "punishment" beatings as opposed to shootings. Recently,

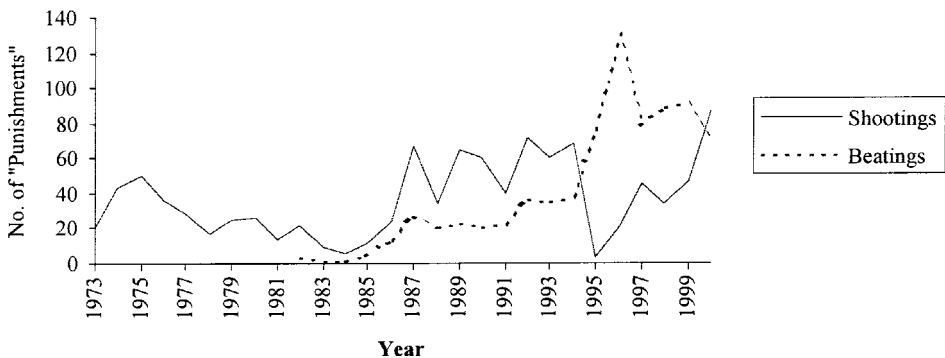


Figure 2. "Punishment" by Loyalists.

however, an increase in shootings can be observed. In the year 2000, recorded numbers of “punishment” shootings (86) exceeded the number of beatings (72) as illustrated in Figure 2. This increase can in part be explained by the failure of Northern Ireland Secretaries of State to rule that “punishment” shootings and indeed beatings constitute a breach of the cease-fires. Furthermore, there are a number of loyalist paramilitary groups that are not on cease-fire, for example, the Orange Volunteers, who may be undertaking “punishment” attacks.

Due to a relative lack of detailed information about specific loyalist informal justice mechanisms, it is unclear whether groups like the UVF or UDA have ever developed specific policies toward the punishing of females and young people under the age of 16. Only two women have received a “punishment” shooting between 1990 and 2000 according to the RUC. A further 33 are recorded as having been beaten by loyalist paramilitaries in the same time period. A victim of a “punishment” beating explained that on his housing estate the UDA as a rule do not physically punish females: “They don’t beat girls. . . . If you’re a girl you’re all right.”<sup>73</sup>

In recent years loyalists have punished young people under the age of 16. In March 1999, a 13-year-old was beaten with baseball bats by a gang of masked men and told to leave Northern Ireland. In August of the same year 6 men armed with hammers beat a 15-year-old. In some instances, those “punished” receive more than one beating through the course of their teenage years as the following case shows:

I was about thirteen or fourteen, I got the first beating . . . masked men came round but they only hit us a couple of times in the arms and that was it, and then the next time was about fifteen. They just beat us again. It was a wee easy beating, it wasn’t hard, and then the last time was March . . . I got black eyes and they beat us all about, beat us about the legs and all. And then it happened . . . again, broke my nose, broke my arm and I was beat with hammers and all, all over my body and I had staples in . . . my head.<sup>74</sup>

Like their republican counterparts, senior paramilitary figures are not exactly enthusiastic about meting out “punishments” and cite pressure from the communities that support them to assume a policing role. Recently, notably in the Shankill, a nonviolent option to paramilitary “punishments” has been established. The Greater Shankill Alternatives Project, supported by the local UVF and the Red Hand Commando,<sup>75</sup> seeks to provide those accused of petty crime or antisocial behavior an alternative process by which to be dealt with.

## Conclusions

Informal justice has a long history in Ireland, the roots of which can be traced to the days before colonization. The informal justice systems established and developed throughout “the Troubles” in both republican and loyalist working-class communities share many of the same characteristics. “Punishment” beatings and shootings exist for three main reasons: the absence of a legitimate or adequate policing service; the rising levels of petty crime and antisocial behavior; and the perceived failure of the formal criminal justice system. In republican areas alternative justice and policing measures were developed in contrast to the formal State system. The RUC has long been regarded as lacking legitimacy in the eyes of the nationalist population. This view is further reinforced by the use of petty criminals as informers by the security forces. A policing vacuum emerged in

nationalist areas and the IRA and Sinn Féin have attempted to fill this void by developing their own system of informal justice. In addition, the IRA and other republican paramilitaries have used "punishments" to deal with transgressions by their own members or members of rival groups. In contrast, early loyalist paramilitary policing functions were intended to aid the RUC and to provide internal discipline to the organizations' members. Over the years the relationship between loyalist paramilitaries and the RUC has changed. The RUC and formal justice system are regarded as being weak on criminals and "punishments" are taken against those alleged to be involved in criminal activities and antisocial behavior. Loyalist paramilitaries also take action against individuals who come into conflict with their members and rivals during feuds. Both republican and loyalist systems in theory operate a tariff or graduated scale of "punishments." The types of "punishments" used are similar, although tarring and feathering is not so common these days. On deciding on the type of "punishment" mitigating factors can also be considered in both systems. Republican paramilitaries—especially the IRA—are very anti-drugs and take a hard line on drug dealers.<sup>76</sup> Some loyalist groups, however, are tolerant of the drug trade if they are in receipt of an appropriate "cut." A number of those subject to shootings have been permanently maimed or have lost limbs as a result of their injuries; in a few cases the person has died. Individuals who receive a "punishment" beating are often badly injured, suffering fractured skulls, broken bones, and puncture wounds if the instruments used were studded with nails. Women and young people under the age of 16 are no longer exempt from physical "punishments." Although many of the main paramilitary groups are on cease-fire and have pledged themselves to the Mitchell Principles of nonviolence and democracy, 502 "punishment" shootings and 1,149 beatings were recorded by the RUC between 1994 and 2000. Such shootings and beatings are a clear breach of the Mitchell Principles and repeated Northern Ireland Secretaries of State have been reluctant to take action either against the paramilitary organizations committing these attacks or their political representatives. Attempts were made by Conservative opposition members to halt the early release of "political" prisoners in light of continuing and increasing numbers of "punishment" attacks. The attempt failed given the significance of prisoner releases to loyalists and republicans and the potential effect this would have had on the Belfast Agreement. Even the murder of Charles Bennett by the IRA did not result in sanctions. Indeed, Secretary of State Mo Mowlam, in her ruling of whether or not the IRA had breached its cease-fire, stated "the peace we have now is imperfect, but better than none."<sup>77</sup> Thus, it can be suggested that those subject to paramilitary "punishment" have become expendable pawns in the pursuit of political gains at the macrolevel, namely a negotiated peace. The history of informal justice and the reasons for its development in Northern Ireland suggest that it is likely to continue in the foreseeable future. This belief is based on the view that the factors that gave rise to the informal criminal justice systems need to be adequately addressed. The Belfast Agreement and the proposed reforms of the RUC are not going to remove the reasons for paramilitary "punishments" in the short term.

## Notes

1. "Captain Moonlight" was the name given to groups of men during the Land War (1879–82) who would travel around the countryside at night taking physical action against individuals they considered "worthy of vengeance," such as landlords, their agents, and "care-taker" farmers.

2. Although the English first invaded Ireland in 1172, their control and authority of the island was contested and incomplete. It was not until the reign of Henry VIII that the monarch's

authority was cemented, with Henry becoming King of Ireland in 1541. Furthermore, Henry embarked on a policy of conciliation and fusion of the Irish and English populations in Ireland and extended English law to the entire island.

3. D. B. Cashman, *The Life of Michael Davitt and the Secret History of the Land League* (London: Cameron and Ferguson, c.1885), p. 194.

4. For further information see Laurence Ginnell, *The Brehon Laws* (London: T. Fisher Unwin, 1894). As to what constitutes a "vile" crime remains unclear as Ginnell fails to offer a definition: "In the case of certain peculiarly vile crimes, which need not be further specified here," p. 191.

5. Peter Alter, "Traditions of Violence in the Irish National Movement," in Wolfgang J. Mommsen and Gerhard Hirschfield, eds., *Social Protest, Violence and Terror in Nineteenth and Twentieth Century Europe* (London: Macmillan, 1982); James D. Donnelly, "The Whiteboy Movement, 1761–5," *Irish Historical Studies* 21 (1978); and Christine Bell, "Alternative Justice in Ireland," in Norma Dawson, Desmond Greer, and Peter Ingram, eds., *One Hundred and Fifty Years of Irish Law* (Belfast: SLS Legal Publications, 1996).

6. Donnelly, "The Whiteboy Movement," p. 29.

7. R. F. Forester, *Modern Ireland 1600–1972* (London: Penguin, 1988).

8. Alter, "Traditions of Violence in the Irish National Movement."

9. Alter, "Traditions of Violence in the Irish National Movement"; and Bell, "Alternative Justice in Ireland."

10. Leoni Ó. Broin, *Revolutionary Underground: The Story of the Irish Republican Brotherhood 1858–1924* (Dublin: Gill and Macmillan, 1976).

11. Bell, "Alternative Justice in Ireland"; and Dorothy Macardle, *The Irish Republic* (New York: Farrar, Straus and Giroux, 1965).

12. Johnny Connolly, *Beyond the Politics of "Law and Order": Towards Community Policing in Ireland* (Belfast: Centre for Research and Documentation, 1997); Mary Kotsonouris, "Revolutionary Justice—the Dáil Éireann Courts," *History Ireland* (Autumn 1994); and Macardle, *The Irish Republic*.

13. Kotsonouris, "Revolutionary Justice."

14. *Ibid.*

15. Connolly, *Beyond the Politics of "Law and Order"*; and Paddy Hillyard, "Popular Justice in Northern Ireland: Continuities and Change," *Research in Law, Deviance and Social Control* 7 (1985).

16. Connolly, *Beyond the Politics of "Law and Order,"* p. 21.

17. The Catholic Ex-Servicemen's Association (CEA) was established in 1971 following the introduction of internment and sought to protect Catholic areas from attacks by Protestants. The CEA was unarmed but its members had previous military training. At its peak in 1972 it claimed some 8,000 members.

18. Hillyard, "Popular Justice in Northern Ireland"; and *The Tatler* (Ballymurphy, Belfast: An Cumann Liam McParland Sinn Féin, 1972).

19. Eamonn McCann, *War and an Irish Town* (London: Pluto Press, 1993).

20. *Ibid.*

21. Ronnie Munck, "Repression, Insurgency, and Popular Justice: The Irish Case," *Crime and Social Justice* (1984), pp. 21–22; and Andrew Silke, "Rebels' Dilemma: The Changing Relationship between the IRA, Sinn Féin and Paramilitary Vigilantism in Northern Ireland," *Terrorism and Political Violence* 11(1) (1999).

22. Jim Cusack and Henry McDonald, *UVF* (Dublin: Poolbeg, 1997).

23. Frank Burton, *The Politics of Legitimacy* (London: Routledge and Kegan Paul, 1978), p.

35. Burton conducted a participant observation study of a working-class Catholic community in Belfast that he calls "Anro" in the period between September 1972 and April 1973.

24. "Community Courts for Social Justice," *Andersonstown News*, 9 August 1973; and "Community Courts," *Andersonstown News*, 15 August 1973.

25. Connolly, *Beyond the Politics of "Law and Order"*; and Ronnie Munck, "The Lads and

- the Hoods: Alternative Justice in an Irish Context," in Mike Tomlinson, Tony Varley, and Ciaran McCullagh, eds., *Whose Law and Order?* (Belfast: Sociological Association of Ireland, 1988).
26. Hillyard, "Popular Justice in Northern Ireland"; and Munck, "The Lads and the Hoods."
27. "Why Tar and Feathers?," *An Phoblacht*, February 1971.
28. Munck, "The Lads and the Hoods," p. 44.
29. "Provisionals New 'Get Tough' Tactics," *Andersonstown News*, 18 July 1973, p. 2.
30. "Campaign Against Informers," *An Phoblacht*, 2 August 1974, p. 3.
31. Human Rights Watch/Helsinki, *Children in Northern Ireland* (New York: Human Rights Watch, 1992). Sinn Féin's Gerry Kelly has denied the existence of Civil Administrators tasked with informal justice in a recent edition of the Channel 4 News, broadcast 21 May 2000.
32. Andrew Silke, "The Lords of Discipline: The Methods and Motives of Paramilitary Vigilantism in Northern Ireland," *Low Intensity Conflict and Law Enforcement* 7(2) (1998).
33. In some cases paramilitaries have "punished" the wrong person after assuming that the individual they are "punishing" is the person they were seeking to beat or shoot. These instances are referred to as cases of mistaken identity.
34. "Heads Shaved," *An Phoblacht*, 26 July 1974, p. 5; and Michael Morrissey and Ken Pease, "The Black Criminal Justice System in West Belfast," *The Howard Journal* 21 (1982).
35. Morrissey and Pease, "The Black Criminal Justice System in West Belfast," p. 164.
36. "IRA investigation locates grave sites," *An Phoblacht*, 1 April 1999.
37. The "disappeared" is the term used to describe those individuals that the IRA abducted, executed, and buried from 1972 to 1981.
38. Burton, *The Politics of Legitimacy*.
39. Quoted in Human Rights Watch/Helsinki, *Children in Northern Ireland*, p. 47.
40. "Punishment Shooting," *An Phoblacht/Republican News*, 25 March 1982, p. 3.
41. Silke, "Rebel's Dilemma."
42. Bell, "Alternative Justice in Ireland."
43. A former IRA member quoted in Silke, "Rebel's Dilemma," p. 62
44. Eamon Collins, *Killing Rage* (London: Granta, 1998). Collins explains the "Nutting Squad" "are the ones who put a hood over the heads of informers before "nutting" them with a shot in the head and leaving their bodies at border crossings," p. 142.
45. In 1970 the IRA split into two factions: the Official IRA and the Provisional IRA. For a detailed account of this split and the reasons for it see M. L. R. Smith, *Fighting for Ireland* (London: Routledge, 1997). In May 1972, the Official IRA announced a cease-fire but reserved the right to act in self-defense and undertake defensive operations.
46. The Irish People's Liberation Organisation was formed as a result of a breakaway faction from the Irish National Liberation Army. A major internal feud was waged between rival groups in 1992.
47. "Drug rings smashed by IRA," *An Phoblacht/Republican News*, 5 November 1992.
48. "An alternative to punishment shootings?," *An Phoblacht/Republican News*, 26 August 1982.
49. Political parties were to commit to: democratic and exclusively peaceful means of resolving political issues; to the total disarmament of paramilitary organizations; to agree that such disarmament must be verifiable to the satisfaction of an independent commission; to renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or outcome of all-party negotiations; to agree to abide by the terms of any agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree; and, to urge that "punishment" killings and beatings stop and to take effective steps to prevent such actions.
50. Available at (<http://cain.ulst.ac.uk/cgi-bin/dyndeaths.pil>).
51. "IRA says Woman was Informer for Nearly Two Years," *An Phoblacht/Republican News*, 21 July 1994.
52. "Teenager Hurt in Beating," *News Letter*, 24 February 1999; and Suzanne Rodgers, "Boy Injured in Hammer Attack," *Belfast Telegraph*, 12 July 1999.

53. The Irish National Liberation Army was established in 1975 with the aim of reunifying Ireland and the creation of a revolutionary socialist republic. Many of its early recruits came from the Official IRA. The group has been on cease-fire since the 22 August 1998.

54. Continuity IRA emerged in 1996 after it claimed responsibility for a number of attacks and attempted attacks in Northern Ireland. The group is opposed to the Belfast Agreement and has not declared a cease-fire.

55. Tom Winston, "Alternatives to Punishment Beatings and Shootings in a Loyalist Community in Belfast," *Critical Criminology* 8(1) (1997).

56. Andrew Silke, "Ragged Justice: Loyalist Vigilantism in Northern Ireland," *Terrorism and Political Violence* 11(3) (1999).

57. David Boulton, *The UVF 1966–1973* (Dublin: Torc Books, 1973), p. 145.

58. The Ulster Volunteer Force was formed in 1966 and adopted the name of the previous UVF, which was formed in 1912 to oppose, by armed force, Home Rule in Ireland. The reformed UVF's aim is to ensure that Northern Ireland's constitutional position within the United Kingdom is secure. The group has been on cease-fire since October 1994.

59. Bell, "Alternative Justice in Ireland."

60. For more details of the project see (<http://www.busmgt.ac.uk/research/ESRC/>).

61. Interview, 27 September 1999.

62. Silke, "Ragged Justice"; Richard Sullivan, "UVF Disciplines Hoods who Helped Themselves," *Sunday World*, 10 January 1999, p. 22.

63. The UFF is a cover name used by the UDA.

64. Interview, 27 September 1999.

65. Steve Bruce, *The Red Hand* (Oxford: Oxford University Press, 1992), p. 124.

66. For the reasons behind the feud see Bruce, *The Red Hand* and Cusack and McDonald, *UVF*.

67. UDA statement phoned to the BBC Belfast, 9 April 1975 quoted in Bruce, *The Red Hand*, p. 126.

68. For more information on this current feud see Sharon O'Neill, "What are Loyalists Fighting For?," *Irish News*, 11 September 2000, p. 4; and Brian Rowan, "History of the Loyalist Feud," BBC News On-Line, available at ([http://news.bbc.co.uk/hi/english/uk/northern\\_ireland/newsid\\_892000/892131.stm](http://news.bbc.co.uk/hi/english/uk/northern_ireland/newsid_892000/892131.stm)).

69. The Housing Executive is the regional housing authority responsible for the allocation and provision of public housing in Northern Ireland.

70. Gary Kelly, "Coleraine Estate in Turmoil after Girl is Shot," *News Letter*, 30 August 2000, pp. 4–5; Chris Thornton, "Shankill on Edge for March," *Belfast Telegraph*, 2 September 2000, p. 1; and Gemma Murray, "No Room in Shankill for Refugees of Loyalist Feud," *News Letter*, 7 December 2000, p. 7.

71. W. D. Flackes and S. Elliot, *Northern Ireland: A Political Directory 1968–1988* (Belfast: Blackstaff Press, 1989), p. 7.

72. Winston, "Alternatives to Punishment Beatings and Shootings in a Loyalist Community in Belfast," p. 123.

73. Interview, 25 January 2000.

74. Ibid.

75. The Red Hand Commando is a small group formed in 1972 and is closely aligned with the UVF.

76. Some writers claim that the IRA is deeply involved in the drugs trade. See, for example, Vincent Kearney, "Hidden Agenda to IRA Hits on Drug Dealers," *Sunday Times*, 15 February 1998. Others take a more cautious view and await clear evidence of IRA involvement in drugs. See John Horgan and Max Taylor, "Playing the 'Green Card'—Financing the Provisional IRA," *Terrorism and Political Violence* 11(2) (1999), pp. 1–38.

77. Mo Mowlam, quoted in the *News Letter*, 27 August 1999, p. 5.