

House of Commons
Northern Ireland Affairs
Committee

**GOVERNMENT RESPONSE
TO THE COMMITTEE'S
FOURTH REPORT: THE
FINANCING OF TERRORISM
IN NORTHERN IRELAND**

Sixth Special Report
of Session 2001–02

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The Northern Ireland Affairs Committee

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Contacts

All correspondence should be addressed to The Clerk of the Northern Ireland Affairs Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 2172/3; the Committee's fax number is 020 7219 0580; and the Committee's e-mail address is: northircom@parliament.uk

SIXTH SPECIAL REPORT

The Northern Ireland Affairs Committee has agreed to the following Special Report:—

Government Response to the Committee's Fourth Report on The Financing of Terrorism in Northern Ireland, HC 978-I, Session 2001-2002

The Committee published its Fourth Report of Session 2001-2002 on 2nd July 2002. The response from the Secretary of State, Rt Hon Dr John Reid MP, was received in the form of a letter in October 2002, and is published as the Appendix to this Report.

APPENDIX

I am grateful for the opportunity to respond to the report of the Northern Ireland Affairs Select Committee into the financing of terrorism. I would like to take this opportunity to express my appreciation for the important work that the committee does in scrutinizing the Government's efforts to fulfil its responsibilities.

The Government is committed to bringing paramilitary violence to an end as quickly as possible. In this we have adopted a dual approach, giving the security forces the necessary support in their fight against violent and criminal behaviour, whilst also pursuing the political process, which is offering the kind of progress towards settlement that violence will never achieve.

The interrelation of paramilitary activity and organised crime has become increasingly apparent in recent years. The NIO has a remit to tackle both as part of the Government's commitment to secure a safe, just and prosperous society in Northern Ireland. It has therefore taken this opportunity to bring together the other interested agencies and authorities in order to combine our efforts in the most effective way. We are determined not to permit the legacy of terrorism to be a mafia culture of organised crime.

The Government is pleased that the Select Committee was able to hear about the important work being done by the Organised Crime Task Force. We believe that the OCTF has provided an invaluable basis for cooperative working between the relevant agencies and authorities in Northern Ireland in addressing the problem of organised crime.

(c) The Northern Ireland Organised Crime Task Force Threat Assessment 2001 highlighted:

- **money laundering;**
- **tobacco and fuel smuggling;**
- **business and social security fraud; and**
- **intellectual property theft (counterfeiting)**

as the highest priority problems for the task force to address in its first year. These are operationally complex and potentially very lucrative crimes.

The OCTF Threat Assessment for 2002 (published in May) has expanded the list of organised criminal activity upon which it shall be focussing this year. It now includes:

- Money laundering
- Drug dealing
- Extortion and racketeering

- Counterfeiting goods
- Armed robbery and hijacking
- Excise evasion and customs fraud, including oils fraud, tobacco smuggling and alcohol duty evasion.

The Task Force has also identified a number of other offences with connections to organised crime which it intends to examine more closely; these include hi-tech crime, currency counterfeiting, vehicle theft to order, illegal immigration and public sector fraud.

(d) Organised crime has been clearly demonstrated to be feeding and facilitating Northern Ireland terrorism. We applaud the fact that the Northern Ireland Office and law enforcement agencies have identified this threat and publicised it so explicitly. It is crucial that Government as a whole should recognise this link: organised crime must be rooted out of both Northern Ireland and Great Britain.

The UK law enforcement agencies are committed to the fight against organised crime throughout the country. In Northern Ireland such crime has been shown to have links to paramilitary groups, which adds a further dimension to the urgency with which the authorities are tackling it. Whether or not organised crime elsewhere in the UK has links with paramilitary and terrorist organisations, and this cannot be discounted, the Government is wholeheartedly committed to fighting this pernicious form of crime.

(e) We welcome the action taken by the US Government to identify and take action against paramilitary groups in Northern Ireland, as part of the war against terrorism. We recommend that our Government, in its continuing dialogue with the US Government, press for further such measures where funds and fund raising activity for any Northern Ireland paramilitary organisation can be identified within the United States.

The Government will continue to engage the efforts of the US Government in identifying and taking action against fundraising activity for those designated Northern Ireland terrorist groups.

(h) We hope that the overwhelmingly positive reports from participants in the Task Force will encourage both those in the Task Force itself and other agencies to consider how the benefits of this approach might be extended and shared more widely.

The Government is keen that lessons be learnt from the experience of the Organised Crime Task Force in Northern Ireland. We are conscious that this model has been especially useful in the context of Northern Ireland and at the start of this new push against organised crime. We always seek to demonstrate the benefits of this project to other law enforcement and justice agencies. However, we shall not become complacent; we shall also continue to learn from the experiences of other organisations and other jurisdictions.

(i) We are encouraged to learn of the cooperation between the Northern Ireland Executive and the Northern Ireland Office in the publicity campaign about the dangers of counterfeit goods. We hope that this success will provide the foundation for many more joint initiatives in the fight against organised crime.

Cooperation between the OCTF and the Northern Ireland Executive is organised through the Task Force's Public Sector Subgroup, which comprises officials from OFMDFM and the NIO. The OFMDFM officials are then able to raise matters with other Northern Ireland Departments through the Executive's inter-departmental group. The Government is certain that joint initiatives with the Northern Ireland Executive, like the campaign about counterfeit goods, will form an integral part of the Task Force's work.

(k) We agree with Customs & Excise that publicity campaigns can be more effective than law enforcement in certain situations, and we urge the Government to give serious consideration to the role which such campaigns might play in the future strategy for dealing with specific facets of organised crime such as fuel laundering and tobacco smuggling.

The Government is determined to use all the tools at its disposal in the fight against organised crime. This includes exploring the effectiveness of using publicity campaigns. Such campaigns can be used to highlight to the public the damage that organised crimes or specific facets of organised crime do to their society. Moreover, publicity campaigns can also be used to provide a deterrent message to those engaged in such activity by underlining the commitment of Government to tackling them and by emphasizing the sanctions and penalties.

Customs & Excise already have in place a publicity campaign as part of its national 'Tackling Tobacco Smuggling' strategy and is currently developing a publicity campaign as part of the national strategy to tackle rebated fuels fraud announced by the Chancellor in the 2002 budget.

(m) Given the importance of intelligence in countering terrorism and serious and organised crime, the inability of the NIO to access, or even locate, data on organised crime when needed is a cause for concern. There is clearly much more work to be done.

The NIO will not face the same difficulties in collecting data on organised crime for the period since the establishment of the OCTF as it has for the period before 2000. The objectives set for the OCTF in Year Two will be measured according to impact and activity indicators developed jointly by the Task Force partners. There will be consistency and clarity in the preparation of statistical evidence across the different authorities and agencies.

As your report highlighted, PSNI has established a central statistical collection point, which will provide the principal source of data for external requests. This resource will also ensure that data from different Task Force partners is comparable.

(n) We recommend that the NIO and the Task Force jointly consider the development of an information strategy.

The OCTF is supported by an Analysis and Assessment Subgroup, which includes representatives from the PSNI, HM Customs & Excise, the NIO and NCIS. The subgroup has agreed to discuss a strategic information-sharing framework for the Task Force, including data-sharing protocols for the contributory bodies. This work is on-going.

At an operational level, internal restructuring of the PSNI's crime and intelligence capability will result in the creation of a specific Serious and Organised Crime Desk within the intelligence structures. The Analysis and Assessment Subgroup has been kept informed of, and has encouraged, this development. The new structures should be fully in place in late 2002.

(o) We believe that the consistent publication of results would do much to convince the public of the value of the Task Force's work.

We agree with the Select Committee that the publication of the Task Force's results is an important part of the task ahead - it reminds people of the seriousness and invidiousness of organised crime as well as pointing out the value of the Task Force's work.

The publication of the annual Threat Assessment plays the central role in making results available. The launch of this year's Threat Assessment was well covered by the media and we aim to have the same, if not a greater, impact next year. The OCTF also publishes a quarterly newsletter called Response with an update on achievements.

We want to make sure that the public does not count the Task Force's impact solely in terms of the volume of goods seized or the number of arrests, important as these are. The impact of the Task Force also needs to be gauged in terms of the disruption of criminal gangs, the prosecution of key figures and the overall reduction in the amount of organised crime going on. This kind of impact is more clearly illustrated in news reports than in charts or tables of figures. The PSNI and HM Customs & Excise will continue to flag up successes as and when they occur and when those organisations feel it appropriate. The Task Force's own Impact Indicators include the 'number of press bulletins or interviews to inform the public about developments in the fight against organised crime'.

The OCTF website was launched on 23 September, containing all the publicly available information about the OCTF's work (www.octf.gov.uk).

(p) It is imperative that the police and other agencies engaged in tackling paramilitary or criminal activity have the resources and the support that they need. To ask them to make a choice between fighting domestic terrorism, or international terrorism, or organised and other crime which affects people directly in their daily lives is wrong.

(q) We urge HM Treasury to recognise that investing in action, not only against organised crime, but against terrorism in Northern Ireland and Great Britain, would provide a strong financial return to the Exchequer and contribute to the establishment of a more honest and stable society. We call on Government to consider sympathetically the cases presented by the police services and other law enforcement agencies concerning the resources they need to tackle such crimes.

The Government is committed to tackling organised crime in Northern Ireland as an integral part of its responsibilities within the Belfast Agreement. The NIO will dedicate the resources necessary to support the Organised Crime Task Force from within the budget available to it. At the same time, the Government is committed to ensuring the Chief Constable has all the resources he needs to deliver an effective policing service; the Chief Constable is responsible for the deployment of the resources he has according to operational need. Last year £642m was devoted to maintaining a day-to-day police service in Northern Ireland. This is on average 2 1/2 times more than anywhere else in the UK and reflects the demands associated with fighting terrorist and other crime. The Government as a whole is addressing the scourge of organised crime throughout the UK.

(r) We find the picture of support for potential witnesses presented to us by the PSNI very disappointing. The level of personal sacrifice required of the individual, as it was described to us, is unreasonable; it makes the individual and potentially his or her family victims twice over. It is not surprising that so few are currently willing to make a stand.

(s) We believe that the Government, in conjunction with the Executive where appropriate, must look again at the type and level of resources it makes available to support potential witnesses before, during, and after cases which go to trial.

The Government recognizes the difficulties faced by victims of extortion in bringing their cases to the notice of the authorities. PSNI has agreed to lead discussion within the Legal Subgroup of the OCTF (which comprises representatives from the NIO, PSNI, and HM Customs & Excise) on the application of witness protection schemes to the victims of extortion. In response to work begun by the PSNI, this group will be looking carefully at the existing provisions for the protection of victims who are prepared to inform the authorities, and will consider what improvements may be made. The work that my international adviser on Organised Crime, Prof. Ron Goldstock, has been doing on securing cross-community support will also make a contribution to this discussion.

(u) We recommend that the Government ensure that the judiciary in Northern Ireland are fully apprised of the strong links which have now been established between paramilitary organisations, serious and organised crime and the range of offences which provide these groups and individuals with their income.

The NIO was glad to have had the opportunity to make a presentation on the work of the OCTF to the Judicial Studies Board at the beginning of last year, and we were gratified by the appreciative response. Although conscious of the pressures upon this forum, we will always welcome an invitation to address the JSB again. We also believe that the high profile of the Task Force's work in the media and the publicity that it enjoys are effective means of informing the judiciary about the nature and the seriousness of the organised crime problem in Northern Ireland. It has been suggested in addition that an OCTF conference in mind for early next Summer might include a seminar specifically prepared for an audience including members of the judiciary.

In a related move, I have recently set up a Law and Order Action Group, in which I am joined by the Lord Chancellor and the Attorney General. This group will be looking at the whole range of law and order issues in Northern Ireland today, and no doubt organised crime and paramilitary funding will feature.

(v) We draw the suggestion by the PSNI of an aggravated offence in relation to extortion to the attention of the Northern Ireland Office.

(w) We believe that the raising of the maximum tariff for extortion and other crimes linked to paramilitary fundraising, combined with the greater exercise of the courts' powers in such cases, would significantly increase the deterrent effect on paramilitaries and other serious criminals. We recommend that the Government consult the law enforcement agencies about the evidence that they and others have presented to us, and explore how the relevant statutes can be most effectively updated.

The PSNI has agreed to lead discussion within the Legal Subgroup of the OCTF on legislation surrounding extortion offences, including the suggestion of an aggravated offence and the possibility of raising the tariff. If there is a clear case for updating the relevant statutes, the Government will take the lead.

(y) We are pleased that the particular nature of the problems in Northern Ireland has been recognised in the decision to appoint an Assistant Director of the Agency with responsibility for operations in Northern Ireland.

The Government welcomes the Committee's support for the requirement in the Proceeds of Crime Act for the Director of the Assets Recovery Agency to appoint an Assistant Director for Northern Ireland.

(z) There is little to be gained, and far more to lose, from proceeding with assets recovery on the limited basis indicated by the Government in Northern Ireland.

(aa) There are high expectations on the part of politicians, law enforcement agencies, the general public and (presumably) the criminals themselves, that the Assets Recovery Agency will have a significant impact on the problem of organised and serious crime. On the basis of the evidence we have heard, those expectations are unlikely to be met so far as Northern Ireland is concerned.

(bb) We call on the Government to reassess its allocation of resources to the Assets Recovery Agency in order that more resources can be allocated to Northern Ireland. We believe that it is currently under-resourced for the task required, and we further believe that the establishment of its reputation as a threat to criminality in its first few years will be crucial to its success. We therefore recommend that the Government make forward provision now in its spending plans for the substantial expansion of the Agency as its work develops.

(cc) We further recommend that in reassessing the allocation of resources to the Assets Recovery Agency, the Government directly consult the agencies represented on the Organised Crime Task Force for Northern Ireland about the level of resources they believe will be necessary for the Agency to be effective in Northern Ireland.

(ff) A distinct minimum threshold for Assets Recovery Agency activity in Northern Ireland, which reflects local circumstances, must be set so that the Agency can be effective in that particularly difficult situation. We recommend that the Assistant Director of the Agency for Northern Ireland be given the power to determine this threshold, having consulted with the local law enforcement agencies and the Northern Ireland Office.

The Government notes the Committee's view that a branch of 10 staff would be too small to have a worthwhile impact in Northern Ireland. The Government does not agree that it makes sense to draw a simple comparison between the size of the Agency's branch in Northern Ireland, serving a population of 1.7 million, and that of the Criminal Assets Bureau in Dublin (45 staff for a population of 3.8 million). A proper comparison must take account of the whole asset recovery capacity that will be available to Northern Ireland and the fact that the two bodies have different responsibilities. For example, the Agency's Northern Ireland branch will not be separate and self-contained. Rather, it will form part of the Agency as a whole and will therefore be able to draw on that support. It is also possible that some of the Agency's work on Northern Ireland cases would be handled from London, e.g. for security reasons, so the number of staff based in Northern Ireland will not necessarily be proportional to the number of cases originating there. Moreover, while the Agency will have sole use of the civil recovery and enhanced taxation powers available in the Proceeds of Crime Act, the law enforcement and prosecution agencies will continue to be major players in the use of the confiscation powers (which will be greatly enhanced when the Act comes into force).

No final decision has been taken on either the size of the Agency overall or of the Northern Ireland branch; the Government will keep the Committee's concern in mind as work on establishing the Agency progresses. The Government will ensure that the Agency, including its Northern Ireland branch, has the staff and resources that it needs in order to make the required impact. It is expected that the work programme of the Agency will include regular consultation with stakeholder organisations, including those represented on the Organised Crime Task Force for Northern Ireland (as called for by the Committee in conclusion cc).

(dd) We recommend that the Government consider the possibility of enabling certain staff seconded to the Assets Recovery Agency to maintain access to their sponsoring organisation's databases.

Under section 436 of the Act, organisations that have been designated as "permitted persons" may disclose information to the Director of the Assets Recovery Agency for him to use in the exercise of his functions. Such a disclosure must not contravene the Data Protection Act 1998 or Part 1 of the Regulation of Investigatory Powers Act 2000, but, that apart, the Act provides that such a disclosure is not to be taken to breach any restriction on the disclosure of information however imposed. The Commissioners of Inland Revenue, and of Customs and Excise, are permitted to delegate to an Inland Revenue official or to a customs officer (as appropriate) the power to authorise disclosures to the Director. The Government considers that these provisions will enable the Director to have access to all the information the Agency requires in order to perform its functions effectively.

The practical arrangements for collaboration between the Agency and its stakeholder organisations (including access to databases) will ultimately be for the Director to consider in discussion with his or her counterparts.

(ee) We welcome the establishment of the Recovered Assets Fund, which provides a means to return the proceeds of crime to the community whilst protecting the integrity of the confiscation process. We recommend that detailed consideration be given to the ways in which such projects might be publicly associated with assets recovery work in order to foster support for this new approach to tackling crime. In order to safeguard the reputation of the Fund and also its links with the assets recovery process, we also recommend that care be taken to ensure grants provided by the Fund are appropriately spent.

The Government agrees that it is important to publicise the benefits which communities are deriving from projects financed by the Fund and will continue to make every effort to do so.

The rules and conditions governing the disbursement of grant under the Fund include audit arrangements to ensure proper, efficient and effective use of public money, and arrangements for independent monitoring and evaluation of results.

(gg) We appreciate the very positive response from the Government towards our suggestion that staff of the Assets Recovery Agency should receive some form of statutory protection of their identities. We believe that staff of the Agency will be able to work far more effectively and safely because of it.

The Government welcomes the Committee's support for the pseudonym provisions in section 449 of the Proceeds of Crime Act for the Director of the Assets Recovery Agency to authorise his staff to use pseudonyms in appropriate circumstances.

I hope that our response has reassured you of the Government's commitment to tackling the combined threat of terrorism and organised crime, and that they go some way to answering the concerns of the Committee.

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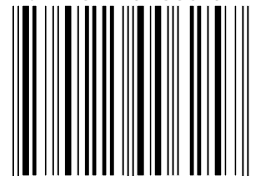
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