



House of Commons  
Northern Ireland Affairs  
Committee

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# Progress towards devolution in Northern Ireland during the 2005 Parliament

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**Seventh Report of Session 2009-10**

*Report, together with formal minutes, oral and  
written evidence*

*Ordered by the House of Commons  
to be printed 24 March 2010*

## The Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

### Current membership

Sir Patrick Cormack MP (*Conservative, South Staffordshire*) (Chairman)  
Mr David Anderson MP (*Labour, Blaydon*)  
Rosie Cooper MP (*Labour, West Lancashire*)  
Christopher Fraser MP (*Conservative, South West Norfolk*)  
Mr John Grogan MP (*Labour, Selby*)  
Mr Stephen Hepburn MP (*Labour, Jarrow*)  
Lady Hermon MP (*Independent, North Down*)  
Kate Hoey MP (*Labour, Vauxhall*)  
Dr Alasdair McDonnell MP (*SDLP, Belfast South*)  
Mr Denis Murphy MP (*Labour, Wansbeck*)  
Stephen Pound MP (*Labour, Ealing North*)  
David Simpson MP (*Democratic Unionist Party, Upper Bann*)

Lady Hermon was a member of the Ulster Unionist Party until 25 March 2010, when she became an Independent MP.

### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/niacom](http://www.parliament.uk/niacom).

### Current Committee staff

The current staff of the Committee are David Weir (Clerk), Alison Groves (Second Clerk), Emma McIntosh (Senior Committee Assistant), Becky Crew (Committee Assistant), Karen Watling (Committee Assistant), Becky Jones (Media Officer), and Mr Tes Stranger (Committee Support Assistant).

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## Summary

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Having been present in Northern Ireland at the beginning of the Hillsborough talks, we were delighted to welcome the Prime Minister's statement of Monday 8 February 2010, in which he said that the devolution of policing and justice to the Northern Ireland Executive and Assembly would take place by 12 April 2010.

We have been glad to observe the progress of devolution during the lifetime of the present Parliament. When the Committee assumed its duties in 2005, there was no functioning Northern Ireland Executive or Assembly. For two years, our remit extended across the board, and we produced a brief Report on education and a major Report on tourism, in addition to other Reports on, for example, organised crime, the Northern Ireland Prison Service, and community restorative justice.

We were pleased to welcome the establishment of the Executive and a new Assembly in 2007 and were delighted to be able to follow the development of events between then and the retirement of the First Minister, Rt Hon. and Rev. Dr Ian Paisley MLA, MP. Our Chairman represented us at the Invest Northern Ireland conference called at the end of Dr Paisley's period in office and was present throughout the following week in Northern Ireland when the Committee gave a dinner in honour of Dr Paisley and made a presentation to him.

The establishment of the Northern Ireland Executive saw our remit significantly reduced and most of our work since then has been concerned with policing and justice and with cross-border issues, although we also produced a major report on Television Broadcasting in Northern Ireland in January 2010.

We conclude by welcoming the culmination of the devolution process with the Hillsborough Castle Agreement, and we are delighted that this has taken place during the lifetime of this Parliament and of this Committee. Northern Ireland will continue to need help, encouragement and support from Westminster but in the next Parliament, this will be provided in a wholly different context, a context in which a completely devolved Administration will put the Northern Ireland Assembly on much the same footing as the Scottish Parliament and with legislative powers not yet enjoyed by the Welsh Assembly.



# 1 Devolution in Northern Ireland

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1. The Northern Ireland Assembly was elected in July 1998 as a consequence of the Belfast Agreement made on 10 April (Good Friday) of that year and endorsed in a referendum in Northern Ireland on 22 May.<sup>1</sup> The Northern Ireland Act 1998 transferred from Westminster to the Assembly legislative and executive authority for a substantial range of public policy matters. The Northern Ireland Executive was headed jointly by a First Minister and a deputy First Minister, and comprised 10 departments (dealing with finance, health, employment, education, trade, culture, agriculture, environment and regional and social development).

2. Devolution was, for the third time, suspended on 14 October 2002 under the terms of the Northern Ireland Act 2000. In spite of a number of attempts to restore it, devolution was not fully reinstated until 8 May 2007 after the Assembly elections of 7 March 2007. Under the St Andrew's Agreement of 2006, it was hoped that with the restoration of a devolved Assembly policing and justice matters would have been devolved by May 2008, those powers being the major area remaining under the direct administration of the United Kingdom Government. That deadline proved to be unrealistic.

3. In November 2008, the First Minister, Rt Hon. Peter Robinson MP, and the deputy First Minister, Mr Martin McGuinness MP, announced an agreement that would facilitate the devolution of policing and justice powers to Northern Ireland. After further rounds of discussions and consideration in the Assembly, the Department of Justice Bill completed its progress through the Northern Ireland Assembly on 30 November 2009. It allowed the establishment of a Department of Justice to oversee policing and justice in Northern Ireland, and it set out the arrangements for the appointment of a Minister to head that department. Progress towards implementation was slow and at the end of January 2010, the Prime Minister of the United Kingdom and the Taoiseach of the Republic of Ireland met for discussions at No. 10 Downing Street. There followed 10 days of intensive talks at Hillsborough Castle, Belfast, in which were involved the Prime Minister, the Taoiseach, the Secretary of State for Northern Ireland, the Republic's Minister for Foreign Affairs, and representatives of Northern Ireland's political parties, especially the Democratic Unionist Party and Sinn Fein. These talks resulted in the Hillsborough Castle Agreement of 5 February 2010, which set out a timetable for the devolution of policing and justice powers. It is anticipated that that devolution will occur by 12 April 2010.

4. We were ourselves present in Northern Ireland during the early days of those intensive talks, gathering the evidence which informs those parts of this Report that deal with how agencies involved in the administration of policing and justice in Northern Ireland will deal with the new challenges posed by stronger local accountability and a local Justice Ministry. We heard repeatedly that Northern Ireland is ready to take this substantial step towards running its own affairs autonomously within the United Kingdom and to attaining broadly the same level of devolution which the Scottish Parliament has enjoyed since its establishment in 1999. **We are delighted to welcome the Prime Minister's**

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<sup>1</sup> The agreement was also endorsed in a referendum in the Republic of Ireland.

**statement of Monday 8 February 2010, in which he anticipated the devolution of policing and justice to Northern Ireland by 12 April.**

5. Our purpose in this Report is twofold: to consider the implications of devolution for those concerned with delivering an independent, fair and just criminal justice and policing system within Northern Ireland; and to reflect upon the work that we ourselves have done during this Parliament and on the challenges that may face any successor Committee following both the final major stage of devolution and the forthcoming general election.

## 2 Crime and punishment

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### The devolution of policing and justice

6. Policing and justice matters were not among those initially devolved to the new Northern Ireland Assembly in 1998, but the question of whether and when they should be was raised from the beginning. The Belfast (Good Friday) Agreement noted that the British Government was ready in principle to devolve responsibility for policing and justice.<sup>2</sup> The Report of the Independent Commission on Policing for Northern Ireland (universally known as the Patten report, after its chairman) recommended a year later that “that responsibility for policing be devolved to the Northern Ireland Executive as soon as possible, except for matters of national security”.<sup>3</sup> The St Andrew’s Agreement of 2006, instrumental in re-establishing the Assembly after its suspension in 2002, noted that substantial progress towards devolution of policing and justice had been made, and set an indicative deadline for devolution:

It is our view that implementation of the agreement published today should be sufficient to build the community confidence necessary for the Assembly to request the devolution of criminal justice and policing from the British Government by May 2008.<sup>4</sup>

As noted above, however, it was not until February this year that a firm timetable for devolution from 12 April 2010 was set.

### The need for patience

7. Representatives of several of the agencies involved in delivering policing and justice in Northern Ireland have told us of the patience required by the need to wait for devolution to be finalised. Mr Barry Gilligan, Chairman of the NI Policing Board, compared preparing for the switch to *Groundhog Day*—“we were ready for it 12 months ago and we were ready for it two years ago”.<sup>5</sup> Mr David Lavery, Director of the Northern Ireland Court Service, chose the somewhat older metaphor of the Grand Old Duke of York: “We have been marched up and down this hill again quite a few times, Chairman. I have been in post for just over eight years, and when Sir Hayden Phillips [then Permanent Secretary to the Department for Constitutional Affairs] interviewed me for the post, he said the first challenge was to be ready for devolution of policing and justice, and I have been getting ready ever since”.<sup>6</sup> Mr Al Hutchinson, the Police Ombudsman, spoke of the benefits of rapid and flexible response when a new Justice Minister takes up the new post at Stormont: “I think certainly a local Justice Minister [...] would be beneficial for public confidence in

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2 Belfast Agreement, 10 April 1998, section 9, paragraph 7.

3 Independent Commission on Policing in Northern Ireland, *A New Beginning: Policing in Northern Ireland*, September 1999, para 6.15 and recommendation 20.

4 Agreement at St Andrews, 2006, para 7.

5 Q 11

6 Q 76

our office [...] The current impasse, I believe, has caused somewhat of an institutional vacuum”.<sup>7</sup>

**8. The long process towards the devolution of policing and justice has required immense reserves of patience from all concerned, as the comments made to us by representatives of several of the agencies involved in those matters display. Yet the virtues of patience will be best rewarded by the successful transfer of those powers, with cross-community support, for the benefit of all the people of Northern Ireland.**

## Policing

### *Accountability and independence*

9. The central principle that must stand when policing matters are devolved from Westminster to Stormont is that the Police Service of Northern Ireland and its Chief Constable remain operationally independent. This point was stressed to us by Mr Barry Gilligan, Chairman of the Policing Board, and by the PSNI Chief Constable, Mr Matt Baggott CBE. The distinction between accountability to the Board and the operational independence of the Chief Constable is perhaps best summed up by example: Mr Gilligan offered the case of the use of Taser equipment in Northern Ireland.<sup>8</sup> The Board does not unanimously support the Chief Constable’s actions in that respect, but the operational decision lies with the Chief Constable.<sup>9</sup>

10. Mr Gilligan noted that the Chief Constable would be operationally accountable to the Policing Board rather than the new Justice Minister and Department, and that “the Chief Constable’s operational responsibility should not in any way be undermined when policing and justice powers are devolved”.<sup>10</sup> Mr Baggott also drew a clear distinction between accountability and the need for operational independence. He stated that “the accountability of the police is too important to be left to the police”, but stressed the “need to maintain and defend the operational independence of the Chief Constable to make decisions based on harm and need”.<sup>11</sup> The Secretary of State for Northern Ireland, Rt Hon. Shaun Woodward MP, told us unambiguously that the operational independence of the PSNI was “not up for grabs”, and that there would be no change in that regard.<sup>12</sup>

**11. We are pleased by the unambiguous indications from the Northern Ireland Policing Board, the Chief Constable of the Police Service of Northern Ireland and the Secretary of State for Northern Ireland that a clear distinction will continue to be drawn between the need to make the police fully accountable and the requirement that the Chief Constable be fully operationally independent.**

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7 Q 7

8 A taser (trademarked) is a weapon used by police and security forces. It emits an electrical current, which on contact with a person causes them to be temporarily incapacitated

9 Q 19

10 QQ 3 and 4

11 Qq 114 and 119

12 Oral evidence, 3 March 2010, Q 10; and see HC Deb, 24 March 2010, col. 231

12. The Policing Board agrees an annual policing plan in consultation with the Chief Constable, and this plan is the principal tool used by the Board to hold the PSNI to account. It contains objectives agreed by the PSNI and Board, against which the PSNI is measured. The Board is also responsible, subject to the approval of the Secretary of State, for the appointment of senior police officers, including the Chief Constable, as with the appointment of Mr Baggott in September 2009, formerly the Chief Constable of Leicestershire.

13. In December 2009, the Policing Board published statistics suggesting that the percentage of people who have confidence in the PSNI's ability to provide an ordinary day-to-day policing service for all the people of Northern Ireland had dropped to 80% from 87% in April. However, 71% of respondents were very/fairly satisfied that the police treated members of the public fairly in Northern Ireland as a whole.

14. The Police Ombudsman for Northern Ireland deals with complaints against serving officers, and with the investigation of historical events involving alleged misconduct by the police. Mr Al Hutchinson, the Ombudsman, told us that his office is currently dealing with 101 cases involving complaints against police actions.<sup>13</sup> Around 20 cases are referred each year to the Public Prosecution Service for Northern Ireland, and about 11 result in prosecution.<sup>14</sup> About four in 10 cases relate to alleged failure of duty, with a further four in 10 about alleged incivility or oppressive behaviour.

15. Mr Hutchinson noted concern that the number of complaints had risen significantly last year, but suggested that this might have resulted from growing public engagement with the police that may be encouraging more people to make complaints in the expectation that they will be dealt with.<sup>15</sup> Mr Baggott found something similarly positive to say about rising recorded crime levels—"less than half of the people here [in Northern Ireland] report crime in the first place [...] if that means we have to record more crime we should embrace that".<sup>16</sup> Mr Gilligan also cited greater expectation of the police service as a reason why crime might seem to be rising and satisfaction with the PSNI falling. He said: "People who traditionally would not have involved the police now accept the PSNI as the Police Service dealing with crime issues in Northern Ireland, whereas in the past they may not have. Public expectation in policing, I have found, is on the increase, so that, in a sense, might translate into a higher level of dissatisfaction because more people are more critical of the Police Service they expect".<sup>17</sup>

16. It may be a perverse effect of growing public engagement with the police that more crimes are being reported and more complaints being made: if sections of the community who previously expected little action in either respect are genuinely engaging more fully with the police, then, in spite of the negative impact on headline figures, this is a positive sign. **It is not for us to make recommendations to the new Justice Department in Northern Ireland, but we offer the suggestion that some research on whether increased**

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13 Q 8

14 Q 51

15 Q 48

16 Q 110

17 Q 32

**engagement is indeed an underlying factor in the apparent rise of recorded crime and complaint might prove a useful counterbalance to the negative impression given by the headline figures on both.**

## Challenges for the PSNI

17. Mr Baggott succeeded Sir Hugh Orde OBE as Chief Constable of the PSNI in September 2009. He comes with a reputation for promoting community policing, and gave us a list of priorities matching those in the Policing Board’s policing plan for the coming year: tackling “serious harm, personal policing, the really consistent relationship-building policing that people yearn for and have a hunger for, and [...] the things that matter for the vast majority in their daily lives, such as alcohol abuse antisocial behaviour, road safety”.<sup>18</sup> About 600 officers who have been working in largely administrative roles are also to be returned to policing the streets.<sup>19</sup>

18. This focus on what the rest of the United Kingdom would regard as “normal” policing is to be welcomed. Mr Baggott made it clear, however, that he is fully seized of the unique challenge facing him in his new role: “I do believe that confidence in policing is very much affected by the overall atmosphere. If I had been a resident here during the last year and seen a series of outrages and murders then I think I probably would be starting to feel pretty uncertain”.<sup>20</sup>

## Dissident activity

19. Principal among those challenges remains the dissident republican terrorist threat. Dissident activity has remained at a high level over the past three years. Mr Drew Harris, the PSNI’s Assistant Chief Constable for Crime Operations, told us that there were 22 serious dissident republican terrorist incidents in 2009, compared with 15 in 2008.<sup>21</sup> The Secretary of State for Northern Ireland, Rt Hon. Shaun Woodward MP, told us there had been seven such incidents in the first eight weeks of 2010, implying that the threat continues to grow.<sup>22</sup> He also said that the number of those involved in dissident activity was believed to be rising.

20. Approximately half of Mr Harris’s budget is spent on dealing with the national security threat posed by remaining dissident republican groups.<sup>23</sup> The Independent Monitoring Commission in its November 2009 report also noted that the “Continuity” and “Real” IRAs remain “extremely active and dangerous”, and that both had “engaged in a high level of violence, often with the intention of murdering members of the security forces and placing the lives of members of the general public at risk”.<sup>24</sup> It also reported, however, that the devolution of policing and justice powers would assist in defeating the remaining

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18 Q 110

19 Q 134

20 Q 134

21 Q 114

22 Oral evidence, 3 March 2010, Q 1

23 Q 116

24 Independent Monitoring Commission, 22<sup>nd</sup> Report, November 2009, pp 4-5.

dissident movements.<sup>25</sup> Mr Woodward told us that an additional £30 million had been provided this year to help cope with the dissident republican threat, and that upwards of £40 million extra would be available next year.<sup>26</sup>

21. In March 2009, dissident republicans murdered two British soldiers, Sappers Patrick Azimkar and Mark Quinsey, at Massereene Barracks. Two days later in another dissident attack, a PSNI officer, PC Stephen Carroll, was lured to his death. There were a number of other incidents early in 2009, including an attempt to detonate a bomb of Omagh proportions on the border. Since then, there have been several more high-profile incidents including:

- the explosion of a 500lb bomb at Newry courthouse in February 2010.
- Constable Páadar Heffron was seriously injured when a bomb exploded beneath his car in County Antrim on 7 January 2010.
- Mr Steve Rodford, recently appointed governor of Maghaberry Prison, resigned and returned to England after details of his home address were found in the cell of a dissident republican prisoner in December 2009.
- A 400lb bomb was placed outside the Policing Board's Belfast HQ in November 2009.
- Four men were arrested after a gun attack on police officers in County Fermanagh in November 2009.
- A police officer's partner was injured in a car bomb explosion in East Belfast in October 2009.
- Mr Justice Treacey was forced to move out of his Belfast home after Army experts conducted a controlled explosion on a pipe bomb in September 2009.

**22. We wish Mr Matt Baggott every success as he reaches the end of his first six months as Chief Constable of the Police Service of Northern Ireland. We note with approval his desire to concentrate on the 'ordinary' crimes that 'really matter to people'. We note, too, however, that the dissident terrorist threat has been on a rising pattern for at least the past year and that continuing to deal with that threat must remain the major priority of the PSNI.**

### **Decommissioning**

23. There has been more positive news on decommissioning, particularly with the announcement by the Ulster Defence Association (UDA) in January 2010 that it had put all its weapons beyond use. This was later confirmed by General John de Chastelain of the Independent International Commission on Decommissioning, and was observed by Rt Hon. the Lord Eames of Armagh OM and Sir George Quigley. This followed decommissioning acts by other loyalist groups— the Ulster Volunteer Force and Red Hand

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25 Independent Monitoring Commission, 22<sup>nd</sup> Report, November 2009, para 5.1

26 Oral evidence, 3 March 2010, Q 1

Commando—in September 2009. The Secretary of State for Northern Ireland had set a final deadline of February 2010 for an amnesty for acts of decommissioning, and this seems to have proved effective. Assistant Chief Constable Harris told us in January 2010 that some loyalist splinter groups remained active but small in scale—the South East Antrim UDA and the Orange Volunteers, for example.<sup>27</sup> It was, he said, difficult to estimate how many weapons remain in circulation: “What has to happen next is that those organisations, in effect, decommission themselves and start to collapse down their own structures and organisations”.<sup>28</sup>

**24. We commend the Government on setting and keeping to a final deadline, of February 2010, for an amnesty for the decommissioning of weapons, and we acknowledge the success achieved in putting beyond use the weapons held by a substantial number of groupings. No such programme can remove every illicit weapon from Northern Ireland, but the careful and patient work of the IICD, the NIO and the Secretary of State and Minister of State in this respect are gratefully acknowledged.**

## Justice

25. The devolution of justice from Westminster to Stormont will also mean new accountability and organisational arrangements for the major agencies involved in delivery in that field, principally the Northern Ireland Court Service, the Public Prosecution Service and the Criminal Justice Inspectorate. As Mr David Lavery, Director of the Court Service, noted, some of the constitutional and organisational change might seem fairly abstract to “someone working in the Ballymena court office”, and most of the changes occurring would be best achieved if his hope is met that no-one will notice much, if any, difference in the immediate delivery of front-line services.<sup>29</sup> None the less, new structures will take some time to settle, and the presence of a new and local Minister and Justice Department may sharpen the focus on solving existing problems—perhaps most noticeably the persistence of delay in delivering justice in Northern Ireland, identified by both the Acting Director of Public Prosecutions, Mr Jim Scholes, and the Criminal Justice Inspection Chief Inspector, Dr Michael Maguire, as among the most significant issues in a new Justice Minister’s in-tray.<sup>30</sup>

## The Court Service

26. The Court Service is at present a separate civil service, responsible to the Lord Chancellor, who is in turn responsible for, among much else, judicial appointments, legal aid and the smooth running of criminal justice in Northern Ireland. On devolution, it will become directly responsible to the new Minister of Justice in Northern Ireland.

27. The Justice (Northern Ireland) Act 2002, supplemented by the Northern Ireland Act 2009, provides for the Commission to appoint certain judicial office holders. Previously, it had been anticipated that that responsibility would fall to the First Minister and deputy

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27 Q 116

28 Q 116 and 118

29 QQ 72 and 77

30 QQ 81 and 83

First Minister when policing and justice powers were devolved. It is also expected that a concordat on judicial independence will be drawn up between the Government and the Northern Ireland Executive once policing and justice are devolved. Until now, too, the Lord Chancellor has had certain powers and responsibilities in relation to removing a member of the judiciary from office. Those responsibilities will pass to the Lord Chief Justice of Northern Ireland (currently Sir Declan Morgan), and not to the First Minister and deputy First Minister.

### **The Public Prosecution Service**

28. The Public Prosecution Service for Northern Ireland is headed by the Director of Public Prosecutions for Northern Ireland. The Director assumes responsibility for all criminal cases, and the service handles about 70,000 cases a year. Funding is presently provided by the Secretary of State for Northern Ireland, and the Director is responsible for ensuring that public money provided is used efficiently. All members of staff are Northern Ireland civil servants. The Northern Ireland Act 2009 set out the independent role of the Director of Public Prosecutions in Northern Ireland by making him a “corporation sole”.<sup>31</sup>

29. The independence of the office will remain, but the service will face new accountability arrangements. Mr Scholes, the Acting Director of Public Prosecutions, said that the DPP “is not accountable in the sense that he can be told what prosecutorial policy should be. He is accountable in the sense that it is clearly in the interests of the Prosecution Service to explain, particularly to the Justice Committee and the people of Northern Ireland, what our policy is and why we have arrived at that policy”.<sup>32</sup>

30. Mr Scholes told us that the principal administrative issues for the service will lie in developing new relationships with the Attorney General for Northern Ireland and the Advocate General, a new post. The service will also obtain several new duties, including the power to refer unduly lenient sentences to the Court of Appeal.<sup>33</sup>

### **Representation**

31. The Lord Chancellor’s functions in relation to judicial appointments are the subject of specific post-devolution provision in the Northern Ireland Act 2009, which confers an enhanced role on the Northern Ireland Judicial Appointments Commission, established in 2005 as an independent public body to select and recommend candidates for judicial office. The Rt Hon. Paul Goggins MP, Minister of State for Northern Ireland, told the House of Commons on 10 November 2008 that the Commission was to make appointments solely on merit, but that it was also to engage in a programme of action to ensure that, as far as was practicable, those who held judicial office were “reflective of the community in Northern Ireland”.<sup>34</sup> Among other things, the Commission was expected to appoint more women to judicial roles. Mr Lavery, Director of the NI Court Service, said the fact that there are no women judges in the higher reaches of the NI service remained disappointing,

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31 This status allows him to do anything calculated to facilitate the exercise of his functions, other than borrow money.

32 Q 106

33 Q 79

34 HC Deb, 10 November 2008.

and he accepted that the “glass ceiling, if it is one, seems to have been hard to penetrate at High Court level and above”.<sup>35</sup> The table below, supplied by the NI Court Service, gives the figures for the number of female, and by implication male, judges in Northern Ireland.

Judicial Post	No. in Post	No. of Women	% of Women
Lord Chief Justice	1	0	0
Lord Justice of Appeal	3	0	0
High Court (currently 9 in post)	10	0	0
High Court Masters	7	2	29%
County Court Judges	17	5	29%
District Judges (Magistrates’ Courts)	21	5	24%
District Judges (County Court)	4	2	50%
Social Security & Child Support Commissioners	2	0	0
Coroners	4	2	50%
<b>Totals</b>	<b>69</b>	<b>16</b>	<b>23%</b>

### *The cost of justice*

32. The Lord Chancellor has a range of responsibilities in relation to publicly funded legal services, including sponsorship of the Northern Ireland Legal Services Commission, which administers the legal aid system. Additional legal aid funding is being made available in Northern Ireland once policing and justice are devolved as part of the additional package of funding agreed by the Prime Minister, Rt Hon. Gordon Brown MP.

33. Mr Lavery told us that there had been “almost exponential growth” in the cost of some parts of the legal aid system in Northern Ireland, but without any increase in the number of cases dealt with.<sup>36</sup> He cited the fact that senior counsel—QCs—appear more frequently in Northern Ireland than in England and Wales as one factor, and said that the process by which legal aid funding for senior counsel is granted was being examined. “At the moment that decision is made at the magistrates’ court level when the case is just on its way through to the Crown Court. We think that that decision would be made on a more informed basis,

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35 Q 87

36 Q 91

perhaps, by a Crown Court judge once that judge is in a position to see, for example, whether the Public Prosecution Service is minded to have a QC prosecute the case”.<sup>37</sup>

34. In any event, the legal budget for Northern Ireland is £65 million this year, but Mr Lavery expects the bill to be about £102 million.<sup>38</sup> The Prime Minister’s settlement provided a contingency fund of up to £39 million for this year and next, implying that most of it will be used this year, leaving little for any overspending next year. Mr Lavery also anticipates budgets of £85 million “for the next few years”.

35. Mr Lavery offered two options by which this cost might be reduced in the coming years: greater adoption of standard fees, rather than appearance fees, for lawyers in criminal cases, and greater emphasis on contributions from defendants, particularly those who, while legal aided, are revealed, during their trials, to have the necessary means to pay.<sup>39</sup> **Finding a means to reduce the heavy burden of and substantial overspending carried out by Northern Ireland’s legal aid system will be among the first challenges to face the new Northern Ireland Minister of Justice.**

## Prisons and probation

36. Responsibility for both the Prison Service and the Probation Board of Northern Ireland will also transfer from the Northern Ireland Office to the Department for Justice in Northern Ireland should devolution proceed on 12 April. Both organisations told us that they are administratively ready for the change: like their colleagues in the other organisations surveyed above, they have been making preparations for many years. Mr Robin Masefield, Director of the Northern Ireland Prison Service, said that greater local scrutiny and accountability “can only be beneficial”, while Mr Ronnie Spence, Chairman of the Probation Board Northern Ireland hoped for “the possibility that a local Assembly may want to address some needs in relation to offenders and re-offending in a way which is more distinctive to the needs of Northern Ireland”.<sup>40</sup>

### Prisons

37. Northern Ireland’s prison estate currently has places for 1,775 prisoners in three prisons. There are presently around 1,500 prisoners in Northern Ireland. On current expectations, prisoner numbers are not expected to exceed an average of 1,635 by April this year, but were expected to rise towards an average of 1,738 by April 2012, a figure which would put the current estate under considerable pressure. In fact, at present, prisoner numbers are 7% down on last year’s figures, suggesting that that pressure may, at least in the short term, be deferred.<sup>41</sup>

38. HMP Maghaberry (capacity: 800), near Belfast, is the high-security prison housing adult male, long-term and remand prisoners, and there are currently plans to extend it by

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37 Q 91

38 Q 92

39 Q 98

40 QQ 150 and 151

41 Q 171

120 places, the contract for which was due to be let by the end of last year. HMP Magilligan (capacity: 560), near Londonderry/Derry, is a medium-security prison, housing shorter-term male prisoners, and a programme to develop that site further is also under way. Hydebank Wood (capacity: 325), on the outskirts of Belfast, is a medium to low-security site which accommodates male remand and sentenced young offenders (aged 16 to 21) and all Northern Ireland's female prisoners.

39. Among the difficulties unique to Northern Ireland is the high number of prisoners on remand rather than in prison because they have been convicted: 33% of the NI prison population is on remand, compared with about 17% of the prison populations in England and in Scotland.<sup>42</sup> This, in fact, was a difficulty we identified during our inquiry into 2007-08 into Prisons in Northern Ireland, when we recommended reducing this proportion as a matter of priority.<sup>43</sup> The Government in its response to our Report said that reducing remand delays was “a high priority”, and so it is disappointing that the proportion of prisoners on remand remains so very high. **The need to reduce the proportion of prisoners on remand in Northern Ireland's prisons, and by extension the delays within the criminal justice system that are often responsible for keeping them there longer than is desirable (a matter highlighted in our report on the Northern Ireland Prison Service), must be among the high-priority matters to be dealt with by the new Justice Minister after devolution of policing and justice.**<sup>44</sup>

40. The Prison Service continues to face other significant challenges, perhaps most notably the need to upgrade and improve facilities, particularly at Magilligan where 300 prisoners still housed in traditional H-blocks continue to ‘slop out’ daily, a situation described by Mr Masefield as “fundamentally unacceptable and inhumane”.<sup>45</sup> None the less, there have been substantial improvements in accommodation since we visited the prison estate during our 2007-08 inquiry: plans are under way for extensions of accommodation at Magilligan and Maghaberry, in line with the recommendations we made; and the implementation of a new strategy on dealing with women prisoners has been widely welcomed, again in line with what we recommended in 2007-08.<sup>46</sup>

41. **It is to be hoped that a more local focus on the needs of the Northern Ireland Prison Service will speed the pace of much and long-needed improvement to the prison estate, particularly at Magilligan and Maghaberry. We acknowledge that significant steps have been taken since we reported in 2007-08 on the Prison Service, particularly in the areas of women prisoners and young offenders. None the less, much remains to be done, particularly in relation to the high proportion of prisoners on remand and those who have mental health issues and personality disorders. This, too, will be among the major issues facing a new Justice Minister on arrival in office.**

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42 Q 171

43 Northern Ireland Affairs Committee, *The Northern Ireland Prison Service*, First Report of Session 2007-08, HC 118-I, para 189.

44 Northern Ireland Affairs Committee, *The Northern Ireland Prison Service*, First Report of Session 2007-08, HC 118-I

45 Q 178

46 See NIPS supplementary memorandum

## **Probation**

42. The Probation Board for Northern Ireland has an annual budget of around £15 million and employs 350 staff. It funds organisations that provide hostels for offenders and community organisations, and it runs and funds a variety of community-based projects. In the last full year for which figures are available, the Board provided 5,672 pre-sentence reports and 219 specific sentence reports to aid the courts in determining sentences. Some 3,096 probation supervised orders were made by courts, and 72 offenders continued to be supervised voluntarily following the end of their sentences. Most offenders subject to Probation Board supervision are male (91%), and more than two thirds are aged between 18 and 34. Mr Brian McCaughey, the Board's Director, told us the Board was supervising about 4,400 orders in Northern Ireland in January 2010, covering about 4,200 people, some 800 of whom were in prison and soon to be released.<sup>47</sup> Four individuals were being electronically supervised by the Board, with about another 100 on bail being electronically monitored by the PSNI or the courts.<sup>48</sup>

43. The overall reconviction rate in Northern Ireland in the year to the end of April 2008 was 31 per cent, allowing the Probation Board to report in its annual report that nearly 7 in 10 people did not reoffend. In addition, among those sentenced to community service rather than custody, the reconviction rate within two years was 25 per cent, meaning 3 in 4 did not reoffend in that period. The Board believes this demonstrates the value and impact of its supervision work within the community.

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47 Q 175

48 Q 184

## 3 Northern Ireland Affairs

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### **The future of the Northern Ireland Affairs Committee and the NIO**

44. The transfer of policing and justice matters to the Northern Ireland Assembly and Executive has substantial implications for the future of the Northern Ireland Office and for any future Northern Ireland Affairs Committee. Our role, set out in Standing Order No. 152 of the House of Commons, is to “examine the expenditure, administration and policy of the Northern Ireland Office”. We may also consider the administration and expenditure of the Crown Solicitor’s Office and other matters within the responsibilities of the Secretary of State for Northern Ireland.

45. The NIO currently has responsibility for Northern Ireland’s constitutional and security issues, particularly, law and order, political affairs, policing and criminal justice. Of those, only “political affairs” would remain after devolution, providing a secretariat for the Secretary of State and dealing with reserved matters including elections and human rights. The NIO is also responsible for matters relating to the licensing of and legislation concerning firearms and explosives.

46. The NIO has a number of agencies; the Northern Ireland Prison Service, the Compensation Agency for Northern Ireland, Forensic Science Northern Ireland, on which we have recently reported, and Youth Justice Agency, all of which will be devolved. It also funds two legal offices—the Crown Solicitor’s Office and the Public Prosecution Service. The latter will be devolved to Stormont with policing and justice; the former remains the responsibility of the Northern Ireland Office.

47. In short, the devolution of policing and justice, which we fully welcome, will leave any future Northern Ireland Affairs Committee with a substantially reduced remit.

### ***The work of this Committee***

48. None the less, as our work over the past five years has shown, a Westminster Committee has a unique perspective on policy and administration within Northern Ireland and has a role to play in identifying areas of concern. Indeed, any successor Committee would, we trust, wish to follow up the work that we have recently published in our reports on the Omagh Bombing and Television Broadcasting. Any future legislation to introduce a Bill of Rights for Northern Ireland will be a matter for Westminster, and we have published evidence that we received on that matter for the assistance of any future Committee. The Government has yet to decide which, if any, of the recommendations made by the Consultative Group on the Past (co-chaired by Lord Eames and Mr Denis Bradley) will be adopted, and their response to that will provide considerable fruit for further thought. In addition, the expected publication in the near future of Lord Saville’s report into the events of Sunday 30 January 1972 (Bloody Sunday) is likely to raise significant political issues for the Northern Ireland Office and its Secretary of State.

49. We believe that a continuing UK-wide perspective on the work done by the Assembly and the Executive at Stormont would be both useful and desirable. In particular, a future Northern Ireland Affairs Committee should be charged with overseeing not just the work

of the Northern Ireland Office as it remains, but with taking a strategic view of how devolution is operating within Northern Ireland, at least in its early years. To that end, **we recommend that the House of Commons Standing Order which sets out the remit of departmental Select Committees at Westminster, should be amended to include within the remit of the Northern Ireland Affairs Committee the maintenance of relations with the Northern Ireland Assembly and strategic oversight of the devolution settlement in Northern Ireland.**

### *Our inquiries*

50. We have, over the course of the past five years, published 10 major Reports on matters including organised crime, the cost of policing the past, community restorative justice and the Prison Service and Forensic Science Service. Beyond the field of policing and justice, we have considered tourism (before it became a devolved matter) and television broadcasting. We have examined the relationship between the Governments of the United Kingdom and the Republic of Ireland in the fields of policing and justice. We have considered the recommendations made by Lord Eames and Mr Bradley on how Northern Ireland may deal with the legacy of its past.

51. We have above noted some of the advances made following recommendations made in our Report on Prisons. As we approach the end of the Parliament, it is as yet too soon to report progress on our more recent work on, the Consultative Group on the Past and Television Broadcasting. Follow up on the work we did on tourism and education now properly belongs with the relevant Committees of the Northern Ireland Assembly.

### *The Omagh bombing*

52. Most importantly of all, we have identified questions that remain unanswered surrounding the bombing of Omagh in August 1998, an atrocity committed by the Real IRA which left 29 people and two unborn babies dead, and which was the worst mass murder committed in the history of Northern Ireland. In that Report, we referred to our one significant disagreement with and disappointment at the conduct of Her Majesty's Government: we made plain, yet again, our concern at the refusal of the Prime Minister to grant permission for our Chairman to have an opportunity to read the whole report produced by the Intelligence Services Commissioner, the Rt Hon. Sir Peter Gibson, on his review of intercepted intelligence in relation to the bombing.<sup>49</sup>

### *Community Restorative Justice*

53. The Committee conducted an inquiry in 2006-07 into community-based restorative justice schemes, reporting in January 2007 and making more than 20 recommendations.<sup>50</sup>

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49 Northern Ireland Affairs Committee, *The Omagh bombing: some remaining questions*, Fourth Report of Session 2009-10, HC 374.

50 Northern Ireland Affairs Committee, *Draft Protocol for Community-based Restorative Justice Schemes*, First Report of Session 2006-07, HC 87.

We were glad to hear from the new Chief Constable that he sees a continuing role for restorative justice after devolution has been completed.<sup>51</sup>

### *Forensic Science Service*

54. In February 2010, the Committee published its Report on Forensic Science Northern Ireland, in which we drew attention to the excellence of the work done by that service but also to the imperative need for it to be rehoused in satisfactory premises at the earliest possible date.<sup>52</sup>

### *Cross-border co-operation*

55. In the field of cross-border co-operation, however, we are happy to note some significant progress in one area in particular. We recommended that reciprocal legislation, passed in the 1970s, allowing certain largely terrorist-related offences committed in the UK to be tried in the Republic of Ireland and vice versa, should be extended to cover new offences, such as rape, money-laundering and human trafficking (the latter perceived, as Assistant Chief Constable Harris told us, as a growing problem across the island of Ireland).<sup>53</sup> Both the UK and the Republic of Ireland Governments have responded positively to our suggestion, and discussions are under way on how new offences might be covered by extensions to the existing legislation or by new legislation.

### *Organised crime in Northern Ireland*

56. In the area of organised crime, too, we may report some progress during the course of the 2005 Parliament. We reported on organised crime in Northern Ireland in July 2006. We are grateful to the Northern Ireland Audit Office (NIAO) for undertaking a study of progress made since then in the areas on which we made recommendations and for reporting it to us in a private briefing in March 2010. The NIAO's memorandum, jointly prepared with the National Audit Office, is attached to this Report (see Ev. 48), and it has published a detailed note of progress made and the conclusions that they have drawn from it.<sup>54</sup> That note, containing some 50 recommendations on action, has been submitted to the Public Accounts Committee (PAC) at the Northern Ireland Assembly by the Comptroller and Auditor General for Northern Ireland, and we should expect our successor Committee in the next Parliament to monitor the outcome of the PAC's consideration.

57. The Organised Crime Task Force (OCTF), established in 2000 and restructured in 2005, is currently comprised of representatives from the NIO, the National Criminal Intelligence Service (NCIS), the PSNI, the Serious Organised Crime Agency (SOCA), HM Revenue and Customs (HMRC), the Home Office, the Northern Ireland Policing Board,

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51 Q 121

52 Northern Ireland Affairs Committee, *Forensic Science Northern Ireland*, Fifth Report of Session 2009-10, HC 314.

53 Northern Ireland Affairs Committee, *Cross-border co-operation between the Governments of the United Kingdom and the Republic of Ireland*, Second Report of Session 2008-09, HC 1031, para ; and Qq 124-27

54 Northern Ireland Audit Office, *Detailed Note accompanying the memorandum to the Committee of Public Accounts from the Comptroller and Auditor General for Northern Ireland: Organised Crime: developments since the Northern Ireland Affairs Committee Report 2006*, 10 January 2010.

the UK Border Agency, the CBI, the Federation of Small Businesses and the Northern Ireland Chamber of Commerce and Industry.

58. The organisations now involved in the OTCF include both those which will be accountable directly to the Northern Ireland Assembly at Stormont and some, such as SOCA and HMRC, which are responsible for UK-wide activity and therefore accountable to Westminster. This raises the question of where precisely responsibility for scrutiny of their activities in a Northern Ireland context will lie, once policing and justice powers are devolved to the Northern Ireland Assembly and Executive. The NIAO recommends that a future Northern Ireland Affairs Committee continue to monitor activity in this regard.<sup>55</sup>

**We agree with the Northern Ireland Audit Office that the Northern Ireland Affairs Committee must keep under review in future the operation of the Organised Crime Task Force in Northern Ireland in so far as its activities are conducted by bodies which have UK-wide crime-fighting responsibilities, and we recommend to our successor Committee that it should do so.**

59. The NIAO also raised with us some concern that individual Departments within the Northern Ireland Executive are vulnerable to targeting by organised criminals and gangs. In particular, social security, housing benefit, social development programme funding and the single farm payment scheme may offer scope for fraud, and the NAO and NIAO suggest Northern Ireland Departments need to be vigilant. For example,

some cases of known fraud against the [Social Security] Agency could have been committed only by a person or persons acting with most of the characteristics of organised crime [...] Organised social security fraud is already a significant problem in [Great Britain]: there is no reason to believe that similar attacks are not already being made and will not be made here [in Northern Ireland] in future".<sup>56</sup>

We trust that Departments within the Northern Ireland Executive will take due note of the warnings of the Northern Ireland Audit Office that a number of publicly funded programmes are vulnerable to the activities of organised criminals.

60. We recommended in our Report on *Cross-border co-operation between the Governments of the United Kingdom and the Republic of Ireland* in 2009 that the Government should consider adopting Schengen provisions in relation to hot pursuit across international borders. We had heard from SOCA that such provisions would greatly assist the fight against organised crime. The Government rejected that recommendation, saying that practical cross-border co-operation between the PSNI and An Garda Síochána, which we had praised, did not at present require it. The NIAO suggests, however, that the Government should again consider whether adoption of the Schengen provisions on hot pursuit would contribute to countering drug crime and other forms of organised crime. Its detailed note states:

Co-operation with the Garda Síochána could be strengthened by adopting the provisions of the Schengen Agreement permitting hot pursuit across international borders. We recommend that NIO, together with other departments as appropriate,

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<sup>55</sup> Ibid, para 16.

<sup>56</sup> Ibid, para 2.2.18

should review whether adoption of the Agreement's provisions would contribute to countering drugs and other forms of organised crime".<sup>57</sup>

61. We acknowledge that the Government has not thought it right to adopt the Schengen provisions on hot pursuit hitherto. We are aware, too, that there are differences of opinion within policing and enforcement agencies on the usefulness of the provisions in the context of the land border between the UK and the Republic of Ireland. We note, however, that the Northern Ireland Audit Office has added its voice to those who favour adoption as a means of combating organised crime in both directions across that border, and we believe that this is a further matter our successors in the next Parliament may wish to keep under consideration.

62. The Northern Ireland Audit Office has suggested that the value of organised crime in the UK as a whole is estimated at between £20 and £25 billion, but no separate figure exists specifically for Northern Ireland, and it is in the nature of organised crime that any figure is, in any event, to some extent guesswork. The NIAO does, however, believe that drug-related activity, human trafficking, ID theft and illegal dumping are among organised crimes on the increase, while those relating to oils/fuels, cigarettes, alcohol and counterfeiting are either at a steady level or reducing.<sup>58</sup> On oils frauds, for example, the National Audit Office notes that "The general assessment, shared by both the Police Service of Northern Ireland (PSNI) and HM Revenue and Customs (HMRC), is that the incidence of this crime type is reducing in the wake of more effective enforcement, with sales of unlawful fuel now steady".<sup>59</sup>

63. The implications of this shift from older types of organised crime and towards new types will require more detailed consideration than is possible in this Report. The growth, however, of immigration-related crimes such as human trafficking matched by a reduction in crimes that have for decades funded paramilitary activity, such as fuel frauds, may, however, reflect changes both in the culture and the population of Northern Ireland and some shift away from the sectarian divide that disfigured it for so much of the 20<sup>th</sup> century. Once again, this is something our successors in the next Parliament may wish to keep under review.

## Conclusion

64. We have sought to visit Northern Ireland between four and six times each year, and to make an annual visit to the Republic of Ireland. In addition to our regular visits to Belfast, we have travelled to Omagh, Newry, the border areas of South Armagh, Downpatrick and Crossmaglen. During the preparation of our Report on tourism, we travelled throughout the Province.

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<sup>57</sup> Ibid, para 1.6.24

<sup>58</sup> Ibid.

<sup>59</sup> Northern Ireland Audit Office, *Detailed Note accompanying the memorandum to the Committee of Public Accounts from the Comptroller and Auditor General for Northern Ireland: Organised Crime: developments since the Northern Ireland Affairs Committee Report 2006*, 10 January 2010, para 1.6.3.

65. All who have served on the Committee during the Parliament would wish to record our thanks to the Clerks who have served us diligently—Mr James Rhys from May 2005; Mr Steve Priestley from November 2007; and Mr David Weir from November 2008—and to the Committee’s staff. We are grateful for all that they have done to ensure the smooth and effective working of the Committee and for the arrangements that they have made for our many visits to Northern Ireland and the Republic of Ireland.

66. We have been privileged to meet remarkable people—among them, Michael Gallagher and his fellow officers of the Omagh Support and Self-Help Group who have campaigned so hard for justice in the memory of their loved ones; Stephen and Briege Quinn, whose dignity in face of the murder of their son, Paul, is an example to all; and Sir Hugh Orde, whose seven years as Chief Constable of the Police Service of Northern Ireland were marked by significant success in winning the confidence of the whole community.

67. We thank Commissioner Fachtina Murphy of An Garda Síochána, and his predecessor, Commissioner Noel Conroy: their courtesy and incisive briefings illuminated our understanding of the issues facing two police services across an international land border. Dozens more people showed us unfailing kindness and courtesy, and their freely shared knowledge has been of vital importance to our work. We are grateful to members of the Government of the Republic of Ireland who have regularly and willingly given of their time to meet the Committee during its visits to Dublin. We are grateful to have been given the opportunity to meet colleagues from both Houses in the Oireachtas. We also record our thanks to successive British Ambassadors in Dublin for their hospitality, their briefings to the Committee and the opportunities that they have provided at the Embassy and the Residence to meet leading figures in the life of the Republic of Ireland.

68. We pay tribute, finally, to the politicians who enabled change to occur. The appointment in 2007 of Rt Hon. and Rev. Dr Ian Paisley as First Minister and Mr Martin McGuinness as deputy First Minister provided the key which unlocked the process that has led to the likely devolution of policing and justice on 12 April 2010. We were pleased to welcome the establishment of the Executive and a new Assembly in 2007 and were delighted to be able to follow the development of events between then and the retirement of Dr Paisley. Our Chairman represented us at the Invest Northern Ireland conference called at the end of Dr Paisley’s period in office and was present throughout the following week in Northern Ireland when the Committee gave a dinner in honour of Dr Paisley and made a presentation to him.

69. The Committee is especially grateful to the present First Minister, Rt Hon. Peter Robinson MP, and his colleagues for meeting us, and for the opportunities that we have had since 2007 to meet Members of the Legislative Assembly in Northern Ireland. We record our thanks to the Speaker of the Assembly and his officials for enabling us to meet and to hold public evidence sessions at Stormont, and for the hospitality that we have received when holding meetings and press conferences there to publish our Reports.

70. We pay tribute, finally, to the Prime Minister, and to his predecessor, Rt Hon. Tony Blair, and to Rt Hon. Shaun Woodward MP, Secretary of State for Northern Ireland, Rt Hon. Paul Goggins MP, Minister of State, Rt Hon. Peter Hain, who as Secretary of State commissioned the work of the Consultative Group, and all those who have held ministerial office in the NIO since May 2005. Their joint and individual efforts, building on the work

of their predecessors and maintaining a bipartisan policy towards Northern Ireland, have been crucial to success during the long and often difficult process towards peace and stability in one of the most remarkably beautiful and historically fascinating parts of the United Kingdom.

## Conclusions and recommendations

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1. We are delighted to welcome the Prime Minister's statement of Monday 8 February 2010, in which he anticipated the devolution of policing and justice to Northern Ireland by 12 April. (Paragraph 4)
2. The long process towards the devolution of policing and justice has required immense reserves of patience from all concerned, as the comments made to us by representatives of several of the agencies involved in those matters display. Yet the virtues of patience will be best rewarded by the successful transfer of those powers, with cross-community support, for the benefit of all the people of Northern Ireland. (Paragraph 8)
3. We are pleased by the unambiguous indications from the Northern Ireland Policing Board, the Chief Constable of the Police Service of Northern Ireland and the Secretary of State for Northern Ireland that a clear distinction will continue to be drawn between the need to make the police fully accountable and the requirement that the Chief Constable be fully operationally independent. (Paragraph 11)
4. It is not for us to make recommendations to the new Justice Department in Northern Ireland, but we offer the suggestion that some research on whether increased engagement is indeed an underlying factor in the apparent rise of recorded crime and complaint might prove a useful counterbalance to the negative impression given by the headline figures on both. (Paragraph 16)
5. We wish Mr Matt Baggott every success as he reaches the end of his first six months as Chief Constable of the Police Service of Northern Ireland. We note with approval his desire to concentrate on the 'ordinary' crimes that 'really matter to people'. We note, too, however, that the dissident terrorist threat has been on a rising pattern for at least the past year and that continuing to deal with that threat must remain the major priority of the PSNI. (Paragraph 22)
6. We commend the Government on setting and keeping to a final deadline, of February 2010, for an amnesty for the decommissioning of weapons, and we acknowledge the success achieved in putting beyond use the weapons held by a substantial number of groupings. No such programme can remove every illicit weapon from Northern Ireland, but the careful and patient work of the IICD, the NIO and the Secretary of State and Minister of State in this respect are gratefully acknowledged. (Paragraph 24)
7. Finding a means to reduce the heavy burden of and substantial overspending carried out by Northern Ireland's legal aid system will be among the first challenges to face the new Northern Ireland Minister of Justice. (Paragraph 35)
8. The need to reduce the proportion of prisoners on remand in Northern Ireland's prisons, and by extension the delays within the criminal justice system that are often responsible for keeping them there longer than is desirable (a matter highlighted in our report on the Northern Ireland Prison Service), must be among the high-priority

matters to be dealt with by the new Justice Minister after devolution of policing and justice. (Paragraph 39)

9. It is to be hoped that a more local focus on the needs of the Northern Ireland Prison Service will speed the pace of much and long-needed improvement to the prison estate, particularly at Magilligan and Maghaberry. We acknowledge that significant steps have been taken since we reported in 2007-08 on the Prison Service, particularly in the areas of women prisoners and young offenders. None the less, much remains to be done, particularly in relation to the high proportion of prisoners on remand and those who have mental health issues and personality disorders. This, too, will be among the major issues facing a new Justice Minister on arrival in office. (Paragraph 41)
10. We recommend that the House of Commons Standing Order which sets out the remit of departmental Select Committees at Westminster, should be amended to include within the remit of the Northern Ireland Affairs Committee “the maintenance of relations with the Northern Ireland Assembly and oversight of the devolution settlement in Northern Ireland”. (Paragraph 49)
11. We agree with the Northern Ireland Audit Office that the Northern Ireland Affairs Committee must keep under review in future the operation of the Organised Crime Task Force in Northern Ireland in so far as its activities are conducted by bodies which have UK-wide crime-fighting responsibilities, and we recommend to our successor Committee that they should do so. (Paragraph 58)

# Formal Minutes

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## Monday 15 March 2010

The Committee met at the Culloden Hotel, Belfast

Members present:

Sir Patrick Cormack, in the Chair

Christopher Fraser  
Kate Hoey

Stephen Pound  
David Simpson

The Committee discussed informally the Chair's draft Report.

[Adjourned till Wednesday 24 March at 2.30 p.m.]

## Wednesday 24 March 2010

Members present:

Sir Patrick Cormack, in the Chair

Rosie Cooper  
Christopher Fraser  
Mr John Grogan  
Mr Stephen Hepburn  
Lady Hermon

Dr Alasdair McDonnell  
Mr Denis Murphy  
Stephen Pound  
David Simpson

Draft Report (*Progress towards devolution in Northern Ireland during the 2005 Parliament*), proposed by the Chair, brought up and read.

*Ordered*, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 70. agreed to.

Several papers were appended to the Report as appendices 1 to 4.

*Resolved*, That the Report be the Seventh Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House of printing with the Report.

[Adjourned till 7 April 2010 at 2.30 p.m.]

## Witnesses

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### Monday 25 January 2010

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**Mr Al Hutchinson**, Police Ombudsman, **Mr Barry Gilligan**, Chairman, **Mr Brian Rea MBE**, Vice-Chairman, and **Mr Adrian Donaldson MBE**, Chief Executive, Northern Ireland Policing Board Ev 1

**Mr Jim Scholes**, Acting Director of Public Prosecution Service, **Mr David Lavery**, Director, Northern Ireland Court Service; **Dr Michael Maguire**, Chief Inspector, Criminal Justice Inspectorate and **Mr Brendan McGuigan**, Deputy Chief Inspector, Criminal Justice Inspectorate Ev 10

**Chief Constable Matt Baggott CBE QPM**, **Assistant Chief Constable Drew Harris** and **Deputy Chief Constable Judith Gillespie**, Police Service of Northern Ireland Ev 18

### Tuesday 26 January 2010

**Mr Ronnie Spence**, Chairman, **Mr Brian McCaughey**, Director, **Mr James Quinn**, Member, and **Ms Cheryl Lamont**, Deputy Director, Probation Board; **Mr Robin Masefield**, Director, and **Mr Max Murray**, Deputy Director, Head of Operations, Prison Service Ev 29

## List of written evidence

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1	Northern Ireland Court Service	Ev 38
2	Northern Ireland Prison Service	Ev 40
3	Northern Ireland Audit Office/ National Audit Office	Ev 44
4	Northern Ireland Office	Ev 46
5	Northern Ireland Audit Office/ National Audit Office	Ev 48

## Appendices

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The appendices below, relating to various work done by the Committee, are attached to this Report as the Committee will not this Session be producing an annual Work of the Committee Report.

### Appendix 1: The Omagh bombing

#### *Letter to the Chair of the Committee from the Secretary of State for Northern Ireland, 18 March 2010*

I am writing to acknowledge the publication of the Northern Ireland Affairs Committee report into the Omagh bombing. There is no doubt that the Omagh bombing was a most horrendous tragedy and the Government deeply regrets the loss of life. Our thoughts must always be with those who have suffered the most as a result of Omagh, those bereaved and injured, their families, friends and wider community of Omagh.

At the outset, I firmly believe that it is important to emphasise that, as the Committee acknowledged, Sir Peter Gibson, in his report, stated categorically that ‘Any intelligence derived from interception as might have existed could not have prevented the bombing’.

The Committee expresses concerns regarding the sharing of information, particularly by Special Branch. The dissemination of information within the RUC was fully investigated by the former Police Ombudsman for Northern Ireland, Dame Nuala O’Loan, in 2001. Her recommendations and those of subsequent reviews established by the Policing Board have been implemented.

I note the Committee’s disappointment at not being granted access to Sir Peter Gibson’s classified report however, as the Prime Minister and I have explained, only the Intelligence and Security Committee may be afforded access to such information; and, even, then, only when they have a demonstrable need-to-know.

Similar requests from select committees and their chairs have been resisted in the past. As Dr Kim Howells outlined in his letter of 31 March 2009, the Intelligence Services Act 1994 provides the statutory basis on which the Intelligence and Security Committee is afforded access to sensitive and highly classified information which Agency Heads would otherwise be under a statutory duty not to disclose. By virtue of these arrangements the Intelligence and Security Committee are able to see information that would not be disclosed to select committees of the House.

Nonetheless, as the Committee would expect, I will take time to consider the report and respond in full as soon as possible.

***Letter to Rt Hon. Dr Kim Howells MP, Chair, Intelligence and Security Committee from the Chair of the Committee, 17 March 2010***

The Northern Ireland Affairs Committee yesterday published its Report, *The Omagh bombing: some remaining questions*, a copy of which I enclose. You will recall that we exchanged correspondence last year on the Government's refusal to allow me, as chairman of my Committee, to view, on the Committee's behalf, the full, classified version of Sir Peter Gibson's report on intercept intelligence relating to the bombing. Our report renews that request.

You assured me on 31 March last year that the ISC had considered the Gibson report, received by the Prime Minister about three months earlier, and that nothing in the full Gibson report was at variance with his published conclusions. You will see from our report that we have been careful to stress that we do not question your assurances.

I must, however, record my surprise and considerable concern that neither the Annual Report of the Intelligence and Security Committee nor the Government's response to it, both published this week, contains any reference to Sir Peter Gibson's report or whatever inquiry was made into it by the ISC.

I note, from paragraph 183 of your annual report, that you have yourselves had difficulty in obtaining access to Government papers.

I hope therefore that we may have your support as we continue to request sight of Sir Peter Gibson's review, which could hardly be more relevant to our work.

***Letter to the Chair from the Secretary of State for Northern Ireland, 7 December 2009***

Thank you for your recent letter regarding my response to the Northern Ireland Affairs Committee's first report into the Omagh bombing.

I note the Committee's concerns in relation to the provision of information to Select Committees. Whilst every effort is made to respond positively to requests for information from Committees, as the Prime Minister has explained, it would not be appropriate to do so on this occasion. As both he and I have explained, the Report was provided to the Chairman of the Intelligence and Security Committee. That is the appropriate Committee with responsibility to scrutinise national security information of this kind. As you know, the Chairman of the ISC has confirmed that the unredacted Report is consistent with Sir Peter's summary version which I published in January of this year.

I know this decision will be disappointing to you, however I hope you will be reassured by the assurances given by the Prime Minister, Sir Peter Gibson and Kim Howells that there is no inconsistency between the unredacted Report and the published summary.

I look forward to receiving a copy of the Committee's final report when your enquiry has concluded.

***Letter from the Prime Minister to Sir Patrick Cormack, Chair of the Committee, 14 September 2009***

I was grateful to receive your letter of 15 July enclosing a copy of the Committee's first report into the Omagh bombing.

I understand that Shaun Woodward has already written to you outlining the Government's position in relation to the issues raised within the report.

***Letter to the Chair from the Secretary of State for Northern Ireland, 25 August 2009***

Thank you for your letter of 15 July enclosing a copy of the first report of the Northern Ireland Affairs Committee into the Omagh bombing.

I note that the Committee's concerns centre around your request for access to Sir Peter Gibson's full, classified report. I understand the Prime Minister has previously advised it is not possible to grant this request due to the legal and national security constraints preventing further disclosure of the report. As he explained in his letter of 29 June, the published version of Sir Peter's report omits only the extensive, sensitive detail of Agency sources, methods and capabilities which must continue to be protected from unnecessary or unauthorised disclosure for national security considerations.

I understand that both the Chair of the Intelligence and Security Committee and Sir Peter Gibson himself have given their assurances that the published report is entirely consistent with the full classified version. I trust the Committee will understand why it is not possible to grant access to the report and accept the assurances they have been given in relation to this matter.

## **Appendix 2: The Consultative Group on the Past**

### ***Letter to the Chair from the Secretary of State for Northern Ireland, 26 February 2010***

I am writing in response to the Northern Ireland Affairs Committee's report on the Consultative Group on the Past's proposals, published on the 16<sup>th</sup> December. My apologies for the delay in replying to the Committee.

I am very grateful for the very careful and thoughtful way in which the Committee has considered the issues raised by Lord Eames and Denis Bradley and their colleagues. Finding a way of dealing with Northern Ireland's past in a way that promotes reconciliation is I believe vital to enabling Northern Ireland society to move forward to a shared future. I share the Committee's view that these are important and complex issues which need to be looked at in the round.

Clearly central to considering how best to move forward will be Lord Saville's Report on the Bloody Sunday Inquiry. As I have long stated, the publication of this Report and its conclusions will be a defining and also critical moment, and the Government will need to formulate a fully considered response, setting out a process to deal with the outstanding issues from the past.

It is therefore prudent I should wait for the Tribunal's Report before responding to the specific proposals of the Consultative Group on the Past and to the views that have been expressed through the consultation process that the Government launched last year.

Also relevant will be the Chief Constable's conclusions on his review of the work of the Historical Enquiries Team. I expect to receive his review shortly.

I hope the Committee will understand why I have been cautious in responding to the detailed conclusions, and the Committee should anticipate the appropriate response once Lord Saville's Report is published.

I look forward to meeting the Committee again on Wednesday.

## Appendix 3: Bloody Sunday Inquiry

### *Letter to the Chair from the Secretary of State for Northern Ireland, 19 March 2010*

#### **Publication of the Report of The Bloody Sunday Inquiry**

Firstly, I should like to thank the Committee for giving me the opportunity to appear before them on 3 March. I am grateful for the Committee's support and advice during my time as Secretary of State for Northern Ireland and I would like to express particular gratitude to you, Sir Patrick, and wish you a long and happy retirement.

At my appearance on 3 March I promised to write to the Committee to set out the arrangements I am making for the publication of the report of the Bloody Sunday Inquiry once I receive it from Lord Saville. I have today made a Written Ministerial Statement to Parliament which sets out in some detail my intentions for publication of the report. I enclose a copy of this statement for the Committee's information.

I have also seen a copy of Lord Saville's letter of 11 March to the Committee. I would like to clarify one point that Lord Saville raises in that letter. I accept that, since Lord Saville most recently provided me with a revised timescale for submission of the report (during the autumn of last year), he has consistently stated that the report would be submitted in the week commencing 22 March, not 22 March. I had not, before my appearance before the Committee, reviewed all the correspondence going back to last September, but I had in mind that in a recent exchange of letters between Lord Saville and the Cabinet Secretary, Lord Saville had specifically pointed out that the report would be delivered in the week commencing 22 March, not on 22 March. As you will no doubt be aware from the increasing amount of media commentary on the issue, the date of 22 March has entered into the public consciousness as the likely date of submission of the Bloody Sunday Inquiry's report and I felt it important to make clear to the Committee that submission on the 22<sup>nd</sup> should not be expected. I apologise if my remarks on timing in any way confused Committee members. I was not my intention to do so.

### *Letter from Rt Hon. the Lord Saville of Newdigate to Sir Patrick Cormack, Chair of the Committee, 11 March 2010*

Thank you for your letter dated 3<sup>rd</sup> March 2010.

I can assure you that most careful consideration was given to the request made by the Secretary of State that he should be given an advance copy of the Tribunal's report in electronic form. It may assist if I say that the report will consist of a set of printed volumes containing the main text, which will exceed 5,000 pages in length, and a DVD-ROM containing the same text supported by hyperlinks leading to the statements, transcripts, photographs and other evidential material on which we have reached our conclusions. The contents of the DVD-ROM, including the enormous quantity of evidential material to which the hyperlinks refer, will be an integral part of the report. The finalisation and production of the printed and electronic components of the report has to be properly co-ordinated, which as I hope you will understand is far from being a simple process. Those

who are responsible for it have advised that the mastering and production of the DVD-ROMs is likely to be completed approximately two days after the printing of the physical volumes. The view of the Tribunal is that it would not be right for us to provide the Secretary of State any version of the report in draft or in less than complete form. It follows that, since the final electronic version of the report will not be available until after the physical volumes have been printed, we will not be in a position to submit an electronic version in advance. It is for that reason that we were, and remain, unable to accede to the Secretary of State's request.

You ask whether the Tribunal has made any plan to deal with the problems that may arise in respect of the security of the report if it is delivered to the Secretary of State but cannot then be published for some time because of the dissolution of Parliament.

Before I answer that question it is necessary for me to explain in some detail how matters have developed in correspondence with the Secretary of State and others since last autumn. Prior to that time, as you know, it had unfortunately already been necessary on a number of occasions for the Tribunal to revise its estimate of the date on which the report would be delivered to the Secretary of State. On 23<sup>rd</sup> September 2009 I wrote to Sir Jonathan Phillips to say that the Tribunal would regrettably be unable to submit the report before Christmas as had been intended, but that I was confident that, in the absence of unforeseen circumstances, the report would be submitted to the Secretary of State in the week commencing 22<sup>nd</sup> March 2010. I gave the same indication in my letter to you dated 7<sup>th</sup> October 2009.

On 30<sup>th</sup> October 2009, the Secretary of State wrote to me, asking for my views on any steps that might enable swifter publication, including the possibility that the report might be submitted in electronic form before the printed volumes were produced.

On 3<sup>rd</sup> November 2009, I replied to the Secretary of State, stating that my colleagues and I remained confident that the report would be delivered to him in the week beginning 22<sup>nd</sup> March 2010, both in printed and in electronic form. I said that we did not believe that we could properly commit ourselves to any shorter timetable than this, but that if it became possible for us to do so, we would let him know.

On 11<sup>th</sup> January 2010, the Cabinet Secretary wrote to me to express concerns about the date of delivery of the report in view of the possible timing of a General Election. He said that it was his understanding that the Tribunal proposed to submit its report on 22<sup>nd</sup> March 2010, and that while the date of the General Election was unknown, it was possible that Parliament would be dissolved either before or shortly after the proposed date of submission, with the result that the Government would not be able to publish the report until after the General Election. He referred to the problems that this might cause, not only in respect of the security of the report and the inability of the Government to respond during an election campaign to leaks or inaccurate claims about its contents, but also in respect of possible damage to public confidence in the Tribunal's findings if the report were to be held unpublished for an extended period. The Cabinet Secretary sought my views on how this potentially difficulty might best be addressed, and again asked me to consider whether it would be feasible to make the report available in electronic form before the submission of the printed volumes.

On 13<sup>th</sup> January 2010, I replied to the Cabinet Secretary, pointing out that the indication that I had previously given was not that the report would be delivered to the Secretary of State on 22<sup>nd</sup> March 2010, but that it would be delivered in the week beginning that date. I said that it remained my intention that the report should be delivered during that week in both printed and electronic form. I informed the Cabinet Secretary that while I had carefully considered his suggestion that an electronic version should be delivered in advance, the Tribunal was not in a position to undertake to submit any version of the report before the week that we had previously indicated. I acknowledged that submission of the report in the week proposed might give rise to the difficulties that he had described, and suggested that in those circumstances the Secretary of State might wish to consider the possibility of requesting the Tribunal not to submit the report until after the General Election had been held, in order that he should not be in possession of the unpublished report for any longer than necessary.

On 17<sup>th</sup> February 2010, the Secretary of State wrote to me, expressing his disappointment that the Tribunal did not consider that it would be possible to submit an electronic version of the report in advance. He referred to the concerns raised by the Cabinet Secretary and said that he would be willing to consider any further thoughts that the Tribunal might have on how best to handle those issues, but he made no proposals of his own.

On 25<sup>th</sup> February 2010, I replied to the Secretary of State. I acknowledged the interests of the families, the surviving casualties and the soldiers, and the concerns that had been raised by the Cabinet Secretary, but said that nevertheless the report could only be delivered when it was ready. I explained again that the Tribunal expected that both the electronic and printed versions of the report would be ready in, but not before, the week beginning 22<sup>nd</sup> March 2010. In answer to the Secretary of State's request for the Tribunal's views on how the problems presented by the possible timing of a dissolution of Parliament might be handled, I said that it was open to him, as I had suggested to the Cabinet Secretary, to invite the Tribunal not to submit the report until after the General Election had been held. I expressed the view of the Tribunal that it would be our duty to submit the report as soon as it was ready, unless requested by the Secretary of State to do otherwise. Finally, I asked to be informed as soon as possible if it was the intention of the Secretary of State to request us to postpone submission of the report in the event that by the week beginning 22<sup>nd</sup> March 2010 a prorogation or dissolution of Parliament had occurred or was about to occur.

Against that background, I was surprised to find that the Secretary of State had said in the evidence that he gave to your Committee on 3<sup>rd</sup> March 2010:

*“The problem is I did not expect when I met the families back in October/November that I would be subject to several more delays and that Lord Saville would tell me that he expected to deliver the report on 22<sup>nd</sup> March and then would change that to saying the week of 22<sup>nd</sup> March.”*

It is true that before last autumn the Tribunal had given a number of estimates of the time required to complete the report that proved unreliable, and I have previously apologised for that fact. I did not, however, at any stage tell the Secretary of State that I expected to deliver the report on 22<sup>nd</sup> March. The indication given to Sir Jonathan Phillips on 23<sup>rd</sup> September 2009 and repeated consistently in correspondence since then was that the Tribunal expected to deliver the report in the week beginning on 22<sup>nd</sup> March. It is not

correct that the Secretary of State has been subjected to further delays since he met the families in October or November.

The Secretary of State also said in the course of his evidence, to the understandable amusement of members of the Committee:

*“... I do not know when the General Election is going to be called. We can all speculate on dates, but the problem is it hasn't been decided and we don't know. We have therefore tried to make Lord Saville aware of the possible parameters. The difficulty I now face is that he has written to me saying that if there were to be an intention for an election that might be called at the end of March, could I let him know beforehand. Well, the problem with that of course is the Prime Minister is unlikely when he makes the decision to propose that we actually inform various branches of the judiciary.”*

It would, of course, have been fatuous for me to ask the Secretary of State for advance notice of when the General Election will be called, but I made no such request. As I have explained, I invited the Secretary of State in my letter of 25<sup>th</sup> February 2010 to me know as soon as possible if he intended to ask the Tribunal to hold back the report in the event that by the week of 22<sup>nd</sup> March a prorogation or dissolution had occurred or was imminent. I thought it important for the Tribunal to know whether this was the Secretary of State's intention because, if it was, we would need to consider how to cater for the possibility that delivery of the report would have to be postponed.

In our correspondence with the Secretary of State we have sought to make clear both that he should not expect to receive an electronic version of the report before the week of 22<sup>nd</sup> March and that in our view it is for him to decide whether any steps should be taken in order to avoid or mitigate the difficulties that are likely to arise if the delivery of the report to him in that week coincides with an imminent dissolution of parliament, and in particular to decide whether he should request that the Tribunal defers delivery of its report until after the General Election.

In his evidence to your Committee, the Secretary of State did not commit himself on this issue, but drew the difficulties to your attention and invited you to reflect on them. He has now written a further letter to me, dated 5<sup>th</sup> March 2010, in which he says that it is for the Tribunal to decide whether to submit the report in the week of 22<sup>nd</sup> March or whether to withhold it until the timing of an election becomes clear, if it has not already been announced. I am writing today to the Secretary of State to say that we propose to deliver the report to him as soon as it is ready unless he asks us to do otherwise.

Finally, I can tell you that the report will contain a section in which the Tribunal sets out its principal conclusions. The decision to include this section was taken long ago and without reference to any views or representations of the Secretary of State on the matter, of which the Tribunal has no knowledge. Rumours that the Tribunal had decided not to include such a section were entirely inaccurate.

I enclose a copy of the letter that I have sent today to the Secretary of State.

***Letter to Rt Hon. the Lord Saville of Newdigate from the Chair of the Committee, 3 March 2010***

My Committee, taking oral evidence today from the Secretary of State for Northern Ireland, was surprised to learn from him that you will be unable to provide him with an advance electronic copy of your forthcoming report into the events of 30 January 1972. He has sought such a copy in order that he might, as expeditiously as is possible, discharge his obligations under Article 2 and in respect of national security. Only once he has done so will he be able to report to Parliament.

No doubt there is a very good reason why such a course of action has not been adopted. Without in any way wishing to trespass on the independence of your inquiry, my Committee has requested me to ask why it has not been possible to accede to the Secretary of State's request on this point, and whether it might be reconsidered.

The Secretary of State also raised with us his concern that, should you provide your report to him very close to the date of the forthcoming general election, it may prove impossible for him to report to Parliament before dissolution. This raises difficulties over the storage and security of your report during the weeks of dissolution. May I ask whether any contingency has been made in your publication planning for that eventuality, particularly given the wide speculation that the present Parliament may well be dissolved in early April?

I have no doubt that you would agree that any leak of your report, or misinformed speculation as to its contents, would be extremely undesirable.

I understand that the Secretary of State has also made representations to you on the need for a summary to accompany what will no doubt be a thoroughly comprehensive report. May I further ask whether it is your intention to provide a summary?

***Letter to the Chair from Rt Hon. the Lord Saville of Newdigate, 7 October 2009***

Thank you for your letter dated 24<sup>th</sup> September 2009, which reached the Inquiry on 5<sup>th</sup> October 2009, in which you repeat your invitation to me to give evidence to the Northern Ireland Affairs Committee.

I am well aware both of the anxiety that the delays in completion of the Tribunal's report have caused to the families, the soldiers and others who are directly affected, and of the wider public concern. As I said in my recent letter to the representatives of the interested parties, I was extremely disappointed to have to announce a further delay, but I am now confident that, in the absence of unforeseen circumstances, the report will be presented to the Secretary of State for Northern Ireland in the week commencing 22<sup>nd</sup> March 2010.

I have publicly explained before now that the Tribunal has had a vast quantity of evidence to analyse and a very large number of difficult and disputed issues to resolve. The Scale and complexity of this Inquiry is unprecedented, and I regret that I underestimated the time that we would need to complete the report.

You say that an appearance before the Committee would be an opportunity for me to explain the precise reasons for the delays. However, as was the position when I responded

to your original invitation, I do not believe that I would be able to say more to the Committee about the reasons than I have already said publicly, without entering into discussion of the substantive content of our work. Thus although I appreciate the assurance that you offer in your letter, I must again decline your invitation to give evidence to the Committee.

***Letter to Rt Hon. the Lord Saville of Newdigate from the Chair of the Committee, 24 September 2009***

I was deeply disturbed to hear today that there will be yet another delay in the publication of your inquiry's report.

When I invited you last November to appear to explain the reasons for the delays, you declined to come. There is such anxiety in so many quarters about this further delay that I would like to repeat that invitation. I can assure you that we would not seek to embarrass you by asking questions about the content of your inquiry or possible recommendations, but appearing before the Committee would give you the opportunity to explain precisely why it has been necessary to have had these repeated delays, each one of which dashes hopes and expectations.

Because of the public interest in this matter, especially in Northern Ireland, I intend to release a copy of this letter on 29 September.

I look forward to hearing from you.

## Appendix 4: Financial memoranda relating to the Northern Ireland Office

### *Memorandum submitted from the Northern Ireland Office relating to the 2009-10 Spring Supplementary Estimate*

This paper explains the background to and consequences of changes sought in the SSE for 2009-10 and the impact of revised spending plans on budgets and departmental targets.

#### *NIO – Request for Resources (RfR) 1*

The purpose of the SSE is to increase the department's resource estimate by £126,112k and increase the department's capital estimate by £12,288k. The overall Departmental Expenditure Limit (DEL) has increased by £190,182k (all resource).

The table below shows these changes:

	Resource Estimate changes £000s	Resource DEL changes £000s	Capital Estimate changes £000s	Capital DEL changes £000s
Administration voted	(2,247)	(2,247)	-	-
Programme voted	68,866	68,866	-	-
Programme non-voted	-	123,563	-	-
Programme non-budget	57,493	-	-	-
Capital	-	-	12,288	-
Capital Grant	-	-	-	-
AME	2,000	-	-	-
<b>Total</b>	<b>126,112</b>	<b>190,182</b>	<b>12,288</b>	<b>0</b>

#### *NI Consolidated Fund – Request for Resources (RfR) 2*

The Northern Ireland Executive DEL is increased by £761,473,000 from £9,472,960,000 to £10,234,433,000. Within the total DEL change, the impact on resources and capital is set out in the following table:

£'000	Change	New DEL
Resource DEL	634,464	9,023,819
<i>Of which:</i>		
<i>Near Cash</i>	483,082	8,551,148
Capital DEL	127,009	1,210,614
Resource DEL + Capital DEL	761,473	10,234,433
Less Depreciation	21,266	210,583
Total DEL net of depreciation	740,207	10,023,850

This increase takes account of the following changes:

- The take up of End Year Flexibility (EYF) of £135,000,000 (£35,000,000 near cash and £100,000,000 capital);
- Additions of £23,827,000 (-£49,092,000 near cash, £20,337,000 non cash and £52,582,000 capital) following IFRS changes;

- A budget reclassification of £497,200,000 (near cash) in respect of NHS pensions;
- An addition of £131,045,000 (non cash) in respect of provisions for equal pay;
- Budget cover transfers to other government departments of £25,599,000.

Annually managed expenditure decreases by £717,000,000. The main areas affected are:

- NHS Pension Scheme (reclassification of certain contributions to DEL);
- Public Sector Pensions;
- Public Corporations Capital Expenditure;
- Impairments;
- Northern Ireland Water Service; and
- Social Security.

The effect of the above changes is to increase the grant payable to the Northern Ireland Consolidated Fund by £566,000,000 to £12,827,000,000. A reconciliation of the grant payable with the Northern Ireland Executive spending aggregates is attached at Annex A.

### *Effect on the SSE*

### *End Year Flexibility (EYF)*

The 2009-10 EYF stock for the NIO was reported in the Public Expenditure Outturn White Paper 2008-09 (PEOWP). The department has requested a total drawdown of £100,335k of EYF to supplement CSR07 baselines throughout the NIO. The Introduction to the Estimate shows only the voted resource near cash and non cash EYF of £47,472k. The remaining resource EYF drawdown of £52,863k into non voted areas does not appear as part of the estimate.

The following table details the breakdown of EYF drawdown in 2009-10 and shows the year end residual EYF stock, which is fully committed over the remainder of CSR07 period.

	Admin	Prog	Total	of which		Capital
			Resource	Near cash	Non cash	
	£k	£k	£k	£k	£k	£k
EYF stock at 1 April 2009	85,610	15,225	<b>100,835</b>	<b>100,835</b>	-	<b>50,600</b>
Transfer between currencies	(85,610)	85,610	-	-	-	-
Spring Supplementary Estimate	-	(100,335)	<b>(100,335)</b>	<b>(100,335)</b>	-	-
EYF stock at 31 March 2010	-	500	<b>500</b>	<b>500</b>	-	<b>50,600</b>

### *Administration voted*

The administration budget has decreased by £2,247k for the following reasons:

- resource budget transfers of £315k from the Department of Finance and Personnel, Northern Ireland for accommodation costs, £98k from the Cabinet Office for Parliamentary Counsel charges and £50k to the Department of Health, Social Services and Public Safety, Northern Ireland for healthcare costs;
- reclassification of £2,610k from administration to offset increased programme expenditure for the Northern Ireland Prison Service.

### *Programme voted*

The increase in programme voted of £68,866k is:

- EYF of £47,472k;
- resource budget transfers of £520k from Ordnance Survey, Northern Ireland for mapping services and £36k to Health and Safety Executive, Northern Ireland for staff costs;
- additional funding to cover increased depreciation costs as a result of the implementation of International Financial Reporting Standards (IFRS) £1,000k;
- reclassification of £2,610k from administration to offset increased programme expenditure for the Northern Ireland Prison Service;
- transfer of £20,500k from non-voted DEL to Central Administration;
- transfer of £3,200k from Criminal Justice voted DEL to non-voted DEL to account for the revised budgetary treatment for private finance initiative (PFI) contracts as a result of IFRS implementation.

### *Programme non-voted*

The increase in programme non-voted of £123,563k is:

- transfer of £20,500k from non-voted DEL to voted DEL for Central Administration;
- transfer of £3,200k from Criminal Justice to non-voted DEL to account for the revised budgetary treatment for PFI contracts as a result of IFRS implementation;
- increase in PSNI non cash provisions of £88,000k;
- EYF of £52,863k.

### Programme non-budget

The increase in programme non-budget of £57,493k is additional cover of £3,770k to account for the revised budgetary treatment for PFI contracts and a revision to NDPB grant in aid of £53,723k (including near cash EYF of £52,863k).

### Capital

The capital estimate has increased by £12,288k as a result of a transfer from non-voted DEL to voted DEL.

### DEL changes

There is an increase in resource DEL of £190,182k from £1,189,462k to £1,379,644k and no change in capital DEL of £76,703k.

Resource (£'000s)				Capital (£'000s)			
Change	New DEL	Of which: voted	Non-Voted	Change	New DEL	Of which: Voted	Non-Voted
190,182	1,379,644	359,487	1,020,157	-	76,703	36,526	40,177

It is worth noting that in Supplementary Budget Information (SBI) tables stated DEL will exclude depreciation and impairments.

### Annually Managed Expenditure (AME) changes

Area	WSE 2009-10 £k	SSE 2009-10 £k	Increase / (decrease) £k
Central Administration	230	230	-
Police	18,000	18,000	-
Police Pensions	270,545	270,545	-
Youth Justice Agency	-	2,000	2,000
<b>Total</b>	<b>288,775</b>	<b>290,775</b>	<b>2,000</b>

Youth Justice Agency – The increase of £2,000k relates to the downward revaluation of the Woodlands Juvenile Justice Centre.

### Summary of changes sought within the Estimate for RfR 1

The Estimate has increased by £126,112k resource and by £12,288k capital. The NIO has used the SSE to reallocate funds as planned within each line of RfR1. The impact of the increase on the Estimate and reallocations within lines is as follows:

Changes within Estimate Lines	Admin £m	Programme £m	Total £m	Capital £m
Central Administration	(1.356)	25.562	<b>24.206</b>	14.788
Ministers	(0.328)	-	<b>(0.328)</b>	-
Political Directorate	1.448	14.196	<b>15.644</b>	0.478
Public Prosecution Service	(0.300)	3.447	<b>3.147</b>	1.136
Forensic Science NI	-	(0.281)	<b>(0.281)</b>	0.117
Criminal Justice Directorate	(0.157)	1.711	<b>1.554</b>	0.831
Compensation Agency	-	9.586	<b>9.586</b>	(0.850)
Policing & Security Directorate	(0.229)	0.929	<b>0.700</b>	0.092
Policing – Non Severance	-	1.360	<b>1.360</b>	-
NI Prison Service	(1.600)	11.976	<b>10.376</b>	(4.000)
Youth Justice Agency	-	(0.044)	<b>(0.044)</b>	(0.304)
Bloody Sunday	0.275	0.424	<b>0.699</b>	-
<b>Non-Budget</b>				
Police	-	53.513	<b>53.513</b>	-
Police Pensions	-	(2.544)	<b>(2.544)</b>	-
Police Ombudsman for NI	-	(0.279)	<b>(0.279)</b>	-
Probation Board for NI	-	3.029	<b>3.029</b>	-
NI Policing Board	-	(0.056)	<b>(0.056)</b>	-
NI Human Rights Commission	-	0.110	<b>0.110</b>	-
Criminal Justice Inspectorate	-	(0.050)	<b>(0.050)</b>	-
Criminal Justice Directorate	-	3.770	<b>3.770</b>	
<b>AME</b>				
Youth Justice Agency	-	2.000	<b>2.000</b>	-
<b>Total</b>	<b>(2.247)</b>	<b>128.359</b>	<b>126.112</b>	<b>12.288</b>

### Explanation of changes within Estimate lines (changes in excess of £1m only)

- Central Administration - Decrease of £1.356m administration to account for the transfer of functions to Political Directorate and Policing & Security Directorate. Increase of £25.562m programme due to the realignment of non cash budget cover across the department and the transfer of non-voted DEL to Central Administration.
- Political Directorate - Increase of £1.448m administration due to increased non staff costs and to account for the transfer of functions from Central Administration. Increase of £14.196m programme to fund the costs of public inquiries.

- Public Prosecution Service - Decrease of £0.300m administration due to reduced staff costs. Increase of £3.447m programme due to increased non staff costs associated with the opening of new regional offices which have been partly offset by reduced staff costs.
- Criminal Justice Directorate - Decrease of £0.157m administration due to reduced staff and non staff costs. Increase of £1.711m programme due to an increase in staff and non staff costs offset by the transfer of voted DEL to non-voted DEL due to the change of accounting treatment for PFI contracts.
- Compensation Agency - Increase of £9.586m programme mainly to reflect revised provision costs.
- Policing - Non Severance - Increase of £1.360m programme due to increased non staff costs.
- Northern Ireland Prison Service - Decrease of £1.600m administration due to reduced staff and non staff costs. Increase of £11.976m programme due to increased staff and non staff costs associated with the opening of additional cellular accommodation. Non cash costs have increased as a result of the completion of new capital projects and the change of accounting treatment for property, plant and equipment assets following the introduction of IFRS.
- Police - Increase of £53.513m in cash grant required.
- Police Pensions - Decrease of £2.544m due to revised pension costs following updated actuarial forecasts.
- Probation Board for Northern Ireland - Increase of £3.029m to fund resource costs and use of provision costs.
- Criminal Justice Directorate - Increase of £3.770m to reflect the change in accounting treatment of PFI contracts.

#### *Capital changes (changes in excess of £1m only)*

- Central Administration - Increase of £14.788m due to in-year re-allocation of funding from other areas within the department.
- Public Prosecution Service - Increase of £1.136m relating to the costs of establishing regional offices, IT expenditure on Criminal Justice Causeway Programme and the drawdown of incentivisation funds.
- Northern Ireland Prison Service - Decrease of £4.000m due to the rephasing of capital projects into the next financial year.

### Public Service Agreement (PSA) targets

In considering the budget allocations for 2009-10, the Departmental Board takes into account the impact on the key indicators of delivery for the Department to ensure that changes to budgets are fully in support of delivery priorities.

All areas across the Department have been impacted by the Spring Supplementary Estimate to ensure that the CSR07 PSA Outcomes and Departmental Strategic Objectives as set out in Appendix A of the NIO Departmental Report 2009 are met.

### Annex A

Reconciliation of Northern Ireland Executive Spending Aggregates with grant payable to Northern Ireland Consolidated Fund

	2009-10 Main Estimate	SSE Change	Latest Position
	£m	£m	£m
Departmental Expenditure Limit	9,473	762	10,235
Annually Managed Expenditure (inc Other AME & Reg Rates)	9,592	-717	8,875
RRI Borrowing	317	-71	246
<b>Total Managed Expenditure (DEL, AME &amp; Other AME)</b>	<b>19,382</b>	<b>-26</b>	<b>19,356</b>
Less Non Cash charges	-3,058	-887	-3,945
Less Non Voted (DEL, AME & Other AME)	-8,942	847	-8,095
Voted Other Expenditure outside DEL	5,792	544	6,335
<b>Supply Expenditure</b>	<b>13,173</b>	<b>478</b>	<b>13,651</b>
Interest Payable	119	-13	106
District Council Rates	414	41	455
Miscellaneous	1	0	1
<b>Total Expenditure</b>	<b>13,707</b>	<b>506</b>	<b>14,213</b>
<b>Income</b>			
Add in RRI	317	-71	246
District Council Rates	414	41	455
Regional Rates	554	-7	547
Interest Receivable	110	-11	99
<b>Miscellaneous receipts</b>	<b>52</b>	<b>-13</b>	<b>39</b>
<i>of which:</i>			
NICF Balance	0	0	1
Continental Shelf	2	-2	0
Central Receipts	11	-2	9
Excess Accruing Resources	28	-4	24
CFERS	11	-5	6
EU CFERS	0	0	0
<b>Total Income</b>	<b>1,446</b>	<b>-60</b>	<b>1,386</b>
<b>Block Grant</b>	<b>12,261</b>	<b>566</b>	<b>12,827</b>

Please note that the totals may not sum due to roundings

***Memorandum submitted from the Northern Ireland Office relating to the 2009-10 Winter Supplementary Estimate***

Thank you for your letter of 1st December.

I can confirm that the remainder of the movement is in relation to non-voted expenditure and therefore only appears in the total Annually Managed Expenditure figure in the "Reconciliation of resource expenditure between Estimates, Accounts and Budgets" section in the Winter Supplementary Estimate. In the memorandum the table entitled "Annually Managed Expenditure (AME) changes" shows the breakdown of the £12.3m increase in AME being:

Central Administration - increase of £230k in respect of a new estimate line for Broadly By-Analogy Pension Schemes.

Police - increase of £18,000k non-voted expenditure for the impairment of specialist police assets.

Police Pensions - decrease of £5,903k non-voted expenditure due to a revised forecast from the Government Actuary Department.

Please do not hesitate to contact me should you have any further queries on this.

*December 2009*

# List of Reports from the Committee during the current Parliament

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## Session 2009-10

First Report	Work of the Committee in 2008-09	HC 90
Second Report	The Report of the Consultative Group on the Past in Northern Ireland	HC 171
Third Report	Television Broadcasting in Northern Ireland	HC 237
Fourth Report	The Omagh bombing: some remaining questions	HC 374
Fifth Report	Forensic Science Northern Ireland	HC 314
Sixth Report	A Bill of Rights for Northern Ireland	HC 236
Seventh Report	Progress towards devolution in Northern Ireland during the 2005 Parliament	HC 319

## Session 2008-09

First Report	Work of the Committee in 2007-08	HC 74
Second Report	Cross-border co-operation between the Governments of the United Kingdom and the Republic of Ireland	HC 78
First Special Report	The Omagh Bombing: Access to Intelligence	HC 873
Second Special Report	Cross-border co-operation between the Governments of the United Kingdom and the Republic of Ireland: Government Response to the Committee's First Report of Session 2008-09	HC 1031

## Session 2007-08

First Report	The Northern Ireland Prison Service	HC 118
Second Report	The Work of the Committee in 2007	HC 286
Third Report	Policing and Criminal Justice in Northern Ireland: the Cost of Policing the Past	HC 333
First Special Report	The Northern Ireland Prison Service: Government Response to the Committee's First Report of Session 2007-08	HC 386
Second Special Report	Policing and Criminal Justice in Northern Ireland: the Cost of Policing the Past: Government Response to the Committee's Third Report of Session 2007-08	HC 1084

## Session 2006-07

First Report	Draft Protocol for Community-based Restorative Justice Schemes	HC 87
Second Report	The Work of the Committee in 2006	HC 294
Third Report	Tourism in Northern Ireland and its Economic Impact and Benefits	HC 119
First Special Report	Draft Protocol for Community-based Restorative Justice Schemes: Government Response to the	HC 475

	Committee's First Report of Session 2006-07	
Second Special Report	Tourism in Northern Ireland and its Economic Impact and Benefits: Government Response to the Committee's Third Report of Session 2006-07	HC 545
<b>Session 2005–06</b>		
First Report	Education in Northern Ireland	HC 726
Second Report	The Work of the Committee in 2005	HC 928
Third Report	Organised Crime in Northern Ireland	HC 886
First Special Report	The Work of the Committee in 2004: Government Response to the Committee's Fourth Report of Session 2004-05	HC 393
Second Special Report	The Functions of the Office of the Police Ombudsman for Northern Ireland: Responses by the Government and the Office of the Police Ombudsman for Northern Ireland to the Committee's Fifth Report of Session 2004-05	HC 394
Third Special Report	The Parades Commission and Public Processions (Northern Ireland) Act 1998: Government Response to the Committee's Second Report of Session 2004-05	HC 395
Fourth Special Report	The Challenge of Diversity: Hate Crime in Northern Ireland: Government Response to the Committee's Ninth Report of Session 2004-05	HC 396
Fifth Special Report	Air Transport Services in Northern Ireland: Government Response to the Committee's Eighth Report of Session 2004-05	HC 529
Sixth Special Report	Ways of Dealing with Northern Ireland's Past: Interim Report – Victims and Survivors Government Response to the Committee's Tenth Report of Sessions 2004-05	HC 530
Seventh Special Report	The Functions of the Northern Ireland Policing Board Responses by the Government and the Northern Ireland Policing Board to the Committee's Seven Report of Session 2004-05	HC 531
Eight Special Report	Decision to Cease Stormont Prosecutions	HC 814
Ninth Special Report	Organised Crime in Northern Ireland: Government Response to the Committee's Third Report of Session 2005-06	HC 1642

# Oral evidence

## Taken before the Northern Ireland Affairs Committee on Monday 25 January 2010

Members present

Sir Patrick Cormack, in the Chair

Rosie Cooper  
Mr John Grogan  
Mr Stephen Hepburn  
Lady Hermon

Mr Denis Murphy  
Stephen Pound  
David Simpson

*Witnesses:* **Mr Al Hutchinson**, Police Ombudsman; **Mr Barry Gilligan**, Chairman, **Mr Brian Rea MBE**, Vice-Chairman, and **Mr Adrian Donaldson MBE**, Chief Executive, Northern Ireland Policing Board, gave evidence.

**Q1 Chairman:** Gentlemen, could I welcome you. Some of you we have seen before. Mr Hutchinson has become an old friend of the Committee and has appeared before us on a number of occasions. You are all very welcome. Could I first of all ask you, as some of you we have not seen before, to introduce yourselves. I see you have positioned yourself in the middle, Mr Donaldson. Does that mean you are going to take most of the questions?

**Mr Gilligan:** The answer to that is yes, Chairman!

**Q2 Chairman:** A number, of course, will be directed to the Ombudsman. Would you like to number off from Mr Rea.

**Mr Rea:** Thank you, Chairman. My name is Brian Rea. I have been a member of the Northern Ireland Policing Board since April 2006. Upon the re-election of officers in June of last year I was appointed Vice-Chairman.

**Mr Gilligan:** Good morning, Chairman. I am Barry Gilligan. I am Chairman of the Northern Ireland Policing Board. I have been a member of the Board since the Board was formed back in November 2001. I succeeded Denis Bradley as Vice-Chair a couple of years ago and succeeded Desmond Rea as Chairman in June of last year.

**Mr Donaldson:** Good morning, Chairman. My name is Adrian Donaldson. I am the Chief Executive of the Policing Board.

**Mr Hutchinson:** Chairman, I am Al Hutchinson, Police Ombudsman since November 2007.

**Q3 Chairman:** The Committee is nearing the end of its term because when Parliament ends with the dissolution and the announcement of the General Election, which everybody seems to think will be May, but could be earlier, could be later, the Committee will then cease to exist and it will be for the new Parliament to elect a new committee. We are anxious to report to our colleagues before dissolution on the progress of devolution over the last five years since this particular Committee came into being after the General Election of May 2005. We want to ask you a number of questions. Mr Hutchinson, you have already given us your views on some of these things, but it is about a year since

you last appeared formally before the Committee and it may well be that your views have altered in some way or that you wish to add something to them, so please feel free to give us as full answers as you can. We will aim to finish the formal session by quarter past twelve at the latest, but we would then like to have just ten minutes with you as there are one or two questions that you may feel freer to talk about in a private session because of the security implications. We are meeting on what could be a momentous day in Northern Ireland. Mr Gilligan, Mr Hutchinson and colleagues, what implications would the devolution of policing and criminal justice powers have for the Policing Board and for the Ombudsman respectively? I will ask Mr Gilligan first and then Mr Hutchinson, but the other two gentlemen should feel free to come in.

**Mr Gilligan:** Thank you very much. First of all, could I state at the outset that this Board supports the concept of the devolution of policing and justice as set out in recommendation 20 of the Patten report which says: "Responsibility for policing should be devolved to the Northern Ireland Executive as soon as possible, except for matters of national security". The Board are unanimous in that respect. There are two major points of principle, however, which the Board have presented to the Assembly Executive Review Committee in this regard. Firstly, the role and powers of the Board should not be diminished under the devolution of policing and justice, including that the Chief Constable should remain solely accountable to the Board for the delivery of the policing service in Northern Ireland. Again, that is consistent with Patten and also with the Government discussion paper on devolving powers and also unanimously accepted and agreed by the Assembly Committee on the Preparation for Government when it reported on this back in September 2006. The second point of principle that the Board have been unanimous on is that the Chief Constable's operational responsibility should not in any way be undermined when policing and justice powers are devolved. Again, that is consistent with the Patten report and the Government's discussion paper on devolving policing and justice. It is important to note that Patten made these

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recommendations in order to provide that check and balance mechanism for the tripartite arrangements so as to avoid any individual strand exercising partisan influence over another source.

**Q4 Chairman:** Let me get this absolutely clear because this is a very crucial issue. The Chief Constable, after the devolution of policing and justice, would be primarily accountable to you and not to the new Minister of Justice?

**Mr Gilligan:** Absolutely. That is a point that has been accepted by the Assembly Executive Review Committee and is absolutely critical to the independence of operational policing going forward. You asked what it will mean for us post-devolution. Whilst the Board unanimously welcomes the devolution of policing and justice, in one sense not much about what we do will change because we continue to hold the Chief Constable to account and the Chief Constable continues to have operational responsibility for policing. We do have a relationship, and a very good relationship, with the Northern Ireland Office and the Minister of State responsible for policing, Paul Goggins, and there is no reason why that productive working relationship should not continue at post-devolution of policing and justice, but it is important that the protocols related to that are agreed and laid down before it takes place.

**Q5 Chairman:** The relationship that you currently enjoy with Mr Goggins as Minister of State in the United Kingdom Government would be replaced by a relationship with the new minister here in Stormont?

**Mr Gilligan:** With the new Justice Minister, yes.

**Q6 Chairman:** You would not envisage any relationship particularly with whoever might occupy the role of Secretary of State, if there was a Secretary of State for Northern Ireland?

**Mr Gilligan:** Only insofar as the Secretary of State would take responsibility for excepted matters, such as national security, where there would be an ongoing relationship. In terms of the day-to-day oversight of operational policing, we do not envisage any change from the relationships that currently exist on a tripartite basis. The new leg to all of this will be the Scrutiny Committee at Stormont, and you may wish to explore that later.

**Q7 Chairman:** Indeed. Before I do that, I would like to ask Mr Hutchinson if he would like to comment on the opening question, and then I want to ask you both what preparations you have made and are making for the transition. Mr Hutchinson, on the general issue.

**Mr Hutchinson:** Thank you, Chairman. I would like to welcome the Committee. I hope it foreshadows perhaps the Justice Committee or Scrutiny Committee that we will face shortly. Firstly, I would endorse Mr Gilligan's points in terms of the accountability and governance. As the former Patten Oversight Commissioner, of course I endorse the principle of the Board staying as it is and in

parallel fashion my reporting relationship will then be with the Justice Minister, whoever he or she may be, and I look forward to that. Currently with the arrangement, and I differentiate Westminster, Mr Goggins' presence, versus the local Justice Minister, I think there are a great number of benefits to us on the rapidity and flexibility of the arrangement with a local Justice Minister familiar with local issues and the lead to a joined-up justice system. I see it as an opportunity, in other words, for us. One of the criticisms my office faces is the lack of accountability of our office, although there are a number of mechanisms in place. I think certainly a local Justice Minister replacing the Secretary of State would be beneficial for public confidence in our office as well. There are a great many benefits. The current impasse, I believe, has caused somewhat of an institutional vacuum. I speak only for my office, but I am sure the Board has felt that presence as well. There are two examples that I believe could be dealt with more quickly in a local setting. One deals with *Dealing with the Past*. Our two business lines I have echoed to the Board before where we have this policing the past issue, our historic investigations, and we have the present. Workload presently is up approaching 25% this year, which we may want to cover a bit later, which is a bit concerning. I think *Dealing with the Past* is part of that issue. I have recently resubmitted my business case post Eames-Bradley to the Government and the Secretary of State has advised that pending devolution it will be put on the shelf again, so our issues continue.

**Q8 Chairman:** Are you happy with that response?

**Mr Hutchinson:** No, I am not, because we currently have 101 cases involving complaints against police actions.

**Q9 Chairman:** Are you confident that post-devolution this matter will go to the head of the agenda and that it will be dealt with?

**Mr Hutchinson:** I am hopeful because clearly it is a major issue for Northern Ireland to resolve it. I have been on the record in the past as saying it is not my first wish, I think it is a societal solution and not one for HET nor for my office to investigate solely the police, it is a larger issue than that. Assuming Eames-Bradley is not delivered by Government, and it is still pending a decision of course, we are waiting in limbo.

**Q10 Chairman:** You have seen this Committee's report on Eames-Bradley?

**Mr Hutchinson:** Yes, I have. It remains an issue and leaves a strategic vacuum. The second example I wanted to raise was our five year legislative review that after about a three year process finally came to an end with the Northern Ireland Office basically not accepting any of the challenges, but it shows the legislative queue and the priorities in Northern Ireland you face in getting changes, whereas there may be some changes we want. I think there will be a lot more flexibility and a lot quicker action with a local Justice Minister.

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**Q11 Chairman:** Thank you for that. Could you both tell me relatively briefly what preparations have been made for this transition and whether there are other preparations still to be made? If an announcement were made this afternoon that this would happen within the next three months, are you ready for it?

**Mr Gilligan:** We are ready for it and have been ready for it. I made a statement at a public engagement meeting last week. It was my Groundhog Day statement that we are ready for it, we were ready for it 12 months ago and we were ready for it two years ago. As far as what we are doing, externally the Northern Ireland Office in conjunction with the former Chief Executive of the Board and the Deputy Chief Constable have put forward a protocol document clarifying the roles, the tripartite and quadripartite roles going forward. That paper was tabled at our corporate policy meeting on Thursday last. Board members are considering that and we will make a formal response on that document to the Assembly Executive Review Committee as soon as possible. I think it is fair to say that some members were concerned that the document was a little bit loose. The importance here is that we meet trouble before it arrives, in a sense. I think it is absolutely critical that we have the respective responsibilities laid out as clearly as possible before devolution takes place.

**Q12 Lady Hermon:** Does “loose” mean weak?

**Mr Gilligan:** No, it does not mean weak.

**Q13 Lady Hermon:** What does it mean?

**Mr Gilligan:** It is about language. As you might imagine, with a Board of 19 people, with ten politicians, the use of language has different meanings for different members. It is a question of us trying to get as close to a corporate response in that as we possibly can. Internally we have a dedicated project underway within the Policing Board to assess any impact that devolution might have on our day-to-day operations, and particularly any impact that it might have for resourcing.

**Q14 Chairman:** Mr Hutchinson, you are ready, are you?

**Mr Hutchinson:** Yes, Chairman, we are ready. Our changes are internal facing as opposed to external facing. Essentially our business will not change, it will enjoy operational independence. There are no issues around that. I see it more as an operational responsibility à la Patten. In other words, I will have an ability to account to a Justice Minister or Justice Committee. Our preparations are internal to prepare for a substantially increased workload, appearing before a local committee and, indeed, the Justice Minister and Department.

**Q15 Chairman:** Thank you. Before I bring in colleagues I have two points. Mr Gilligan, you referred to the Scrutiny Committee and said we might wish to ask about that, and indeed I do wish to ask. This is, in a sense, an imponderable because

we do not yet know precisely what form it will take, who will be on it, et cetera. If this is going to work effectively, and we must all want it to work effectively, would you like to say a word about that. The other thing is when you were talking about your role as a Board you quoted Patten and used Patten’s phrase about operational responsibility for the Chief Constable. What is the difference between that and operational independence? Could you deal with those two points and then I will bring in my colleagues.

**Mr Gilligan:** Sorry, Chairman, the first point again was on?

**Q16 Chairman:** The Scrutiny Committee.

**Mr Gilligan:** This has the potential to be a very crowded place with a 19 member Board and I do not know how many members on the Scrutiny Committee. I think it has been accepted that those political members who sit on the Scrutiny Committee should not also sit on the Policing Board. I come back to the protocol that we have got to agree in advance because it is absolutely critical that we agree what the relative parties’ responsibilities are. As I see it, the political members on the Policing Board are there with their independent colleagues to hold the Chief Constable to account whereas the members of the Scrutiny Committee are there to hold the Justice Minister to account not just for policing but also for all areas of the criminal justice system. It is important that we do not have the same members on both committees and it is important that the roles are absolutely clearly laid out in terms of responsibilities. On the second point, I do not see a great distinction, to be honest, between operational independence and operational responsibility. I often say as Chairman of the Policing Board I am not a police officer, I have no wish to be a police officer, I am not qualified to be a police officer, and in terms of day-to-day policing we have to rely on the Chief Constable to take those hard decisions. That is why he gets paid the big salary and that is why he has the responsibility. It is important that post the event we are there to hold him to account for the outcome of his actions.

**Q17 Chairman:** When you responded to Lady Hermon’s intervention you did say that with 19 members, ten politicians, it is not easy. Are you absolutely confident, because you talked about unanimity in your very first answer, that the unanimity among the Board is real and can hold in the face of whatever adversity might face it?

**Mr Gilligan:** We can never be certain of that. I can only take members on what they have said in the past in respect of this item. They have been unanimous on both of the points that I made at the start. What they do afterwards we will have to wait and see. That is why I think it is absolutely critical that the protocols are crystal clear before we go down this road.

**Q18 David Simpson:** Can I declare that I sat for some time as a member of the Policing Board. I was one of these politicians that Barry mentioned. In the short

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time that I was there I think relationships were very important in order to move things forward as one of the key components of it all, and a degree of trust among all members but certainly amongst the politicians and the political representatives. When I speak of “relationships”, could you describe for us the relationship currently with the Northern Ireland Office?

**Mr Gilligan:** The relationship, as I have outlined to the Chairman, is a good one. It is co-operative. There is certainly no sense that the Minister has been in any way treading on the toes of the Policing Board. We have worked together and I will give you a couple of examples where we and the Minister have worked together in partnership with the tripartite arrangement working. One was the recent spate of ATM robberies, for example, where the Minister asked for a meeting with the Chief Constable, myself and the banks to see how collectively and in partnership we could help to address that situation. There was also the issue, and this is where the Minister has responsibility for policy as opposed to operation, of the District Policing Partnerships and Community Safety Partnerships working more closely together. The Minister asked for the Board’s views on that and we gave the view of the Board, which again was a unanimous view, and that has been taken on board. The relationship can be tense at times—

**Q19 David Simpson:** I know the feeling.

**Mr Gilligan:** —but it is good. I have spoken a number of times and mentioned the word “unanimous”. We do not always find a unanimous view on issues. You mentioned earlier the question of the Chief Constable’s operational responsibility. He has an operational responsibility on the use of Taser as an example and that is not an area where we did get a unanimous view around the Board. For the most part we can come to a corporate view.

**Mr Rea:** Historically there has been a very high level of consensus on lots of the decisions. Issues like Taser, which in my view are purely within the remit of the Chief Constable, did cause one or two ripples.

**Q20 David Simpson:** In relation to advice or guidance, there is no issue. If you wanted guidance or advice from the NIO the support is there in order to help?

**Mr Gilligan:** I can speak for my relationship with the Minister and senior officials. I know Adrian can comment on the relationship between officials of the Policing Board and the Northern Ireland Office. My understanding is that there is also a good, professional working relationship.

**Mr Donaldson:** I would agree with that. The relationship between officials and the Office is extremely sound and very professional. We meet regularly, on a weekly basis.

**Q21 Chairman:** Weekly, you say?

**Mr Donaldson:** On a weekly basis on different issues. It might be finance, it might be resources, it might be policy, but certainly we have a meeting if not weekly

then certainly fortnightly. We talk on a daily basis. You know what emails are like, we email each other profusely. The relationship is particularly sound. We expect that most of those officials will transfer to the new Justice Department so the official relationship should be maintained after devolution.

**Q22 David Simpson:** Can I ask Mr Hutchinson in relation to his meetings with the Secretary of State, how often would you meet with the Secretary of State in relation to your portfolio? Would it be on a needs basis? How beneficial have you found those meetings?

**Mr Hutchinson:** Let me first endorse the comments from the Policing Board that our organisational relationship with NIO broadly is extremely good. I believe they perform a challenge function. We are a relatively small department with £9 million, but it is good. We have quarterly meetings to establish performance criteria. The Chief Executive, Sam Pollock, over the years has built a credible reputation with the Office in terms of corporate management, so there are no issues. We have met our 5% budgetary cut for 2010–11 coming up and that has been through working with the NIO and their agreement. It is very sound at a corporate level. Specifically with the Secretary of State it would be on a needs basis. I would meet a couple of times per year with Mr Goggins. I have a very good relationship with Mr Goggins, he is a very professional politician. We are a relatively small organisation and in terms of profile prisons and police are obviously bigger ticket items than our office. I would say the relationships are very good.

**Q23 David Simpson:** Can I briefly finish by asking the members of the Policing Board the same question in relation to the Secretary of State.

**Mr Gilligan:** I do not have a lot of contact with the Secretary of State. Most of my contact would be with the Minister of State, Paul Goggins.

**Q24 Chairman:** How often do you see him?

**Mr Gilligan:** Certainly at least every couple of weeks.

**Q25 Chairman:** That is good.

**Mr Gilligan:** I have a meeting scheduled with him for tomorrow afternoon.

**Q26 Chairman:** I think it is fair to put on record that Mr Goggins has fulfilled his duties impeccably.

**Mr Gilligan:** Absolutely, I could not agree more, Chairman.

**Lady Hermon:** I think we are all unanimous on that.

**Q27 Mr Murphy:** Mr Hutchinson, the last time we met about a year ago you said that the relationship you had with the Garda Ombudsman Commission was a very strong one both at a personal and operational level. Is that still the case?

**Mr Hutchinson:** Yes, it is. As a matter of fact, I will be meeting with the Garda Commissioner and the chief Garda Ombudsman Commissioner in a couple

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of weeks as well. We will continue at our annual meeting between the IPPC, An Garda Síochána and Scottish Police Complaints Commission. That is coming up in March. Personally and professionally it is still very strong, there are no issues. We co-operate on operational advice where we have common issues and certainly in areas like training as well. It is extremely strong and remains that way.

**Q28 Mr Murphy:** Do you work together on any individual cases?

**Mr Hutchinson:** No, we do not. That still remains somewhat of a legislative issue in terms of the two cases I mentioned a year ago which remained, and still remain, open. Those deal with national sovereign security and intelligence issues as well. You can appreciate the practicalities of that.

**Q29 Mr Murphy:** Do you think there will be any changes in the event of policing and justice powers being devolved?

**Mr Hutchinson:** I do not anticipate any. I see it as a relationship institution-to-institution. Certainly it is my intent to co-operate at all levels in England, Wales and Scotland. I believe there is a commonality in terms of policing oversight and accountability and we have a shared interest. I see it as an institutional relationship.

**Chairman:** We do want to explore a little on paramilitary activity and so on, but we will do that privately.

**Q30 Lady Hermon:** Could I begin with the Policing Board. What changes, if any, would you expect in terms of public confidence or public perceptions of the police post—we hope—the devolution of policing and justice?

**Mr Gilligan:** I can only see it being strengthened, Lady Hermon. The more elected local officials are engaged with policing, the more that contributes to public confidence. Public confidence here is relatively high in policing compared to other parts of the UK. There has been a little bit of slippage in our most recent survey but, notwithstanding that, the levels are still particularly high. I think confidence will come from a local Minister who will be perceived to be closer to local issues being involved, not just in policing but in justice issues. I certainly do not see any diminution in confidence and would hope for an increased confidence.

**Q31 Lady Hermon:** Can we come back to what you described as the little “slippage” in public confidence. Looking at your statistics that were published in December 2009 that was a drop to 80% from 87%. Can you account for that “slippage” as you called it?

**Mr Gilligan:** It is hard to account for statistics, as you know, but I will give you my shot at it, as it were. More and more people are engaged in policing here, and that is a good thing.

**Q32 Lady Hermon:** What do you mean by “engaged in policing”? Phoning the *Stephen Nolan Show*?

**Mr Gilligan:** People who traditionally would not have involved the police now accept the PSNI as the Police Service dealing with crime issues in Northern Ireland whereas in the past they may not have. Public expectations in policing, I have found, are on the increase so that, in a sense, might translate into a higher level of dissatisfaction because more people are more critical of the Police Service they expect. I go back to the point I made at the outset. Four out of five respondents, 80%, had some, a lot or total confidence in the police’s ability to provide a day-to-day policing service. By any standards, that is a very strong figure.

**Q33 Lady Hermon:** If, for example, you do hear criticisms of delivery by the police to the community, for example criticisms that are voiced and aired on the BBC’s *Nolan Show*, do you find that you feel compelled to respond to that? Would you appear? Would you make representations to the *Stephen Nolan Show*?

**Mr Gilligan:** As rarely as possible!

**Q34 Lady Hermon:** He has a very big listenership.

**Mr Gilligan:** He has a very big listenership but we also, on the Board, have a community engagement policy where through the network of DPPs we go out and engage with an awful lot of people who are not compelled to phone in to Nolan. I think it is a useful barometer. I attended a public engagement meeting in Enniskillen with the Chief Constable on Tuesday evening of last week. It was the fourth such meeting we have had. People are invited along to engage with the Board and the Chief Constable and discuss any areas of concern to them. I find that they have been very productive evenings.

**Q35 Lady Hermon:** Have they been well attended?

**Mr Gilligan:** Yes, well attended.

**Q36 Lady Hermon:** Right across Northern Ireland?

**Mr Gilligan:** Yes, we have had four so far. I am talking specifically about the community engagement meetings that we have instigated as a Board. We have had one in Belfast, one in Derry, one in Ballymena and one in Enniskillen.

**Q37 Chairman:** Have you had one in Armagh yet?

**Mr Gilligan:** Newry is the next one that would cover the Armagh area. Those have been well attended and the issues that are raised are issues of local concern to people. Quite apart from those meetings, through the network of the DPPs we have very regular meetings, both general meetings with the PSNI and specific meetings on areas of concern.

**Q38 Chairman:** Can I just pin you down a little on the meetings. What do you reckon is a good attendance?

**Mr Gilligan:** A couple of hundred.

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**Q39 Chairman:** How do you advertise these meetings?

**Mr Gilligan:** They are advertised through the Police Board website and also through the local media. For example, on the Fermanagh one last Tuesday I did an interview with the *Fermanagh Herald*, the local paper, beforehand encouraging people to come along to that meeting.

**Q40 Chairman:** Anybody is allowed to come?

**Mr Gilligan:** Everybody is welcome, absolutely.

**Q41 Chairman:** Is there an age profile in the meetings?

**Mr Gilligan:** Yes, unfortunately there is. It tends to be the over-40s, Brian, would you say?

**Mr Rea:** I think you are right.

**Q42 Chairman:** It is quite important just to get some of these things on the record.

**Mr Gilligan:** We are conscious of that. Through our community engagement meetings we have identified people we specifically want to target because they may not have traditionally been involved with policing. The first four we identified were young people, elderly people, lesbian, gay, bisexual people and ethnic minorities. We have made a particular effort in those cases to outreach to those people and get them to engage not just with the Policing Board but with the Police Service.

**Q43 Chairman:** I do not want to cast any aspersions or minimise the importance of any individual groups such as those you have just mentioned, but in Northern Ireland we all know that what matters is that broadly speaking the nationalist community and the unionist communities should accept the validity of the policing and give it support. Do you find in your meetings that there is now an increased acceptance and support right across the communities?

**Mr Gilligan:** Absolutely, no question about that, Chairman. We are getting a complete cross-section of people. They are not cosy meetings. The Chief Constable had to deal with some difficult questions from both sides of the community in respect of perhaps full-time reserves on one side and collusion on the other, or whatever. I make it quite clear at the outset of all of these meetings that there are no questions we will not attempt to answer.

**Q44 Chairman:** We had a very interesting and, in some respects, exceptionally moving meeting in Crossmaglen specifically with the supporters and relatives of the Quinn family. Is it your intention to hold a meeting in Crossmaglen?

**Mr Gilligan:** We would imagine that—

**Q45 Chairman:** Not just on the Quinn issue, I do hasten to add.

**Mr Gilligan:** I know that a matter of days after the incident of the illegal roadblock at Meigh the DPP held a meeting in Crossmaglen. The Police Board cannot be everywhere, Chairman. In our public engagement meetings we tend to concentrate on the

areas of larger population, so I would expect that either the Newry or subsequent Armagh meeting would cover the Crossmaglen area.

**Q46 Chairman:** But you will have meetings in Newry and Armagh?

**Mr Gilligan:** Absolutely, yes.

**Q47 Stephen Pound:** Can I just ask a follow-up question. I am sorry, Lady Hermon. This is extraordinarily interesting. This is at the very interface that we have discussed theoretically and we now have some practical empirical data. Do parochial issues emerge at these meetings? Is there a preponderance of issues relative to one particular geographical area at the particular meetings, or are there some things that cut across everything? What I am trying to say is at some stage will you be producing a sort of digest of the issues that are raised? That would be an extraordinarily good way of taking the temperature.

**Mr Gilligan:** Everything that is raised at these meetings is brought back to our Board and discussed at the community engagement committee, and particularly on any actions that need to flow from the points that have been raised there will be follow-up either through ourselves, the PSNI or the DPPs. The issues that are raised are wide-ranging right from local issues to the issues that you would hear discussed on the *Nolan Show* on a daily basis. It is quite far-reaching and very encouraging. One point I would make is this: you asked, Chairman, is everyone invited. Everyone is invited. At the meeting in Enniskillen last Tuesday night I had to drive past a protest by Firinne, which they are entitled to do, questioning the application of section 44 stop and search. I made the point in a media interview before the meeting, and I made it during the meeting, that they were welcome to be at the meeting and had they come to the meeting and asked the question that issue would have been addressed by the Chief Constable and members of the Board.

**Q48 Lady Hermon:** Yes, freedom of speech. Chairman, I was going to ask a question of Mr Hutchinson but I think you indicated you wanted to speak on the previous question.

**Mr Hutchinson:** I was going to add to some information following the debate on your question and Mr Pound's intervention. I highlighted earlier that complaints were up significantly for the first nine months of our year. Failure of duty remains about 38%–40% and incivility and oppressive behaviour combined are about 40%. We can track particular areas of public complaints. I think our barometer of satisfaction, confidence in policing, ironically may indicate that there is confidence in policing because people are complaining and their expectations are high on delivering the service in different areas. It will take a full year's data before we can properly analyse it. I think it is both a worrying trend that may reflect conditions in Northern Ireland at this time, but it also shows how we have to work with the Policing Board and the police to highlight those areas. For example, North

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Belfast is a particular hotspot but, ironically, West Belfast is not, and we can track those. It shows how we need this joined-up approach to the community confidence issues that are out there at the moment. It is something that the Committee probably should be aware of.

**Q49 Lady Hermon:** Could I just clarify that the increase in complaints to your office about police officers, are they complaints that do not relate to the past but to the present?

**Mr Hutchinson:** They just relate to the present, although complaints dealing with the past are increasing as well, it still remains an issue.

**Q50 Lady Hermon:** Yes. What percentage of those complaints is upheld?

**Mr Hutchinson:** Roughly about 70% are held in favour of the police. The remaining 30% deals with police officers who are prosecuted, disciplined or the complainant may abandon their complaint and we have no evidence one way or the other that it is upheld. About a quarter of our complaints are dealt with by Informal Resolution, in other words it is a quality of service issue. In that regard, we have started a local resolution project in the Lisburn district, broadly speaking, because I think the police should have the first opportunity on quality of service issues to resolve it locally.

**Q51 Chairman:** What are these complaints about the present? I am not talking about the past. What sort of things are people complaining of? How many of them are very serious? I am not suggesting that every complaint about the police should be locally treated, of course I am not, but we all know that there are grades. Can you give the Committee some idea of the sort of things that people are complaining about and how many of those are on very serious matters?

**Mr Hutchinson:** We would put recommendations for prosecutions to the Public Prosecutor in probably about 20-plus cases per year and there are about 11 police officers per year over the last few years actually prosecuted. Those would largely be dealing with assault cases. For example, I have had a couple recently that deal with not only incivility but simple things like crushing a chocolate bar. At first the case would appear to be ridiculous, but in some cases we have to look at a pattern of harassment.

**Q52 Chairman:** Crushing a chocolate bar?

**Mr Hutchinson:** Yes.

**Q53 Chairman:** Would you like to be a little more specific? I trust it was not a Cadbury's chocolate bar!

**Mr Hutchinson:** I am sorry, Chairman, I did not delve into the brand. What it illustrates is probably several things but we do have to pay attention because we track multiple complaints against officers. We do have officers who have had up to 50 complaints against them, so one would argue where there is smoke there is fire. We need to track and trend those things.

**Q54 Chairman:** On the other hand, one does not want to encourage the frivolous and vexatious complaints. It seems to me that the Ombudsman—this is no reflection on you, of course—was appointed to instil and reinforce public confidence in the police, not to be involved in the crushing of a chocolate bar.

**Mr Hutchinson:** That is true, Chairman, but it is a larger picture than that. The oppressive behaviour, for example, when Nuala opened the office in 2001 was about 60% and that has reduced to less than 30% now. A series of reforms and changes, attitudes, have changed that and now we are looking at increased failure of duty, hence one could argue that public expectations are high and there is a gap between the police being able to deliver against those and what the public expect. That is probably a worldwide phenomena; it is certainly a UK phenomena. In the first instance, for those informal minor complaints the police should have the first opportunity to resolve them on a quality of service basis.

**Q55 Chairman:** Is there not a very strong argument to say that your time and money should not be wasted on certain things because you began this afternoon, perfectly legitimately, by talking about the burden of the past, and you have made this point to the Committee before, the need for extra resources in coping with all these things. Surely you should not even be looking at crushed chocolate bars.

**Mr Hutchinson:** I would agree that is a political decision. We have the legislative mandate and requirement to do it. I cannot absolve myself of what the legislation requires.

**Chairman:** Do you not have the authority to say, "Sorry, that is not something we are going to look into?"

**Q56 Stephen Pound:** When I think of what the police were accused of crushing a few years ago, a chocolate bar can only be an improvement.

**Mr Hutchinson:** I would agree, but if you are the person who has been harassed through multiple stops and complaints, it is a similar scenario to the chocolate bar. Chairman, it is a complex area. I have built in three corporate goals because I want to change the direction of the organisation. One is building confidence, the second is dealing with the past and the third is contributing to improve policing with the community. Those three together talk about confidence and we have to work with the Board and police to realise that there should be joined-up confidence in the justice institutes and policing institutions. That is what we are trying to do, but these things will be a long-term issue.

**Q57 Lady Hermon:** Just one final question to Mr Hutchinson. I was alarmed by a recent statement by the former Commissioner of the Independent Police Complaints Commission in England and Wales. I quote directly what he said: "the odds are hugely stacked against having their", meaning the public's, "complaint upheld and are even more stacked against them in terms of the prospect of a police officer who has done something wrong being held to account". That is a former Commissioner of the IPPC speaking

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of England and Wales. Would you think that the same assessment could be made in Northern Ireland? Would you contradict that assessment in Northern Ireland?

**Mr Hutchinson:** Let me say it may be a fallacious statement in this sense: if you are a member of the public making a complaint statistically the odds are that complaint will not be upheld.

**Q58 Lady Hermon:** In England and Wales or in Northern Ireland?

**Mr Hutchinson:** I would say in Northern Ireland. I think there is a parallel perspective. What I am saying from both of our institutions, the IPCC and ourselves, is we are evidence-based. In other words, is there evidence that A, B, C or D was done. We work on that basis. The public perception of whether their complaint is right or wrong will be equally held and potentially not dispelled. With respect to the police officers, some 72% of those that we engage with are satisfied with our service and the same holds true about the public, even regarding that statistic. If the view is that police should be held to account, and being held to account means they should be disciplined, fired, taken to court, then obviously statistically you will never meet that. Certainly it is our view that building a system for confidence, and it is not only public confidence but police confidence, involves balanced and fair justice and fair independent investigation. I cannot speak for the IPCC but I believe they deliver that. Of course, they only supervise, manage and investigate very serious cases, which is different than us. I am not sure who made that statement.

**Q59 Lady Hermon:** John Crawley.

**Mr Hutchinson:** I hear often in Northern Ireland that people view accountability as putting police officers in the dock or firing them or suspending them. If that has to be done then it has to be done. Just last week we publicly announced we arrested a police officer for a matter and that is under investigation as well. We do what we have to do. I think it would be unfair to say that the public can never get their accountability because it is matter of perception. We are evidence-based, as I have said. On the surveys of both police and public we investigate, both the public and the police are roughly equally satisfied with our product and conduct. 72% of the public say they would use our service again even though their complaint has been rejected. It is a balanced perspective of the issues that you need.

**Mr Hepburn:** What qualities and attributes do you look for when appointing a Chief Constable in Northern Ireland?

**Q60 Lady Hermon:** The patience of Job.

**Mr Gilligan:** Resilience. I chaired the appointments panel which appointed Matt Baggott back in August. For any of you who ever sit on a recruitment panel, one of the great joys is to have someone stand out. The result of that was we had a unanimous panel in support of the appointment of Matt Baggott. What did I see in Matt Baggott? He made a statement at the end of the interview and said he believed policing to be

a force for good. In everything that Matt Baggott has said since that resonates with me, that it is a force for good. The other issue, particularly in respect of Matt's appointment, was that he is a strong advocate of community policing and this was something that the Board had very much taken to its heart, in line with Patten of course, deciding that policing of the community should be at the core of policing in Northern Ireland. He had experience in that regard. He also had experience, which I believe will stand him in good stead, of working with scarce resources. You asked a general question and I will relate it to the specifics of Matt. He has listened. He has not done Nolan yet. He has listened over the course of the last few months, and I think that is important. He relates to people and relates well to his senior team. We are fortunate, having had Sir Hugh Orde for seven years as Chief Constable, that we have recruited a Chief Constable who already had six years' experience as a Chief Constable in Leicestershire. The answer to your question is the qualities we were looking for in a Chief Constable we see in Matt Baggott.

**Q61 Chairman:** You say you were unanimous. How many were on the panel?

**Mr Gilligan:** Typically an appointment panel is made up of seven: the Chair and Vice-Chair of the Board, another independent member and a representative from each of the political parties. We had total cross-party representation on that appointments panel. One of the key responsibilities of the Policing Board is to appoint the top team. We are responsible for appointing not just the Chief Constable, but the Deputy Chief Constable and all of the Assistant Chief Constables. Every member of the senior team now has been appointed by this Board.

**Mr Rea:** Something else that he brought to that interview was the concept of personal policing. I had not heard it before. He was enthusiastic about it. I could see clearly that he meant what he said. It is a challenge for him and the whole Police Service to bring personal policing.

**Lady Hermon:** What did he mean by that?

**Q62 Chairman:** How do you define that?

**Mr Rea:** He defined it the other night in Enniskillen as where his officers would deal personally with people who had got a problem, people who had got a complaint, and they would be in weekly contact, and perhaps more than weekly contact, with the victim. Each officer would be tasked to get back on a personal basis to the victim.

**Q63 Lady Hermon:** It will be fewer letters going out to people, it will be face-to-face with a police officer?

**Mr Rea:** Or telephone contact. He means to bring the Police Service down to a personal level, especially with victims. He certainly impressed me with that, as he did with other attributes that Matt Baggott has.

**Q64 Mr Hepburn:** Going on to policing plans, when was your plan decided? Does it take into consideration the proposed devolution of justice?

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**Mr Gilligan:** As I said at the outset, we continue with the job in terms of holding the Chief Constable to account. We want policing and justice to happen. Notwithstanding that, we develop a policing plan annually looking forward three years. We held this year's back by about a month to allow Matt Baggott to put his particular imprint on how he saw policing developing over the course of the next three years. The timetable for that is we develop a policing plan, we take account of the Secretary of State's objectives, which are largely around confidence, we take account of our District Policing Partnerships, what do people at local level want from policing, because as Matt often says policing issues are best resolved with input from local people. Our plan for 2010–12 will be launched on 30 March. That continues irrespective of the devolution of policing and justice and that launch will go ahead on 30 March.

**Q65 Chairman:** So you can offer the people of Northern Ireland, whatever might happen today, confidence in continuity as a Board?

**Mr Gilligan:** Absolutely. I have referred a couple of times to the public engagement meeting we had in Enniskillen on Tuesday evening where we had a wide range of questions. We had not a single question on the devolution of policing and justice, save for the fact that there were a couple of young ladies from Mount Lourdes College in Enniskillen who were political students and I prompted them to ask a question which I answered along the lines that I have given to this Committee today.

**Chairman:** That brings us down to earth! Mr Hepburn.

**Q66 Mr Hepburn:** On cross-border issues, could you tell me the last time your Board actually met and how often do you meet with your colleagues across the border. Also, what sort of considerations are you bearing in mind as far as devolution is concerned?

**Mr Gilligan:** We do get regular briefings from the PSNI on cross-border co-operation and, as luck would have it, the last of those we had was last Thursday at the corporate policy meeting. A political colleague asked the question, "What is the relationship like between the PSNI and An Garda Síochána?" and ACC Drew Harris described it as, "as good as, if not better than, our relationship between neighbouring police services in the rest of the UK". We have read your report into cross-border co-operation, we did that in November, and have raised a couple of matters relating to that with the Chief Constable. One was about hot pursuit and surveillance, as outlined in the Schengen Convention. PSNI advised us that would be kept under review. My understanding of that is there are informal arrangements in place, and you may want to pick those up with the Chief Constable later this afternoon. The other question you raised was the sharing of radio technology with the Garda, and we have been advised that a cross-border communications solution has now been installed and is fully operational. There are a couple of other points

in that area which I could tell you about. One, the Foreign Minister of the Republic, Micheál Martin, visited the Board in early November and met with the Vice-Chairman, the Chief Executive and myself. That was a very good meeting and good exchange of views. He was very interested in the work of the Board. Not so interested, I suspect, that that is imminent in the Republic of Ireland.

**Q67 Chairman:** We shall be seeing him on Wednesday, we will have to ask him.

**Mr Gilligan:** That is a matter for them. The other issue which is timely is that the most senior appointee to date from An Garda Síochána has been announced, and that is Superintendent Paul Moran, who has 25 years' experience in the Garda, specialises in community relations and has been seconded to the PSNI for a year. I think he takes up post next month.

**Q68 Chairman:** Based where, in Belfast?

**Mr Gilligan:** Based in Belfast, in criminal justice.

**Q69 Chairman:** That is extremely encouraging. Thank you. Are there any other points you would like to make?

**Mr Donaldson:** If I could just add that there are also five-sided meetings that take place at official level, at which I attend, and we deal mostly with regulations and policy, such as inhibitors to lateral transfer between the Garda and the PSNI on pension issues and issues like that.

**Q70 Chairman:** This is very encouraging. We shall be following up these things at meetings in Dublin tomorrow and on Wednesday. Are there any other questions that colleagues wish to ask in the public session? Are there any other points that any of you gentlemen would like to make in the public session before we move to private session?

**Mr Rea:** If I could mention one thing. Historically, before I became a member of the Policing Board, they held one of their meetings in public locally in South Belfast. It was probably in 2004–05. I attended. I thought there were not very many people at it. It was an opportunity for people from the local community to attend the Policing Board meeting. I must say I have seen a significant change in that. At the meeting in Ballymena, which I attended, and the meeting in Belfast, which I attended, and last Tuesday in Enniskillen, the interest of the public seems to have increased. I did a very quick count that night in Enniskillen, I counted the number of rows, and reckoned there were about 250 people there. From the questions that were asked, they covered a broad range. Some were at an extreme on one side, and the final comment at the meeting was answered by someone from the unionist community who felt very strongly about what the other person said, but the meeting ended amicably and surely that is the way we want to proceed.

**Chairman:** I am sure it is. Thank you very much for that. Thank you all for your public evidence. I will ask if we can now clear the public gallery and we will move into private session. Thank you very much.

**Monday 25 January 2010**

Members present

Sir Patrick Cormack, in the Chair

Rosie Cooper  
Mr John Grogan  
Mr Stephen Hepburn  
Lady Hermon

Mr Denis Murphy  
Stephen Pound  
David Simpson

*Witnesses:* **Mr Jim Scholes**, Acting Director of Public Prosecution Service, **Mr David Lavery**, Director, Northern Ireland Court Service; **Dr Michael Maguire**, Chief Inspector, Criminal Justice Inspectorate, and **Mr Brendan McGuigan**, Deputy Chief Inspector, Criminal Justice Inspectorate, gave evidence.

**Q71 Chairman:** Mr Lavery, could I welcome you and your colleagues and say how grateful we are to you for coming. Could I also say at the very beginning how sorry we are that Sir Alasdair is not well enough to be here today. I would ask you, Mr Scholes, if you would convey the Committee's unanimous good wishes because we have enjoyed taking evidence from him in the past and he has been extremely helpful to the Committee in the information that he has supplied and the way that he has responded to our queries. We hope that he is soon very much better. This is almost certainly the last major visit of the Committee to Belfast before the General Election and we have determined to make our final report to Parliament a report on the progress over the last five years towards devolution. Of course, we do not know at this stage whether we shall be able to comment on the final stage of detail, although we hope we will. We would like to explore a few of the aspects of this with you four gentlemen this afternoon. Could I ask you first of all if you could introduce yourselves and if you wish to make an opening statement, Mr Lavery or Mr Scholes, or indeed any of you, that is fine. We have about three-quarters of an hour and then a quarter of an hour, if you are agreeable, in private session. Could I ask you to introduce yourselves.

**Dr Maguire:** Michael Maguire, Chief Inspector of the Criminal Justice Inspectorate in Northern Ireland.

**Mr McGuigan:** Brendan McGuigan, Deputy Chief Inspector of the Criminal Justice Inspectorate.

**Mr Lavery:** I am David Lavery, Director of the Northern Ireland Court Service.

**Mr Scholes:** I am Jim Scholes. I appear as Acting Director of Public Prosecutions for Northern Ireland in the absence of Sir Alasdair.

**Q72 Chairman:** What implications arise for your service should policing and justice be devolved in the reasonably near future? What implications are there if it is not devolved in the reasonably near future?

**Mr Lavery:** The Court Service is in quite an interesting position constitutionally at the moment. We are not simply a separate government department but a separate Civil Service. That was part of the historical configuration of court administration when the Court Service was established in 1979. We were kept apart from the Northern Ireland Civil Service and, indeed, from the

Northern Ireland Office. Constitutionally we will go through quite a fundamental change of status if devolution of justice happens. The Court Service will cease to be a separate and distinct Civil Service in its own right, our functions will be transferred to the future Department of Justice for Northern Ireland, and we anticipate that the Department of Justice will establish an agency, most likely called the Northern Ireland Courts and Tribunals Service, which will be responsible for providing court and tribunal administration. Although for my staff probably they will go home on Friday night as Northern Ireland Court Service civil servants and come back on Monday morning as Northern Ireland civil servants, at the frontline there will be very little difference. For those interested in the constitutional distribution of functions, it will be quite fundamental. We will cease to be a separate Civil Service and will be re-established as an agency of the Department of Justice. Whereas at the moment my Minister is the Lord Chancellor and our departmental orientation is toward Westminster, in future our orientation will be toward Stormont and a Minister of Justice for Northern Ireland. Just in terms of leadership there is quite a lot of work to be done to help staff to think through that change process and reorientation. In terms of frontline services, I doubt if anyone will notice much, if any, difference.

**Q73 Lady Hermon:** Will you remain in post? Will you just transfer over to this new body? Will there be any loss of staff?

**Mr Lavery:** In my own personal terms this question occurs to me quite frequently.

**Q74 Lady Hermon:** Has it been clarified to you?

**Mr Lavery:** No, it has not.

**Q75 Chairman:** Who will make the decision?

**Mr Lavery:** Ultimately I imagine the Minister of Justice will decide, but there is a working assumption that the basic team that is in place in relation to the various component parts of the Department of Justice will remain in place at least for an initial period of time, so the head of the Prison Service is expecting to remain the head of the Prison Service.

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**Q76 Chairman:** How ready are you for the change?

**Mr Lavery:** We have been marched up this hill and down again quite a few times, Chairman. I have been in post for just over eight years and when Sir Hayden Phillips interviewed me for the post he said the first challenge was to be ready for the devolution of policing and justice, and I have been getting ready ever since. We are pretty far advanced in terms of the legislative and other preparations, but there are only so many times you can get staff ready for quite a fundamental change. We just need to time this right.

**Q77 Chairman:** Is it something that you and your staff are most anxious to see happen?

**Mr Lavery:** I think if you were working in the Ballymena court office it seems fairly abstract, the day job is supporting the local judiciary, the local clients, the local stakeholders, and I would not think it is a great daily preoccupation for them, but we have tried to prepare staff to understand that connecting the justice system with the community that we serve is in principle a good thing. I think there is a degree of anticipation and optimism on the part of staff. Very few of us have worked in a devolved environment—I did for a period of time—so we are trying to explain it actually is a good thing to work for a Minister who is actually a politician in Northern Ireland as well and has that more direct connection perhaps with the community.

**Q78 Chairman:** How long do you think the transition period ideally ought to be? If, as we would hope, agreement is reached in the next few days how long do you think the transition period should be?

**Mr Lavery:** The immediate task to be undertaken in the sense of enacting the various pieces of principally subordinate legislation we have always calculated would take ideally about six weeks, but I dare say we could get the job done more quickly than that if we were required to and perhaps could take a lot longer than that if we were allowed to. The transition in the more fundamental sense of bedding down and becoming more orientated towards a different form of accountability for our work to Stormont, to a Justice Committee and so forth, I am sure that will take a period of time to settle in.

**Q79 Chairman:** Of course. Do you have anything to add to this, Mr Scholes?

**Mr Scholes:** I think many of the considerations that David speaks of apply to the Public Prosecution Service. The statutory architecture for the PPS is in existence in the form of the Justice Act 2002, so the principal issues for the PPS will be developing new relationships with the Attorney General for Northern Ireland and the newly created post of Advocate General. We will be given a number of additional duties. For example, the power to refer unduly lenient sentences to the Court of Appeal will come to the Director, as will giving consent to prosecution in all cases other than those in respect of which the Advocate General in Westminster will consent. In terms of the difference which it will make on the ground, this will be in developing new relationships with the Attorney General, the

Advocate General, the Justice Committee, Public Accounts Committee and the Department of Justice. This is on the basis that the PPS is created as a non-ministerial department. The fundamental core work which we do, which is taking decisions as to prosecution, will continue irrespective of whether justice is devolved, but there are a number of ancillary changes which will come about.

**Q80 Chairman:** What about Dr Maguire, anything to add?

**Dr Maguire:** Since I have been in post I have been quite fortunate to have had a series of structured conversations with the Minister for Justice, Paul Goggins. I assume that this would continue in the context of a devolved setting where I would be meeting with the local minister and apprising him of the work and issues arising from that. I expect one of the key challenges for my organisation will be the existence of a Justice Committee and how we engage with the Justice Committee. That is something I am keen to explore whenever that arrives because a lot of the work that we do is perfectly positioned in the context of going to the Justice Committee with a set of issues. That adds an extra layer of accountability which is missing from the current arrangements.

**Q81 Chairman:** What do you think would be the major issues facing a new Minister of Justice in a devolved administration when he or she goes first into the office? What do you think would be the major two or three issues?

**Dr Maguire:** I can talk specifically about the work that we undertook in 2009 when we did 15 studies across ten justice organisations. We are beginning the new year with many of the issues that we began 2009 with and I would highlight a number of them. In the context of the work that we have done, policing in the community remains an issue in terms of how the police adapt to a different type of relationship with local communities across Northern Ireland. One of the key issues that arises from the work we did was a huge need for a different type of engagement with the police and that is something that remains on the agenda. When you look at the work that we have done on prison reform and the need to think about the purpose of prison, what it is trying to achieve and the way in which there needs to be a focus away from security to a concentration on rehabilitation and re-offending in the longer term, that is an issue. How we engage with victims and witnesses across all justice organisations continues to be an issue, whether it be the police, the Prosecution Service, the courts or, indeed, the prisons in the work that they are doing. Finally, the issue I would draw attention to is avoidable delay within the system and what needs to be done to join the organisations up to streamline the extent to which people engage with the justice process.

**Mr Lavery:** I would echo much of what Dr Maguire said. I think the big challenge for any Minister is to want to be seen to make a difference. The justice machine is quite sophisticated and the levers of control are sometimes indirect because some of the key players in the justice system are independent.

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The Director of Public Prosecutions has prosecutorial independence, the Chief Constable has operational independence and the Lord Chief Justice has judicial independence and none of the three will be slow to remind a Minister of that.

**Q82 Chairman:** Nor should they be.

**Mr Lavery:** No, exactly. At the same time a Minister might feel that he or she could make a difference in some areas. One that is often debated in the papers is sentencing, for example, where arguably in many communities there might be thought to be something of a disconnect between public expectations and how sentencing is reported. It may simply be a case of getting the message across better, but I imagine that would be an area which a Justice Minister would want to give attention to. In terms of challenges, Michael has mentioned delay. Clearly there is a lot of work being done to try to improve the performance of the justice system, but it is still thought to be somewhat slower in Northern Ireland than on the mainland. The number one challenge will be resources. Frankly, we are in a different place and this is an expensive system. We are not going to be able to buy solutions, it is going to be a period of downward pressure on public resources, and that is likely to have an impact on what one is able to deliver quickly.

**Q83 Chairman:** Anything to add, Mr Scholes?

**Mr Scholes:** The principal issues are delay and victims and witnesses. Delay is a particular challenge for the community in Northern Ireland.

**Q84 Mr Grogan:** Just to go back briefly to the administrative implications of devolution in terms of buildings, staffing and finance, is the intention pretty well much as is or will there be any changes in any of these elements?

**Mr Lavery:** So far as the Court Service is concerned, we expect that on day one of devolution we will begin with the same staff and the same estate and the same budget and the budget for court administration is likely to be built on the foundation of the current budgetary baseline. Another area of public expenditure and policy for which the Court Service currently has responsibility is legal aid, which is a very expensive part of the system and, as you know, the Prime Minister has proposed an injection of funding specifically to support that area. I imagine that my budget and staff and estate will be recognisably what it is today. I might like to do a lot with the court estate in terms of improving it, but I suspect it will be challenging to secure resources to do much about that in the first public spending period.

**Dr Maguire:** I do not think there are any implications for me.

**Mr Scholes:** We are a relatively new service created in 2005. We are the principal prosecuting authority in Northern Ireland. We have new offices in Londonderry, Ballymena, Lisburn, Belfast, and hopefully will shortly open one in Newry. Our budget is relatively fixed: £36 million which essentially consists of salaries, administration

running costs and counsel's fees. That is an area where we have proposals to bring forward. We do not see our budget substantially changing provided there is money available in the first place.

**Q85 Stephen Pound:** Politicians occasionally make statements which are more aspirational than prescriptive. About 18 months ago Paul Goggins stood up in the House and talked on the subject of judicial appointments in which he said that judicial appointments should always be made on merit, but wherever possible such appointments should reflect the community served by those people appointed. Specifically about the JAC, have they changed the face of the judiciary, not necessarily since 2008 but since 2005 when they started?

**Mr Lavery:** The Court Service is responsible for supporting the Lord Chancellor at the moment in relation to judicial appointment policy. Indeed, we sponsor the Judicial Appointments Commission.

**Q86 Stephen Pound:** I asked have you successfully changed the face of the judiciary.

**Mr Lavery:** I think the process of selecting and appointing judges in Northern Ireland is clearly much more open and transparent than it would have been even a relatively short time ago. It is a much more transparent process. Whether the outcome has been different appointments or better appointments, I am not sure that I would venture to offer an opinion at the moment. Arguably it is a disappointment to all of us, including the Commission, that we still do not have any women judges at the highest level of our judiciary. One might anticipate that will change in time. The Commission, as you will understand, has an interesting dual statutory duty. It must make appointments on the principle of merit but it must also seek to achieve a pool of candidates and a judiciary reflective of the community. That is an interesting dual test that it has to apply to its activities. I would venture to suggest that it is only in relation to gender that the judiciary is in any way lacking reflectiveness at the moment. In other respects it would seem to be quite a fair reflection of the community. I am sure there is some need to recalibrate these systems over time as well. If any criticism were made of the judicial appointments system at the moment it would be its very complexity and the time it takes to make appointments and the fact that the complexity of the application process might be thought in some quarters to be a bit of a disincentive. I am sure the Commission will want to redesign the system over time. I would not say there is any empirical evidence that one could point to say it has as yet changed the composition of the judiciary in Northern Ireland, and perhaps it would have been a surprise if it had.

**Q87 Lady Hermon:** What percentage of women are represented at any level, apart from the High Court? How many judges do we have in the High Court? Ten?

**Mr Lavery:** We have one Lord Chief Justice, three Lord Justices of Appeal and nine High Court judges with one vacancy, and there are no females at that

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level. At county court level, which would be the circuit judge equivalent in England, we are quite well represented, and at magistrates' courts, but that glass ceiling, if it is one, seems to have been hard to penetrate at High Court level and above.

**Q88 Lady Hermon:** In percentage terms, what does "quite well represented" mean in terms of women?

**Mr Lavery:** I will try and see if I can work that out. I do not have that at my fingertips. I have the actual numbers. I will write to the Committee if I have not brought my calculator, or I may be able to pass you a note before the end.

**Lady Hermon:** Even to reassure the Committee that efforts are being made by those who recruit to encourage women to come forward and also representatives from the ethnic minorities.

**Q89 Chairman:** Have you got a policy of going into the schools talking to all these bright young women?

**Mr Lavery:** The Commission has an outreach policy of its own and the Court Service as a distinct entity also has quite an aggressive outreach policy and we invite schools to visit courts, as of course would happen across the water as well. Among the most effective advocates for women joining the legal profession and perhaps pursuing a judicial career are our female judges. Perhaps it is invidious to name individuals, but some of our female judges are exemplary in speaking to schoolgirls as well as schoolboys about the career the law represents. I will try to find the percentages for Lady Hermon. There are both the full-time judiciary and then the deputy judiciary, which is numerically much bigger where women would be very well represented. I think perhaps the more interesting question is the full-time judiciary.

**Q90 Stephen Pound:** I think the point you make about cross-community representation is well made, and it is taken and accepted, but if quotas are good enough for the PSNI why are they not good enough for the judiciary?

**Mr Lavery:** I think ultimately our principle is appointment on merit. The legislation has been designed so that the best person in terms of intellectual and other abilities gets the job. There is quite a broad spectrum of criteria taken into account. The best person must be appointed and everything else is subordinate to that. With respect, I do not think that the judiciary was subject to perhaps the same degree of community imbalance that might have applied at a particular time in terms of the Police Service in Northern Ireland where there was a challenge that had to be addressed in a very immediate way and it led to this recruitment initiative and so forth, 50/50 recruitment. I do not think the judiciary was ever in that space and, therefore, a slightly more subtle approach and very deliberately using the language of seeking to aspire to make the judiciary reflective—not representative but reflective—of the community was chosen as a subtle signal that we must aspire to have a diverse judiciary.

**Q91 Mr Murphy:** Earlier, Mr Lavery, you touched on legal aid and the promise of additional funding once policing and criminal justice has been devolved. Could you perhaps quantify that for us and explain how the legal aid system will be different in Northern Ireland from the rest of the United Kingdom?

**Mr Lavery:** In terms of the budget, the Prime Minister has identified additional funding which will be available to the legal aid system if the devolution of policing and justice goes ahead. What the Prime Minister has cleverly done is not throw money at the problem, but put enough money into the system to buy us time to take forward much needed reforms. I think I would have to concede we have experienced a period of almost exponential growth in the costs of some parts of the legal aid system in Northern Ireland. Whilst that relatively high cost of legal aid in Northern Ireland in some areas, such as civil legal aid, might be explicable in terms of the high proportion of the population who are eligible for benefits, for example, and therefore arguably of greater social need, that is not really the explanation that I could offer for the exponential growth of the cost of criminal legal aid where we are not really helping more people have access to justice, we are paying more for roughly the same number of cases. What we are doing in partnership with the Legal Services Commission for Northern Ireland is to bring forward a range of reforms. The overall objective of those reforms is to achieve cost control, budgetary predictability and value for money in publicly funded legal services. In relation to criminal legal aid specifically we are trying to tackle the huge growth there has been in relation to what is called very high cost criminal cases. Most criminal legal aid cases in the Crown Court are paid on the basis of a standard or graduated fee, but if you escape the threshold or catchment definition for those and the case becomes a very high cost criminal case it is subject to *ex post facto* taxation or assessment of costs and those have traditionally been very high. What we are trying to do is broaden the catchment pool for cases that will be subject to a standard or graduated fee and have much fewer cases escape that system and go through to become very high cost cases. We are also looking at issues that appear to us to be cost drivers. For example, in the Crown Court in Northern Ireland you get a far greater incidence of senior counsel appearing in cases than would be the case in England and Wales, so we are looking at what point in the process the decision is made to grant a legal aid certificate for senior counsel. At the moment that decision is made at the magistrates' courts level when the case is just on its way through to the Crown Court. We think that decision would be made on a more informed basis perhaps by a Crown Court judge once that judge is in a position to see, for example, whether the Public Prosecution Service is minded to have a QC prosecute the case. There is quite a menu of reforms that we are bringing forward in partnership with the Legal Services Commission to try to manage legal aid expenditure and to try to spend the money more wisely. Going forward, the Prime Minister has indicated that the budget for legal aid in Northern Ireland will be about £85

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million for the next few years and our challenge will be to align activity and legal aid remuneration with that budget. It is quite a challenge but I think it is probably achievable in the timescale that we have been given.

**Q92 Mr Murphy:** What is the budget currently?

**Mr Lavery:** The budget currently is £65 million, but we know at the beginning of the year that it is not sufficient and in this year, 2009–10, we will probably spend about £102 million, so that £65 million has had to be topped up substantially. The benefit of what the Prime Minister and the Treasury have agreed to do is that we will have a realistic budget at the outset of the year and we know we will have to live within it.

**Q93 Chairman:** Can you do that?

**Mr Lavery:** As I said, it is a significant challenge because—

**Q94 Chairman:** You would not have met it this year, would you?

**Mr Lavery:** No. The reforms we are introducing could take a period of years to bite. As you will understand, cases tend to have quite a long shelf life and what we cannot do is change the fees for cases that are already in the system, they were contracted at a particular remuneration rate that was applicable at the time. Any reforms that I introduce this year could take up to two years to have a measurable impact. The Prime Minister's settlement also included access to a contingency fund which has a ceiling of £39 million on it which we can draw from this year and next.

**Q95 Mr Murphy:** On top of the £85 million?

**Mr Lavery:** On top of the £85 million. That is really to buy us time to put through the reforms. The first year that we will be standing on our own with the £85 million and no access to a contingency is 2011–12, so we have got that period of time to put in reforms that will have effect in 2011–12 onwards.

**Q96 Chairman:** Are you confident that you can do that?

**Mr Lavery:** We are developing with the Legal Services Commission the range of reforms which are necessary to bring that about.

**Q97 Chairman:** Achieving that is going to be commensurate with also reducing delay, is it?

**Mr Lavery:** I do not think the two things are explicitly linked, but one might argue, for example, that if you move to a more standard fee basis for remunerating criminal cases rather than paying lawyers for each time they appear in court, then that reform of introducing a standard fee that you would get whether the case required one hearing or three is in itself an incentive for efficiency. It is not designed to achieve that outcome, it is rather designed to achieve predictability of expense. I think 2011–12 will be a challenging year for us, I would not want to

suggest otherwise, because the lead time in achieving the benefits of the reforms is such that I would be much more confident about having the expenditure aligned for 2012–13 than for 2011–12. That is the year I would be most concerned about.

**Q98 Mr Murphy:** Are the criteria for accessing legal aid exactly the same here in Belfast as in Manchester, say?

**Mr Lavery:** Yes, to all intents and purposes. The civil legal aid system is slightly different, but the criminal legal aid system is a fully non-contributory system and we are starting to look at whether it should remain as such. We think there would be benefit with a more robust means test to determine whether a defendant has the means to pay for at least part of his or her own defence. We are also looking at ideas such as *ex post facto* cost orders which a judge might make if it became clear in the course of a case that a defendant did have means but had qualified for free legal aid. We think it would be right in principle that a judge could make an order that part of the cost of the legal defence would be met by the defendant.

**Lady Hermon:** I wonder could I just touch on two very critical points that have already been raised but we have moved a little bit too quickly past them for my liking. If I could come back to Dr Maguire. I got the impression that the Criminal Justice Inspectorate had picked up that there are significant delays in the justice system. Without pointing a finger of blame at any one organisation, could you explain how these delays have built up? Perhaps we then could move to Mr Scholes who can respond for the DPP and tell us that the delays are going to be a thing of the past and then we will hear from Mr Lavery and he is going to tell us that he sees the same vision.

**Q99 Chairman:** Yes, but could I please ask that we try and have reasonably brief answers because I am very conscious of the fact that we have not got on to judicial independence yet, which was your area. If you could deal with that one very quickly for Lady Hermon, that would be helpful.

**Dr Maguire:** The basis for our thinking around this was a substantive report that we published a number of years ago looking at delays across the justice system, and we are currently involved in doing a follow-up piece of work looking at the extent to which the recommendations put forward in the previous inspection have actually been implemented across the different organisations. That is work in progress at the moment and we will be reporting on that within the next month or so. Many of the challenges that we identified in the previous piece of work actually remain in the context of how justice organisations link together. There are several issues. One is looking at the relationship between PSNI and PPS and that brings into question issues around timeliness versus quality. The PSNI may well be meeting its timeliness target but the number of files that are going back from PPS to the police raises issues about the extent to which the information

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flows are correct. You move from the nature of the relationship between the PPS and PSNI to the PPS itself and dealing with backlogs, the time dealing with requests for further information, the way in which they issue summonses and engage with witnesses, and then there is the actual court process and the number of adjournments. What we are finding is that while progress has been made in certain areas, when you get underneath the detail of some of the substantive issues we still see some serious challenges in relation to the kind of steps that need to be taken to reduce delays.

**Mr Scholes:** It is important not to be defensive but also to acknowledge that the PPS met the administrative time limits for 2008–09. Having said that, this is clearly a criminal justice wide problem and it is important, for example, as Dr Maguire has referred to, that we engage with police principally, in my view, to get the file right first time. There are a significant number of requests for further information and they are a symptom of the delay problem. If the file was right the first time there would not have to be a request for further information and the cases would proceed more quickly through the system. That is just one part. It is a multifaceted problem and it requires all of us working together.

**Mr Lavery:** I suppose the contribution that I would like to draw attention to is the Lord Chief Justice has set judicial standards for the management of the stages of a criminal case when it reaches the control of the court. As Michael has explained, we have a suite of targets for the administrative stages, what the police do, what the PPS do, what the court administration does, but it is also helpful that the Lord Chief Justice has supported that initiative by setting standards for the management of cases by the court itself, including the time to prepare and deliver a judgment. It is good that the judiciary have complemented that initiative.

**Q100 Lady Hermon:** How would independence of the judiciary be preserved or protected in all circumstances in the event, as I hope, we have the devolution of policing and justice? How do you protect the independence of the judiciary?

**Mr Lavery:** On the judiciary, of course, there is explicit statutory expression of the continued independence of the judiciary, as you will know, in the Justice Act 2002. It is intended also that that will be reinforced or given further expression in the form of a concordat on judicial independence which will be entered into between Her Majesty's Government and the Northern Ireland devolved administration.

**Q101 Lady Hermon:** Is that already in draft form?

**Mr Lavery:** It is in draft form. It is one of several concordats. I am sure Jim will explain about the one in relation to prosecutorial independence. It is ready in draft form and builds on that statutory expression. We have tried to amplify it a bit further to include the tribunal judiciary because they are not really caught by the statutory formula. We have tried

to use the concordat to be a wee bit more ambitious about defining the judiciary as anyone making an independent judicial decision, whether in a court or a tribunal.

**Q102 Lady Hermon:** Are you able to disclose to the Committee some of the matters that are actually covered by that concordat? Do not breach something that is confidential, but in broad terms the matters that will be covered within that concordat, if you are able to.

**Mr Lavery:** I think it is the intention of the Government to share it with the Assembly and Executive Review Committee at the appropriate time. If you read the statutory expression in the Justice Act you would probably recognise it if you read the draft concordat, only with more words, if I can put it like that. Things that underpin judicial independence include the fact that listing of cases is a judicial function, for example. In other words, the Government should not decide which judge deals with which case. Those matters are perhaps made more explicit and would be an illustration of that. Is that of any assistance?

**Q103 Lady Hermon:** That is very helpful indeed. In terms of the Justice Committee that we expect and hope to have established within this building, within the Assembly, who will answer for the judiciary and, indeed, the Public Prosecution Service?

**Mr Lavery:** In terms of court administration, to go back to your earlier question, if I survive and keep my job I would be accountable to the committee for court administration. The Lord Chief Justice as head of the judiciary and President of the courts in Northern Ireland has a statutory role in representing the views and, indeed, concerns of the judiciary not only to the Assembly but also to the Parliament at Westminster. It is conceivably possible that the Chief Justice might offer to meet with the Justice Committee. It is interesting that the legislation has given him that explicit voice, as it were. Not to be summoned before it.

**Q104 Lady Hermon:** Not to be summoned but could offer to come?

**Mr Lavery:** Yes.

**Q105 Lady Hermon:** The position with the Director of Public Prosecutions?

**Mr Scholes:** The statutory architecture is there in place through the Justice Act. Section 42 provides that the Director shall be independent in the exercise of its functions. The Act also provides that he is not required to answer any question or produce any document in relation to any matter other than finance or administration. Having said that, an accountability mechanism is established through his relationship with the Attorney General. The Director is required to consult with the Attorney General from time to time in relation to any function

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for which the Attorney is accountable to the Northern Ireland Assembly. It is clear that the Director will be required to furnish facts and information to the Attorney in order to ensure that this relationship will be effective.

**Q106 Lady Hermon:** Mr Scholes, am I right in thinking that you are explaining to us that you would not anticipate the Director actually offering to come to speak to the Justice Committee or have I misconstrued that?

**Mr Scholes:** No, I am not saying that. What I am saying is I would envisage the Director coming to the Justice Committee, for example in relation to matters of prosecutorial policy, but he is not accountable in the sense that he can be told what prosecutorial policy should be. He is accountable in the sense that it is clearly in the interests of the Prosecution Service to explain, particularly to the Justice Committee and the people of Northern Ireland, what our policy is and why we have arrived at that policy.

**Q107 David Simpson:** I will be brief because a lot of the points have already been touched on. Lady Hermon mentioned the issue of judicial independence. Earlier on, Mr Lavery, you referred to changeover from an independent Civil Service. Could you elaborate a bit more on the implications arising from that and especially the funding aspect of it? Are there any massive changes there?

**Mr Lavery:** At the moment, although it seems improbable, I am head of a Civil Service, albeit a very mini-Civil Service, and I am one of a number of departments under the Lord Chancellor and my funding is arranged directly with the Treasury to all intents and purposes. In the future the Court Service will be an executive agency of the Department of Justice and, probably in consultation with the Chief Justice I would expect, I would develop a budget for the next business period—it is usually done in three year cycles—and I would have to submit that through the Department of Justice to the Department of Finance and Personnel. Our orientation in terms of securing funding for court administration and the judiciary will be a dialogue between the Department of Justice for Northern Ireland and the Department of Finance and Personnel for Northern Ireland. The longer-term issue, which we have not quite touched on, is whether the Court Service should remain an agency. As Mr Scholes explained, the Public Prosecution Service has been established as a non-ministerial department, so it is at arm's length from the Department of Justice. Not the current Chief Justice but his immediate predecessor, Lord Kerr, gave evidence to the Assembly Executive Review Committee arguing there was a case that the Court Service should become a non-ministerial department at arm's length from the Department of Justice as has been the case for the Irish Court Service and as will be the case from April for the Scottish Court Service. That is a bit of unfinished business, I suspect, which perhaps the Assembly Executive Review Committee suggested that Stormont might

wish to return once devolution of policing and justice takes place. The argument being, I think, that arm's length relationship would be more likely to underscore the independence of the judiciary and the courts. As I said earlier, our starting point will be as an agency and I imagine the funding will be built on the current budgetary basis, albeit through DFP rather than the Treasury.

**Q108 Mr Hepburn:** The Inspectorate were critical of the Prosecution Service in two areas: communicating their decisions to victims and the speed at which decisions were being arrived at. What improvements have been made there?

**Mr Scholes:** In some ways I have dealt with the issue in terms of timeliness and, again, I reiterate that the Public Prosecution Service was one of the few agencies to actually meet the administrative time limit targets for 2008–09. However I freely acknowledge that delay remains a problem and we have a part to play. In terms of victims and witnesses, it is important to recognise that in a survey carried out in 2009 over three-quarters of victims and witnesses who dealt with the Public Prosecution Service professed themselves to be satisfied or very satisfied with the service they had received. You have raised a particular issue in relation to communication. It was perhaps an unfortunate matter of timing, but at the time when Michael was preparing and delivering his report we had begun within the Service to develop our policy in relation to giving of reasons in respect of a number of serious offences, such as murder, attempted murder, manslaughter, causing death by dangerous driving, serious sexual offences, hate crime and even down to domestic burglaries, where the community had expressed that these offenses were clearly a matter of concern. We have extended our policy in relation to the giving of reasons and will provide reasons in circumstances where we do not prosecute without request from the victim. That is a significant development of our policy and one that is designed to enhance confidence amongst victims and witnesses.

**Q109 Chairman:** Before we move into private session there is one point I would like to put to you. Last week we received evidence from the Forensic Science Service of Northern Ireland. This follows a visit that we made in October of last year. I think I can say that we were very impressed by what we saw, by the professionalism and expertise especially of a remarkable team of young scientists working on very advanced techniques, and we were impressed too by the quality of the evidence that we received last week. During our exchanges with the Chief Executive I asked if he and his colleagues would be willing to conduct a seminar, or seminars, on forensic science evidence for the judiciary because there was some concern that perhaps the judiciary were not always completely au fait with the scientific basis of the work. If such seminars were to be offered, would they be taken up?

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**Mr Lavery:** I did see a press report about Mr Brown's remarks, the Chief Executive, and I understand that he has extended an invitation to the Lord Chief Justice to visit the Forensic Science Service and the Lord Chief Justice has accepted that invitation. I am sure they will want to discuss whether something perhaps delivered through the Judicial Studies Board for Northern Ireland might be a useful way of disseminating information. I can

at least report that Mr Brown has extended an invitation to the Chief Justice and that has been accepted.

**Chairman:** Excellent. I think we are all very glad to hear that. Let us hope that other things might flow from it. Have any of you gentlemen anything that you want to put on the record before I go into private session? In which case, could I ask that the public gallery be cleared please. Thank you.

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**Monday 25 January 2010**

Members present

Sir Patrick Cormack, in the Chair

Rosie Cooper  
Christopher Fraser  
Mr John Grogan  
Mr Stephen Hepburn

Lady Hermon  
Mr Denis Murphy  
Stephen Pound  
David Simpson

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*Witnesses:* **Chief Constable Matt Baggott CBE QPM, Assistant Chief Constable Drew Harris, and Deputy Chief Constable Judith Gillespie**, Police Service of Northern Ireland, gave evidence.

**Q110 Chairman:** Chief Constable, could I welcome you most warmly. We are delighted to see you. We are delighted that you have brought Deputy Chief Constable Judith Gillespie and Assistant Chief Constable Drew Harris, both of whom we know from previous sessions. We are grateful for the assistance they have given in the past. We had many meetings, both public and private, with Sir Hugh and developed a very constructive relationship with him and hope to be able to do the same with you, although this Committee's life, of course, is very limited. Thank you for coming this afternoon. We are making as our final report to Parliament an assessment of devolution since 2005, obviously focusing very much on the controversial issue of the devolution of policing and justice. Just by way of introduction, perhaps you could tell us how you are settling in, what advice Sir Hugh gave you when you took over and how you have defined your priorities in your new role.

**Chief Constable Baggott:** That is very kind. Thank you very much indeed for that very warm welcome. I genuinely look forward to working with the Committee over the forthcoming months, and hopefully years as well. It is really good to be here. I knew it would be a testing and interesting job as Chief Constable, and both of those are true, but it is an enormous privilege. I have taken every opportunity to say what a privilege it is to be wearing a green uniform, to be taking forward the very rich and courageous legacy of colleagues from the RUC who are still with us, but also having a chance to shape PSNI on the back of some incredibly effective work by my predecessor, Sir Hugh, and also colleagues who are sitting with me. Every day that goes by I feel more proud to be here and more privileged to be in the position I am in. I mean that genuinely. Over the last four months I have particularly enjoyed many private and quiet conversations with people, sometimes in their front rooms, sometimes in community groups, sometimes in big meetings, District Policing Partnerships and with the Policing Board, and I genuinely think there is a hunger for something that will be truly unique in the world around the role of policing and what policing can deliver across communities and across divides. In spite of the recent change in the security situation and the tragedies that have befallen my colleagues, particularly Peadar Heffron in the past few weeks, I remain very optimistic because of the energy and overwhelming consent and reassurance

that the PSNI has been given, particularly at very local level within the communities that really matter. I think Sir Hugh's advice to me would be "listen". When I first arrived I was asked the question, "What do you know about Northern Ireland to make you fit to be the Chief here?" and my answer to that was, "Probably not a lot, but I know a lot of people who do know the answers". There is an enormous amount of expertise and advice, some of which has come to me very quietly, very privately, from within the PSNI itself, sometimes it has come from communities and sometimes it has come from politicians, but I know there is an enormous amount of advice which has been freely and willingly given and I really do welcome and respect that. I will make my mistakes, but if I make mistakes, which I will and already have done, it will not be through lack of integrity in trying to do the right thing, it will be simply because maybe I have not listened hard enough and quick enough to understand how to present things. In terms of where we are going, I think we are in an enormously exciting time of change, not just because of the whole debate around devolution, I will leave that to one side, but as the PSNI I would probably say that to some degree now that PSNI is established and there is a high degree of confidence in what we stand for and what we are doing, the shackles are being released. By "shackles", what I mean is being tied to a fixed establishment, for example, of 7,500, being able to shape an organisation of the right people in the right place so that we can, if you like, employ different skills at different parts of the organisation which may not need policing skills and so liberate money. We have a policing plan that the Policing Board have embraced, which I believe very strongly is focusing on the right things around tackling the issues that really develop confidence: serious harm; personal policing; the really consistent relationship building policing that people yearn for and have a hunger for; and deal with the things that matter for the vast majority in their daily lives, such as alcohol abuse, antisocial behaviour, road safety, get the basics absolutely right. None of that takes away from the policing with the community plan which I think has delivered terrific progress around empowerment, problem solving, partnership and accountability. All of those are very important. Now we have got the freedom and some of the shackles are coming off our job is to absolutely deliver a PSNI identity and a PSNI standard of the things that absolutely matter,

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and Deputy Chief Constable Judith Gillespie**

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and the policing plan has been shaped to do that. I think the policing plan has some quite radical things built into it already, or will post-April. For example, coming off a single crime reduction target when we know that less than half of the people here report crime in the first place we shall be encouraging greater accessibility to policing and greater conversation. If that means we have to record more crime then we should embrace that. To some degree the targets we have had have not necessarily been about encouraging the relationship and the activity, and that is changing. This year, through the survey work, we will have a target to increase crime recording and reporting rather than decrease numbers. There is an interesting change in direction around the plan which is a very clear mandate. There have been two words said to me that I did not expect in the conversations that I have had, but I absolutely welcome. From all sides of the community people have said to me, "Many of us feel quite inspired by what your colleagues are doing locally". Individual people are doing great things and stepping out from the traditional role of policing and having those conversations. I did not expect to hear the word "inspirational" being used, but people have said to me, "We want the PSNI to be truly inspirational in the integrity of the uniform". That was a very interesting one for me. That is about taking forward the things we are doing well already but making them more consistent. Secondly, people have said to me, "We would like to have more of an identity as the PSNI". I have asked people what they mean by that and what they say is, "An identity is something people instinctively know" and the word people kept saying was "personal". "Deal with the serious crime, deal with security, deal with drug dealing, deal with ATM thefts. They are the things we shouldn't be asking you to deal with, you should be dealing with them as a matter of course because these are the things that cause great misery. Deal with child protection, deal with the things we shouldn't have to ask you for and be better and better at that and benchmark yourself against the best". The identity bit is, "Get as personal as you can in the 500,000 moments of truth you deal with every year, which are the incidents". There are two phrases we have introduced which are not in the policing plan. One is, "If it doesn't feel good it probably is not and you need to change your structure and processes" and, "If you think you are being radical, you are probably not in changing some of that". Finally, Chairman, there are dilemmas ahead. We will tackle the serious harm, the personal and the local concerns, and we will become more consistent on that. The other thing we have to bear in mind is that ultimately value for money and, in relation to the Policing Board, holding ourselves even more accountable for securing effective policing in a time of recession is something that we have to have a more business edge to do. I do not mean that we just transfer commercial disciplines straight into what we do because there are differences between the two. I think our share price is confidence as opposed to finance. We are being very self-critical now in looking at some key

functions, for example how we manage transport, to see whether we have got money tied up in ineffective processes and bureaucracy that quite rightly we should be using either to invest back into operational policing or preparing ourselves for—whether devolution takes place or not—an economic climate which is likely to be more restrained into the future.

**Q111 Chairman:** Thank you very much indeed for that. That is a very encouraging opening statement, for which we are grateful. Before I bring in colleagues, could I just make one point. You referred to Constable Heffron and we were all appalled by that ghastly crime and would ask that you convey the good wishes of the Committee to him when you next communicate with him. I understand he is making a slow but good recovery. He has our prayers and good wishes.

**Chief Constable Baggott:** Thank you, Chairman. I shall make sure I pass that on to both Peader and his family.

**Chairman:** Thank you very much indeed.

**Q112 David Simpson:** Can I also put on record our appreciation for all the work that the PSNI do. It is a job like our job, Chairman, where you will never, ever reach public expectation no matter what you do. Certainly being a politician today you will not. I would like to pass on my thoughts and prayers to the Constable and his family. I had the privilege at Christmas time of visiting Stephen Carroll's home to visit Kate again in Banbridge. It was not a good day for her, that particular day, and she was definitely feeling very low. However, she has been a remarkable lady through all of that and the recent times of the two soldiers as well. In relation to policing and justice, we know there is a lot of heavy discussion going on today and everybody talks about this pinnacle time in Northern Ireland, but I think we have a pinnacle time every day of the week in Northern Ireland. The public and media are certainly concentrating on it. In relation to policing and justice, what impact, if and when it is devolved, will the policing and justice powers in Northern Ireland have on your operations? Secondly, the financial package that was proposed by the Prime Minister, do you believe that is satisfactory?

**Chief Constable Baggott:** Thank you very much. I will start with the last one first. I think the financial package is satisfactory and I have been very clear about that publicly. It gives us space and stability to make some of the changes we need to make in the way we work. So streamlining the bureaucracy, making the changes to the criminal justice system we need to make, giving police officers more discretion, it gives us space to do that. It also gives me clarity around what the operational budget will be rather than having to worry about hearing loss and pensions. The other part of it, which I think is a very important guarantee particularly in the changing security situation, is access to the Security Fund and

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to the Treasury. I would certainly seek to keep that open so that if we do have problems or difficulties we take a pragmatic view of the Security Fund itself. I should say that none of the financial stability that we seek to have takes away from the increased collaboration that we have with our colleagues in the Garda. There is some very important work being done taken forward by my Deputy at the moment on that. Enhancing collaboration in our working with other agencies too carries on regardless. Yes, I do think the financial stability is very important. Secondly, devolution will make the conversation more local about partnership and about how do you reduce crime in neighbourhoods. I have always been a greater believer that policing is so much more than law enforcement. Policing is security; security is health; policing is education. On the work I have done on neighbourhood policing nationally there have been over 40 connections between good policing and good security linked into health, education, quality of life, economic regeneration. I think those debates are best had here. I do believe that with devolution will come a greater understanding and a greater conversation, and some dilemmas about where do we spend the money in the future but that still has to be worked through. I do believe those conversations need to take place very much locally. I am a supporter of devolution. I think we will need some clarity coming out on the role of the Policing Board. I do believe that where a lot of things that happen at the moment may be duplicated for very good historical reasons, there will need to be a clearing of the landscape. We sat this morning at an audit and risk meeting. Who now audits me against the standards and the plan? Is it going to be the Policing Board? Who exercises due diligence and scrutiny? There are big debates to be had still but, for me, as Chief reporting to the Policing Board in their role to secure effective policing, I see that conversation very much being focused on my accountability to the Policing Board.

**Q113 David Simpson:** Apart from the finance and the political decision to go ahead with it, do you envisage any other obstacles?

**Chief Constable Baggott:** I do not, other than an understanding of what is operational responsibility and operational independence. We do need to have a very clear understanding that Ministry of Justice will be responsible for partnership, for the working of the processes, dealing with re-offending, for some degree of conversation with me about the money and the prioritisation with the Assembly, but I do firmly believe that we still need a tripartite between the Policing Board, the Assembly and an operationally responsible Chief and Chief Officer's team who can cross the political divide if necessary. I do believe that the policing plan is representing that very well. My job is absolutely to reduce harm, to deal with the serious and to deliver local policing completely objectively based on the evidence of what needs to be done rather than being swayed by politics be they local or national.

**Q114 Stephen Pound:** You will be aware that a lot of people from different elements are talking about the protocol for the post-devolution architecture and some people are saying that in effect this recasts Patten. Did you want to say anything on the record about that because this is a subject that a number of us are being individually lobbied about?

**Chief Constable Baggott:** I think it is the emerging picture. It is something that very much has to be worked out between political parties. My concern would be that, firstly, we need to maintain and defend the operational independence of the Chief Constable to make decisions based on harm and need, but also to make sure we have clarity about the role of the Policing Board and external scrutiny. The conversations around what makes effective policing need to be had in probably one place, albeit that the financing of that and the relationship in partnership with health, education and the justice process itself needs to be managed from the Assembly. We do need to have clarity so that we do not get into confused conversations about who is responsible and accountable for what.

**Q115 Stephen Pound:** Is the protocol publicly available?

**Chief Constable Baggott:** I do not believe it is.

**Q116 Rosie Cooper:** Could I ask you for your current assessment of the threat by republican and other terrorist groups currently?

**Chief Constable Baggott:** Certainly, and if it is okay I will invite my colleagues to come in as well. From my perspective it is severe. That is an obvious thing to say, but we have had a variety of attacks on the very nature of the institutions that will lead us into devolution and police: a bomb attack outside the Policing Board; landmines; and even last night a firebomb attack on a police station where colleagues are trying to bridge the divide by increasing their personal policing; the attack on my colleague, Peadar Heffron, because he is a Catholic, because he is involved in Gaelic. These are very real attacks on the future of peace. Their nature and variety is of great concern, as is the willingness to engage in this when the vast majority of people are saying, "Our priorities", and it is interesting that the priorities of District Policing Partnerships and every survey says, "What we want is stability. What we want is personal policing. We want to deal with drugs and antisocial behaviour" and actually the political structure above that is something that will be managed in a different place. What we want is local policing of the people by people like Peadar Heffron. It is severe and it is concerning, but we are putting an enormous effort into challenging it. I would invite Drew to say a few words around this as well.

**Assistant Chief Constable Harris:** Just on the statistics, in 2008 there were 15 significant incidents that we would attribute to dissident republicans and in 2009 there were 22. The difference is not only numerical but also the increase in ambition and also the increase in intensity and scale of the attacks. You do not need to be reminded of the murder of

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Constable Stephen Carroll or the murders of sappers Azimkar and Quinsey in March of last year. We have seen that pattern carry on in terms of the attempted murder of police officers at Forkhill, the attack on the Policing Board and, indeed, most recently the attack on Constable Peadar Heffron. The threat sits at “severe”. It was increased to “severe” in February of last year and that is very properly where it is in that attacks can be viewed as being highly likely. The Police Service remains the most prominent and likely target for attack and our officers are very much aware of that. We take a lot of steps to make sure they are properly briefed, receive the proper equipment and proper training with which to cope with this threat. My own department, the Crime Operations Department, works very closely with the Security Service but also very closely with An Garda Síochána and we have had a number of very successful operations throughout the year. Some of the successes that we have do not really make it into the public domain, or if they do it is in quite an oblique fashion in terms of people charged for other crimes who have not been charged with acts of terrorism. There is an awful lot of activity going on on the ground to thwart the efforts of dissident republicans and approximately 50% of the money I would spend in my department, of all my resources, goes on coping with the national security threat posed by dissident republicans. In respect of loyalists, both the UVF and UDA—mainstream UDA—have completed major acts of decommissioning. There are still some splinter groups out there that have not decommissioned on the loyalist side, the South East Antrim UDA and very small groups such as the Orange Volunteers, but a very significant amount of material has been decommissioned by both UDA and UVF. What has to happen next is that those organisations, in effect, decommission themselves and start to collapse down their own structures and organisation. That is hopefully the next step that we will see in respect of loyalist paramilitaries.

**Q117 Lady Hermon:** Going back to the Orange Volunteers, we are well aware of the really serious threat from dissident republicans but this group, how large is it, how dangerous is it and why have we just recently seemed to have had a spate of threats to execute various individuals, including journalists, who I obviously would not name? I am very concerned about the Orange Volunteers.

**Assistant Chief Constable Harris:** In respect of the Orange Volunteers, it is a loose affiliation of likeminded individuals mostly driven by sectarian hatreds and bigotry, in effect. It is pretty much a loose coalition, almost telephone kiosk terrorists in that they phone these warnings in. A lot of it is, in effect, sectarian hate crime but it is directed for political purposes. We have had success against them this year but a threat still exists because they have an ambition to attack others, so we do view them with some concern. We have put work into dealing with that and have had success in terms of managing that threat.

**Q118 Mr Grogan:** As the February deadline approaches what is your assessment of the level of weaponry that is still out there with terrorist groups, be they dissident or otherwise? Is there a lot still out there?

**Assistant Chief Constable Harris:** There have been major acts of decommissioning by the main terrorist groups, the Provisional IRA, UVF and UDA, but in effect the ceasefire was in 1994 and a lot of this material in its widest sense has either been dispersed and we have collected it through other means or it has been dispersed and lost. It is very difficult to put an estimate on what still exists out there. What is of concern to us is that still there is the availability of firearms and we can see that on the island of Ireland as a whole in terms of pretty serious weaponry making its way to Dublin into the hands of criminals there, and if it arrives in Dublin it can obviously come through to ourselves. Obviously making sure the criminal gangs and terrorist gangs do not get their hands on weaponry is a long-term objective of this organisation, plus An Garda Síochána and the Security Service. We do put a lot of effort into making sure that we carry out thorough investigations as to where weapons are being procured from. This is a European problem and we work a lot with our colleagues in both Europol and the Serious and Organised Crime Agency in forwarding movements of weapons. It is a difficult problem but we are very aware that supply routes can be opened up by criminal gangs and that we have to do all we can to thwart that particular threat.

**Q119 Mr Grogan:** If I may return to the issue of devolution. You referred to the protocol and so on, which has not yet been published. Have you signed it off? Are you happy with the current draft? Who would you see on non-operational matters who you primarily have discussions with on strategy or resources? Would it be the Policing Board or would it be the Scrutiny Committee here?

**Chief Constable Baggott:** It would be the Policing Board because it is their policing plan. They are responsible for securing effective policing. In time I am sure they will develop the means to hold me even more accountable through scrutiny and audit and be part of that. I invited the Policing Board to become more involved in the strategic management of the PSNI, not blurring the boundaries between our accountability to them but in terms of taking even more immediate advice around, “Are we doing the right things? Does it feel good?” I want to have a more inclusive approach with the Policing Board but being absolutely secure in terms of our accountability to the Board itself. I understand the protocol is a work in progress, so in relation to my signing off the answer is no but, there again, I would not necessarily be expecting to sign it off because I am not elected, I am not a politician. To some degree the accountability of the police is too important to be left to the police. I am quite a firm believer in that. Later on I might give some very strong advice about how words are defined within the protocol.

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**Q120 Mr Grogan:** It is a tripartite agreement, is it not, between the police and the other bodies so you would sign it off?

**Chief Constable Baggott:** I am unsighted on the current level of Policing Board involvement in that protocol.

**Q121 Mr Grogan:** I think there is a phrase in the current draft that says the Chief Constable would be the chief adviser on police and security matters to the Minister of Justice. Would that be a phraseology that you would be happy with?

**Chief Constable Baggott:** I think there is a role for the Chief Constable being an adviser and that relationship is probably well managed in the word “advice” because that is a different word from “accountability”. If the Minister of Justice wanted to take professional advice on how well partnerships are developing, for example, and what partnerships should be concentrating on and how to improve the criminal justice process, and do we move to devolving some restorative justice, then I would expect to be a professional adviser on those matters.

**Q122 David Simpson:** We have a lot of young recruits, young men and women, who never lived through the Troubles. Obviously we have older officers who would remember what it was like. With the level of threat and the constant reminders of the incidents that have happened, how are the young officers coping with that? What is the morale like?

**Chief Constable Baggott:** I am going to invite Judith to come in on this in a moment because Judith is probably better positioned to talk from knowledge. Coming here and being here for the four months, at graduation ceremonies and induction ceremonies where mums and dads and partners come in for the very first day where they sign the forms, they come together, are greeted by myself and my colleagues, I have seen an enormous enthusiasm. The figures on recruitment are certainly holding up and I would even anticipate a surge of good people wanting to stand up to be counted. I think there is a difference between words like “morale” and “commitment”. Morale is a very difficult word to pin down. I joined the Metropolitan Police 33 years ago and I was told on my very first day that morale was the lowest it had ever been. The word “morale” is one we use a little bit too freely in the Police Service. If you were to ask me, “Have you seen commitment, courage, passion for policing?”, I have seen it in huge abundance and none of that seems to be changing.

**Deputy Chief Constable Gillespie:** Thank you for the question. It is important to note that the average age of our student officers now is a lot older than it would have been when I joined the RUC when very often people were joining straight from school. Of course, I joined when I was eight!

**Q123 Chairman:** We will expect an invitation to your 18<sup>th</sup> birthday!

**Deputy Chief Constable Gillespie:** The average age of our student officers would be in their late twenties, 27–30, which means that they are joining with some

experience of the university of life, which I think is a very important quality for our police officers to have to understand some of life’s difficulties when they are attending, for example, domestic violence situations, et cetera. It is both a challenge and an opportunity that many of those folk have not experienced the Troubles at their worst. As the Chief Constable has said, right from the outset we give advice on the first night that our student officers, with their families, come in: “You are now a member of the police family and you need to think about your habits and routines both on and off duty, and you need to start thinking about that now”. That families’ night happens some weeks before they actually come into the organisation. We give very clear advice about what our student officers put on their social networking sites, for example, because we know that is an area of vulnerability, about who they tell that they are joining the police, just thinking about the routines they create, and also looking forward to the future and what policing will demand of them in terms of the standards of behaviour that this organisation expects both on and off duty. We have also developed bespoke DVDs to educate our own officers and staff, because it is not just police officers who are under threat but police staff as well, in terms of what to look for when you are checking under your vehicle, very specific advice about the types of under-car booby traps that are available. I would stress the fact that this is not necessarily just a challenge for us, it is also an opportunity with people coming in with a fresh way of thinking, looking at problems in a different way and determined to deliver a community-based policing service. That is an opportunity as well as a challenge.

**Q124 Lady Hermon:** Congratulations to you, Mr Baggott, on your appointment as Chief Constable and successor to Sir Hugh. Many congratulations to Judith Gillespie as well who when she last appeared before us was not the Deputy Chief Constable. We are always delighted to have Drew with us in any capacity. I am moving on because time is passing and we have a number of different topics that we want to cover. We do appreciate the time that you have given to us against a very busy schedule and the demanding workload that you all have. I am moving on to organised crime. As I am something of an addict of the radio, Radio Ulster or whatever, and that includes the *Stephen Nolan Show*, I have become increasingly concerned about drugs. We have heard about Ballymena and other towns mentioned as well. Could I ask you first of all about human trafficking. Is that a growing problem in Northern Ireland? Who are the women and perhaps children who are being trafficked? Is it from Eastern Europe? Could you enlighten the Committee on that particular area?

**Assistant Chief Constable Harris:** Human trafficking was first detected with the Pentameter 2 Operation. With Pentameter 1 in Northern Ireland we uncovered no instances of human trafficking, but that changed with Pentameter 2 in 2008 and since

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then we have had a steady number of cases. Indeed, the most recent case has involved the trafficking of a child into Northern Ireland.

**Q125 Lady Hermon:** For what purpose?

**Assistant Chief Constable Harris:** For the purpose of prostitution. The situation continues to get more and more serious, in effect. We have had people trafficked from Eastern Europe and also from Africa and South East Asia. We do face a significant problem. I think Northern Ireland and the island of Ireland are targeted collectively by these groups. We have had success in terms of detecting groups and bringing them to justice. The latest case was in Wales where a couple who were running a series of brothels across the whole of Ireland and into England and laundering the money back into South Africa were detected and were recently convicted and received substantial jail sentences for their part.

**Q126 Lady Hermon:** That is very good.

**Assistant Chief Constable Harris:** We have had successful prosecutions. We work very closely with An Garda Síochána and also the Serious and Organised Crime Agency to get that global reach on investigations. The problem we face is pretty much the same as in the rest of the United Kingdom in terms of the number of incidents. We can only suspect that this problem will continue to grow because we are seen as an affluent part of the world and, therefore, a target for human trafficking gangs. These brothels have often turned up in areas which have been purely residential and afterwards people have collectively thought, "Yes, we saw suspicious behaviour. We saw different men arriving constantly at different times of the day and night and we should have reported that to the police". Also, individuals who have gone along to a brothel have reported their suspicions around what they have found in those circumstances. It is a new problem to Northern Ireland, a new problem to Ireland. We are working in partnership with other law enforcement agencies but also with those groups who support the individuals that we rescue from trafficking. We do have a reflection period of some 45 days and have worked with Woman's Aid and other groups to support the victims through that period, hopefully towards co-operation with the police and then on to prosecution. We have been successful in obtaining the assistance of victims in terms of delivering prosecutions. A lot of this is driven by fear and by debt bond. There have been some very awful stories that have come out of these circumstances. We do not underestimate the problem at all. It is frustrating for us in that so much of our effort goes into national security when we still have all this organised crime and a rising threat from organised crime to deal with. That is a particular frustration because there is real harm being caused. We have put a lot of effort into this and have redirected some of our resources. We have specifically trained officers up in the skills on this and built up good relationships with the other agencies involved—UK Borders Agency, SOCA, An

Garda Síochána and Europol. It is an area that we have taken very seriously and it is a completely insidious crime, it is terrible.

**Q127 Lady Hermon:** Is there a connection between paramilitaries, whether loyalist or republican, and this sort of human trafficking? Is there any evidence of that?

**Assistant Chief Constable Harris:** On one occasion there was evidence of loyalist paramilitaries being involved in providing the house, in effect, and on one other occasion dissident republicans also being involved in providing a house and almost oversight of it, for a fee of course. It is pretty much internationally focused in terms of organised crime gangs moving people into these islands in their totality.

**Q128 Lady Hermon:** Are the organised crime gangs operating outside the island of Ireland, or not?

**Assistant Chief Constable Harris:** There is globalisation and a supply route for people to move into the United Kingdom and Republic of Ireland, so people are passed on. We find that victims have been sold on, in effect, two or three times and go through a series of movements, usually into Eastern Europe and are then transited by road across Europe into these islands, either into the Republic of Ireland or across into Great Britain and then move across into Northern Ireland after that.

**Q129 Lady Hermon:** These very vulnerable people who are being trafficked, presumably there must be a threat to their families back home if they run off or put their hands up and run into the nearest police station? There must be some sort of deterrent to stop them coming forward to be rescued, if you like.

**Assistant Chief Constable Harris:** There can be an element of that and sheer fear of the people who are holding them and the grip they have on them. It depends on the strength of the first crime group, the crime group that moved them on. You hear of Triad gangs, for instance, in South East Asia being involved in this and they have a very strong grip through fear in poorer communities. You find that when it is young people it is the people who have maybe been orphaned or have not got a lot of family connections. In effect, they go missing and nobody really misses them. They are carefully selected. It is a level of evil on all counts. Our fear is that there is not enough public awareness of it, that people in our society do not really believe it is happening in Northern Ireland or there is some other reason for it, they cannot believe what is happening within the island of Ireland and, therefore, do not have an awareness in terms of reporting it to the police. We are constantly trying to reinforce the message that they may be seeing suspicious behaviour which could be indicative of a brothel and they need to tell the police.

**Q130 Stephen Pound:** I want to deal with the GB read-across. You have talked about Eastern Europe.

**Assistant Chief Constable Harris:** Yes.

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**Q131 Stephen Pound:** In London, and Mr Baggott will be aware of this, many of the victims were Central Europeans, ie from Poland, Lithuania, and many of the traffickers tended to be Romanian or South Balkans, Albanian. Is it that same sort of pattern?

**Assistant Chief Constable Harris:** We have only seen one group from Lithuania, a Lithuanian and a Pole. There has only been one instance and that was a Romanian crime gang who appeared to be involved in that. Other than that, movements have been pretty much around South East Asia and South East Asian individuals facilitating that and controlling brothels here and the madams, the alpha females who were controlling the brothels, were South East Asian as well.

**Q132 Stephen Pound:** I wish that you had been listening to the tape of this earlier, Chief Constable—in fact, you may have been for all I know—when we were asking about the survey that was done last month on police satisfaction, the PSNI, which on the surface had some worrying things in it: 87% down to 80%. Barry Gilligan said, “Don’t worry, Chief Constable Baggott’s gonna sort that out”.

**Chief Constable Baggott:** Thanks, Barry!

**Q133 Stephen Pound:** I have to say all of our witnesses have been extremely complimentary about you, particularly in the area of personal policing.

**Chief Constable Baggott:** Thank you.

**Q134 Stephen Pound:** I appreciate that a lot of your answers have been specifically directed at a restoration of public confidence, but is there anything you wish to put on record as to how you feel you can turn around those figures, not just the 87% to 80%, but 56% thought the police were doing a good job which was down from 64%? Although you have some good figures, and we can play with the numbers, the trend at the moment is not in the right direction.

**Chief Constable Baggott:** Yes, and there have been three successive falls in confidence and satisfaction. Part of that is against the backdrop of a worsening security situation and probably political uncertainty. I do believe that confidence in policing is very much affected by the overall atmosphere. If I had been a resident here during the last year and seen a series of outrages and murders then I think I probably would be starting to feel pretty uncertain. Inevitably that plays into the figures irrespective of people’s own experiences because the survey is not just about users but “what do you think” and that is often based on what you read or what people tell you. The other thing we need to move in fairly quickly on, which will be in the review of public administration, is creating even more effective partnerships which can jointly tackle antisocial behaviour, re-offending and serious harm in a much more consistent way. At the moment I think the 29 partnerships are relatively small, so if they had to deal with the overall impact of re-offending, for example, people get released

from prison and what does the support and monitoring and supervision look like, and that must involve police, health, probation, there is a strategic element to that which is very difficult to do if your partnership is too small. There are some issues about partnerships. Do I think confidence and satisfaction will rise? Yes, I do because I think the next phase of the PSNI’s life is moving from policing of the community as a sort of broad-brush empowerment, problem solving, into some very clear programme plans around how we are going to hold ourselves accountable for the quality of every encounter we have with a member of the public in Northern Ireland. Let me give you a flavour of that. We are currently working through a process of putting around 600 police officers back on to the streets who have been asked to work in administrative roles because of the rigidity of the way the service has been run. I mean “run” in the sense of being stuck to rigid establishment numbers and not having the freedom or carry-forwards that we needed. That will take place over the next six months to a year. We will get numbers out in time to match the withdrawal of the full-time reserve that is taking place at the moment and then that will carry on. It is important that those numbers are used to deliver a much more consistent service. The way we are doing that is we are looking at the whole way in which we manage calls for assistance and in the next few months we will produce a set of very clear promises to the public here. We are not going to call it a policing pledge. We will take some of the best of the policing pledges of the past and give it a Northern Ireland flavour. We will have neighbourhood policing in every neighbourhood and how we do it will be dependent on the security situation but we will have accessible police officers in the right numbers to make a difference. We are currently mapping our neighbourhoods and rather than having a variety of interpretations of that there will be a PSNI standard set out in a series of promises that if you want to contact your neighbourhood police officer you can, a neighbourhood police officer will not be abstracted for other duties. We will set out a very clear standard. I think that will take the best of what we have got and make it more consistent. We are defining half a million calls a year, looking to see whether we can turn those into a much more personal encounter. Rather than saying, “Sorry, we don’t visit because you are a victim of this crime and you don’t fit in with the crimes that we visit”, we will be much more flexible about that. If someone needs a visit from the police and they want one, we may well schedule the response and say, “It’s not an emergency, when will it be convenient for you?” providing we can do that within a security framework. We will use our Blackberries and our mobile data and all that technology to make our service much more personal. All of that is what I have been invited to do by my own colleagues as well as by the public. That is not to say it is not happening, but we want to make that more consistent. The bit we are going to do which will take a little more time is in order we can assess where communities have confidence and where they

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do not we are creating a call-back arrangement where we will be calling people back monthly. We will seek to publish that data openly. If certain communities are dissatisfied in the service we will ask the question why: have we given the local commander enough resources; are we doing the right things. Rather than a yearly survey we are going to be holding ourselves more accountable. That will come right down to the individual constable level. If Matt Baggott deals with a dozen calls in a month, or whatever it might be, and we ring a dozen people back and say, "How did Matt Baggott do?", that will feature in Matt Baggott's appraisal. The evidence of what we are actually doing will shape the way we promote, hold people accountable and assess their overall performance in the future. I do not think we need to fear that because we have enough significant quality and commitment to celebrate what we do, and hopefully that will help us to celebrate as well as look at where we are inconsistent. That is the sort of approach we are taking, much more businesslike.

**Q135 Christopher Fraser:** Given the confidence with which you talk about the future and those very positive moves you are making, would you go as far as to say that not having devolution has actually hampered policing in Northern Ireland?

**Chief Constable Baggott:** I think devolution should be a confidence-builder. I come back to the point that it makes people have the conversations about what is important, and not having that ends up with a series of different insights and perspectives. I do think overall it will help. I would not want to put a figure on whether in the next year or so it will absolutely enhance confidence because there are some difficult conversations to be had. There are a series of workings out of who is responsible and accountable.

**Q136 Chairman:** There are some rather difficult ones going on at the moment.

**Chief Constable Baggott:** I think there are.

**Q137 Mr Murphy:** Mr Baggott, despite intensive investigation in both jurisdictions, to date no-one has been brought to justice for the terrible murder of Paul Quinn. Are you able to give us any progress on that case today?

**Chief Constable Baggott:** Perhaps I will invite Drew to cover the specifics of that.

**Assistant Chief Constable Harris:** We wrote to the Committee last year in respect of that and, indeed, there have been no further developments. All significant leads and, indeed, all leads have been pursued either by ourselves or our colleagues in An Garda Síochána. On their behalf we carried out a number of arrests and people were interviewed in the serious crime suite and An Garda Síochána conducted their own arrests as well. It was very much a parallel investigation and we explored every possible avenue in terms of significant leads to try and identify the individuals involved and bring them to justice, but have been thwarted in our efforts. At present I do not think there are any further leads or

significant lines of inquiry left to pursue so, while the investigation is not closed, at the moment we are at somewhat of a stalemate.

**Q138 Mr Murphy:** We have also raised this with Commissioner Murphy and his team. My first impression of meeting with Commissioner Murphy, after he crushed my hand, was if he was the arresting officer I certainly would not resist arrest. Have you met with Commissioner Murphy?

**Chief Constable Baggott:** Yes, I have. We have had some very good meetings. I met with him in Dublin in my first week here. We had met even before at an organised crime conference and followed that up with some informal meetings between the two of us, and I have been down to Dublin again. Before Christmas he brought his whole command team up and we had half a day together. We are now taking forward a major piece of work looking at enhancing our co-operation even further in 15 strategic areas which a Deputy is leading upon. We are at a point of some extremely good progress with our colleagues in the Garda. We are very much of one mind around dealing with the security situation and serious harm. What we want to look at is making sure that we do not just keep the status quo on that, we want to push forward even more. Perhaps Judith will say a few things on that area.

**Deputy Chief Constable Gillespie:** Two weeks ago I met with my colleague, Martin Callinan, one of the Deputy Commissioners for the Garda, to take forward the strategy for co-operation between PSNI and An Garda Síochána. It has to be said that we have a unique working relationship that we have built up over many years, a relationship built on mutual trust and respect, but what we are now moving towards is a written strategy trying to define the future of where we would like to go in the next three to five years. We have agreed some broad areas that we will work together on, some specific goals, and those areas are operations, investigation, intelligence, legislation, security, IT and communications, training, human resources, equipment and emergency planning. Those are very broad areas but the idea would be that our subject experts on both sides of the border would work up specific goals and objectives to achieve over the next three to five years in those areas. Whilst the working relationship is excellent obviously there is always room for pushing the boundaries and moving forward and challenging the status quo, in particular perhaps around some difficult areas on legislation that in the past we have been unable to push forward on. I am very hopeful that there will be some tangible progress over the next three to five years in the lifetime of this strategy.

**Q139 Mr Murphy:** We were informed this morning that a senior Garda officer was being seconded here in Belfast for 12 months. Is that something the PSNI are doing in reverse? Have you officers seconded to the Garda?

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**Deputy Chief Constable Gillespie:** We have in the past had officers seconded to An Garda Síochána and this time around we are not seconding a superintendent but I would be hopeful in the future that we would have future secondments. The superintendent in question will be coming up within the next five to six weeks to work in our Community Safety Branch. Approval in principle has just been given by the Minister in the Department of Justice and the detail of that has to be worked out over the next five to six weeks, but he is to start in six weeks' time with our Community Safety Branch.

**Q140 Mr Murphy:** We understand that radio communications are now possible across the border?

**Deputy Chief Constable Gillespie:** Yes, that is right. We now have secure radio, which is a significant step forward. The last time I gave evidence I was talking about that particular matter and it is now complete, I am pleased to say.

**Chairman:** I want to bring in Mr Hepburn and Mr Fraser and then we will go briefly into private session. There are some quite dramatic developments taking place outside this room as well.

**Q141 Mr Hepburn:** What factors do you take into consideration when you decide whether to conduct forensic analysis in-house or actually give it to the forensic facility over at Carrickfergus?

**Chief Constable Baggott:** I will let Drew talk about the specifics but I can let you know where I come from on this. We have had some of these high level discussions. I want two things coming out of this. The first is success in relation to the speed and timeliness of our submissions and making sure that is very effective. The second is value for money and there are some challenges that we will be making of ourselves, for example on the sending off of drugs for testing, and is there a way we can do that with smaller quantities in-house without losing the forensic integrity, so are there cheaper ways of conducting this. These are not judgment calls on my behalf, I do not know the answer to this, but effectiveness and cost are the two questions I would be asking about. Drew will have some insight into how it currently works.

**Q142 Chairman:** Could I just say before he does come in that we have visited the Forensic Science Laboratory and also took formal evidence last week. We were very impressed by the quality of the work. We know that Deputy Chief Constable Gillespie has been, but we hope that you will go at an early date and see for yourself what they are doing because it really is work of a very high order indeed.

**Chief Constable Baggott:** Yes, indeed. Sadly, I had to cancel my visit because of the unfolding events of the day around Peadar Heffron. Unfortunately, I had to cancel it but that date has been rearranged now. It is only a question of time, it is not a question of intent.

**Q143 Chairman:** We understand.

**Assistant Chief Constable Harris:** In respect of our relationship with the Forensic Service of Northern Ireland, we are their principal customer and they are our principal supplier in terms of forensic science support. We work very closely with them and I think we have the advantage over some of our counterparts in the rest of Great Britain in that we have a single relationship with one supplier for the majority of our forensic science investigation. Specifically, areas which we still retain would be around fingerprint examination, footprint examination, but also phone examination and e-crime, which is the examination of computer hard drives in particular. There is a lot of investigative work which now flows into particularly phone examination and e-crime examination. We have built up our own expertise in respect of that and as this has developed our expertise has developed incrementally. From an early stage occasionally you would come across computers and phones but they are now present in all major crime investigations and give us very significant leads in terms of evidential work that we can do and consequently we have resourced this part of our major crime investigation. The great majority of this we would take on ourselves. It is only the most complicated investigations which we would forward on to the Forensic Science Laboratory. Very often you come across a phone, which is a pretty simple device, and, therefore, well within our capabilities. Depending on the type of phone and how often we come across it, if it was beyond our capabilities we would use the Forensic Science Laboratory. There are so many of these that to put them all to the Forensic Science Laboratory without a significant uplift in their resources would completely flood their workplace and also the same would be true of e-crime in terms of researching hard drives. We are in negotiation constantly with the prosecuting authorities as to how much examination is required of hard drives to actually prove the requisite offences. One of the examinations of hard drives is obviously around indecent images of children. How many images actually constitute the charge? Some of these computers have hundreds of thousands of images on them and instead of exploring all of that we want to get to a place where we can take a sample of probably many thousands of images, upwards of 20,000 images. We are constantly looking at the amount of work we need to do to prove the charge, but we are at a criminal standard of proof so there is an obligation on us to apply the very highest standards and to be exacting as to any material that we recover.

**Q144 Chairman:** There is another point I would make without asking you to comment at the moment because the Chief Constable has yet to visit. This is not casting any aspersions on what you do in-house at all, but we were greatly impressed by the independence and integrity of their work, by the high quality and calibre of their young scientists and the training they had received. At the end of the day

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there is no substitute for utterly impartial objective scientific evidence. We just ask you to reflect on that when you go and see them.

**Chief Constable Baggott:** I certainly will. I would not disagree with that at all. The ambition I would have is to use that independence and excellence in relation to the serious and complicated to try and speed up some of the justice processes at the moment. If we can take out the non-contentious and deal with that in a quicker and speedier way, whether that is through spectrometry of drugs or in-house, that is the trick in terms of value for money. Certainly I know enough of it by reputation to endorse what you said, Chairman.

**Q145 Mr Hepburn:** Just to move on to the issue of budgets, has the increase in the dissident threat had any effect on your thinking in forming the next financial year's budget?

**Chief Constable Baggott:** Yes, it has in the sense that part of the package for devolution has had to be the assurance that we are capable of meeting quickly an increased risk and threat and sustaining that into the longer term. Clearly what we have built is a greater infrastructure, be that forensic, technical, sheer numbers, and I have increased slightly in the last week or so Drew's capabilities to deal with that emerging threat. We need to sustain that. If there is a way of dealing with it in a quicker and more effective way I do not want to have to create a business plan that will take a year or two years, I need that resource now. Access to the Security Fund is critical. The second issue is I need to be able to negotiate, whether through the NIO or devolved structure, a sustained street presence. It would be very easy to drop the budget and suddenly lose 400 or 500 police officers, but I need a public order capability and I need to deliver personal policing, which is the backdrop of confidence building, and I need to sustain that into the future. In terms of budget, I am anxious that we do not get drawn into an expectation that we will deliver an over-ambitious set of efficiency savings and I think we need to be made an exception. I am not saying that we do not need to become more efficient and do not need to work within a budget, but developing a policing service over the next two or three years needs sustained effort and sustained resourcing, particularly in a security situation. We have been doing some quite hard and focused talking about the level of efficiencies that I shall be expected to make next year and the year after, and I think we need to stick to that.

**Q146 Christopher Fraser:** You talked earlier about the withdrawal of the full-time reserve. What conclusions have you reached on that phasing out or retention of full-time reserves given that the Police Federation have expressed strong public opposition to phasing out and there is talk of an enlarged part-time reserve?

**Chief Constable Baggott:** Thank you very much. A very difficult decision because speaking out publicly might inadvertently give the impression that I do not

respect entirely and very fully the commitment and service given by full-time reserve colleagues. You can easily slip into talking about enhancing the business of policing but I am very mindful of the fact that there are individual colleagues here, some of whom have served for a long time. I need to say that. Nothing I say here should be interpreted as disrespectful of their value or worth over many years. I arrived in the middle of a judicial review, so to some degree I had to pick up the pass, and rightly so. I implemented a security review, which is very thorough, to look at where we are in terms of technology, training and need. I looked at that alongside the strategic review which was the piece of work conducted in the summer which identified many hundreds of police officers working behind desks. The decision that we came to at the end of that was we would be better investing the money that we currently spend on the full-time reserve, bearing in mind that they have a variety of different roles, in releasing fully trained, fully paid, operational police officers from behind desks under a very speedy process. That would give more street presence and more capability than spending the money on retaining the full-time reserves. It was a purely objective decision, again on which all the Chief Officers were absolutely unanimous that it was the right thing to do. That is the first issue. The second issue is we also need to reconfigure where we have our people, using assistant investigators and releasing police skills. If I had retained the full-time reserve, which is an historical way of dealing with security, we would not have been able to reconfigure the way in which the PSNI actually operates and does its business. The third issue is I cannot go to the Treasury and ask for more money when a strategic review has shown there are hundreds of police officers being paid to do administrative tasks which should be done by police staff, or they are servicing ineffective processes. I have worked with the Treasury long enough to know the questions they would ask. To ask for more money to retain a full-time reserve when you are sitting with twice as many people behind desks is not a compelling argument. There is a real world about that which I need to be cognisant of as a Chief. The other issue is in reality the severance agreement reached under Patten is only available now. There are no signs that I can ring-fence, it is not in my gift. The messages are very clear that severance will come to an end in April 2011, retraining will start in June 2010 and now we are in the middle of a recession I cannot see that severance being ring-fenced into the future as a matter of personal choice. Some of the confusion around this has been, "If the Chief were to choose to ring-fence severance into the future, would you like to stay?" but this is not in my gift. These are decisions that have been made. We looked at all of this in the round and I am firmly convinced that the decision to release operational police officers, and to allow people to leave with a relatively generous severance package, albeit some do not receive a huge amount of money, we should be very cognisant of that, is the right decision to make. I do not know whether you want to say anything, Judith?

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**Deputy Chief Constable Gillespie:** Many full-time reserve colleagues have joined the regular PSNI. Almost every squad of student officers passing out, or graduating as we now say, includes a number of full-time reserves. Secondly, we have recently advertised for 60 civilian detention officer posts, again to release regular police officers back out into visible policing roles. Many of those posts have been applied for by full-time reserve colleagues and also assistant investigators, which Crime Ops are now employing, and across our Professional Standards Department some of those posts have been taken up by full-time reserves. It is important that we do not lose the experience of working in the Northern Ireland environment that many of those officers have. I should stress that they have applied for and gained those posts through a merit selection process. There is no question of full-time reserves going out one door and coming in wearing a different uniform the next day, they have come through a merit selection process and gained those posts on their own merit.

**Q147 Christopher Fraser:** You mentioned earlier that the intake is higher in age in terms of the people coming into the force. Is that because they cannot find employment elsewhere and this is an easy option because you are recruiting or do you have any data that proves this is a first career option for people, which goes back to your reserve point about people coming into the main force?

**Deputy Chief Constable Gillespie:** Obviously any employment pool is a factor of the economic context in which we all work, but many people are coming into this organisation as graduates on masters degrees, indeed a small number with doctorates. It is not like they have tried lots of other employment opportunities and the PSNI is the avenue of last resort. In most cases we are the avenue of first resort, an employer of choice. Some people will go through the recruitment process not once, not twice, but three or more times to get through the process to get into the organisation.

**Chairman:** We will have to move on to the private session now. Thank you very much for the public evidence session.

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**Tuesday 26 January 2010**

Members present

Sir Patrick Cormack, in the Chair

Rosie Cooper  
Christopher Fraser  
Mr John Grogan  
Mr Stephen Hepburn

Mr Denis Murphy  
Stephen Pound  
David Simpson

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*Witnesses:* **Mr Ronnie Spence**, Chairman, **Mr Brian McCaughey**, Director, **Mr James Quinn**, Member, and **Ms Cheryl Lamont**, Deputy Director, Probation Board; **Mr Robin Masefield**, Director, and **Mr Max Murray**, Deputy Director, Head of Operations, Prison Service, gave evidence.

**Q148 Chairman:** Could I welcome you to this public evidence session. I am delighted to see you. Mr Masefield and Mr Spence have given evidence to the Committee before, and we are very grateful to you for that. If you would just number off across the table introducing yourselves, particularly the gentleman who has no name!

**Mr Murray:** Max Murray, Deputy Director, Head of Operations.

**Q149 Chairman:** We have met you before, Mr Murray, but you do not seem to be labelled. You are Robin Masefield, yes.

**Mr Quinn:** Jimmy Quinn, Deputy Chair of the Probation Board.

**Mr McCaughey:** Brian McCaughey, Director of the Probation Board.

**Mr Spence:** Ronnie Spence, Chairman of the Probation Board.

**Ms Lamont:** Cheryl Lamont, Deputy Director of the Probation Board.

**Q150 Chairman:** You are very welcome. Thank you very much indeed for coming. We did a series of evidence sessions here in Stormont yesterday. The Committee is going to make its final report to Parliament before the election on progress towards devolution. As you well know, we did a major inquiry into the Prison Service a couple of years ago and were extremely grateful for the help and assistance we had with that. We hope the report made a reasonable contribution. We were grateful for the reactions we had. We want to report to Parliament on how things have progressed since then and, standing, as we hope we are, on the eve of the final stages of devolution, how you see things. Perhaps we could begin and ask one or two questions which I will direct initially to Mr Masefield and Mr Spence but, please, anyone feel free to come in. I will leave it to you to orchestrate your answers but, please, we do not need an answer from everybody on every question. We have got precisely an hour for this session because we are publishing a report on broadcasting with a press conference in Stormont at 10.30 and need time to prepare for that. What implications arise for your services, Mr Masefield and Mr Spence, should the devolution of policing and criminal justice matters proceed from

today's talks? As you know, as we meet here those talks are underway at Hillsborough. How would you react?

**Mr Masefield:** We are very much looking forward to the prospects of devolution, if I may go first. There are two key areas for the Prison Service. We think we are as well prepared as we can be in administrative terms and on a range of other preparations. We have been running it as a programme similar to the core department's, and there are ten or so work strands involved in that, including matters such as legal, legislative, finance and IT, as you would expect. There are two key aspects, I think. One for us is we are anticipating significantly increased local scrutiny and accountability, and that can be only beneficial for the service, and widening out the focus there is on our performance and improvements in that right across the service. For example, we anticipate a greater number of attendances before Assembly committees and look forward to that. The second point, of course, is one or two of the aspects that you addressed in the context of your report published in December 2007 relating to areas such as the estate strategy and the future of women offenders. We are very conscious that we will be in perhaps greater competition looking to the Department of Finance and Personnel rather than the Treasury for the funding for capital as well as resource costs.

**Q151 Chairman:** Thank you very much. Mr Spence?

**Mr Spence:** Like Robin, we are looking forward to the opportunity of devolution but we also anticipate that it will impose additional demands on the senior management of the organisation in terms of greater accountability and the need to be accessible to the Assembly and local representatives generally. We have been putting a lot of effort into making sure that senior staff understand what that might mean and they have been receiving appropriate training. We are also looking forward to it in the sense of being able to promote a more joined-up approach to meeting the needs of offenders as the needs of offenders involve health issues, housing issues and employment issues. We think with the devolution of policing and justice alongside the functions that are already devolved there is an opportunity to develop a more integrated approach to the management of offenders and tackling all of those problems in a comprehensive way. We are looking forward to the possibility that a local Assembly may want to

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address some of the issues in relation to offenders and re-offending in a way which is more distinctive to the needs of Northern Ireland and that may be an opportunity to develop fresh approaches here but drawing on best practice from around the world.

**Q152 Chairman:** Thank you. I do not want to be pessimistic but quite clearly the talks are at a crucial stage and it is possible, although certainly I hope not probable, that devolution does not proceed. If it does not, are you confident that you can continue to provide an ever-improving service and maintain morale within your services?

**Mr Masefield:** Yes, in principle, although I should perhaps put a caveat. As a civil servant I do not want to get too overtly into the politics, but I am very conscious in the discussions on the financial side, looking ahead to the funding that has been secured for the Department of Justice at devolution, it may well be that some of that would not necessarily be available were we to roll forward under the current arrangements. I think we need to take very careful stock of the funding streams as well as the service improvements to which we are committed.

**Q153 Chairman:** So you would need to have negotiations with the Treasury, yes. Mr Spence?

**Mr Spence:** I think a similar answer is appropriate. As the Probation Board, we are about to start to enter the process of preparing our next three-year corporate plan. If we were preparing it against the background of devolution obviously it would be different from if we were preparing it against the background of continued direct rule, although many of the core issues will remain and will have to be addressed.

**Q154 Chairman:** Thank you. Also, thank you for the brevity and concise nature of your answers, which is much appreciated. Let us be optimistic, having just looked at the other side. As far as your two services are concerned, what would be the major task—or tasks—facing a new Minister for Justice in a devolved administration?

**Mr Masefield:** I will answer that in two ways, if I may. We have been trying to develop the Prison Service for a number of years now and are looking to modernise it, as you are aware, and you addressed that point in your excellent report, and we have been working forward largely on that template. Many issues remain in terms of culture change for our staff and we have a new project going forward on that basis. The second part of it will, to an extent, be to see the background of the particular Minister for Justice and the emphasis they would wish to place on whatever strands of that corporate and business plan, a similar process to that which my colleague has referred this morning. The emphasis might shift and reflect a little their personal preference.

**Q155 Chairman:** Of course. Mr Spence?

**Mr Spence:** Two points. First of all, I think a new Minister inevitably would have to deal with public expectation that he or she will deal with things

better, more effectively, more efficiently and be more transparent. Whether or not that is a fair criticism of the present arrangements I doubt, but there will be that public expectation. Secondly, I think there would be a wish by a new Minister to try and do things differently. A few weeks ago the House of Commons Justice Committee produced a very good report, I thought, on reinvesting in justice. I think some of the ideas in that report would be issues that a local Minister would want to look at very carefully, things like trying to manage more offenders in the community, greater involvement of the voluntary and community sector, trying to deter people from becoming offenders, helping people from re-offending and trying to target more effectively the worst areas in terms of crime and offending. I think a new Minister would want to look at things like that at a fairly early stage so that he or she could be doing something that is distinctive.

**Q156 Mr Hepburn:** On the area of administrative readiness, what preparations are you making at the present time? What changes do you think might have to be made to prepare for devolution, and what will the financial implications be?

**Mr Spence:** If I could answer that first. In the case of the Probation Board we have already put our senior staff through appropriate training and have made some structural changes at the top of the organisation to strengthen in particular our business planning arrangements and also, very importantly, to improve how we communicate with the public, the media and elected representatives. That is an area where probation has been traditionally bad, it has not been very good at explaining what it does and does not do, and that is an area where we have to recognise we will have to do better in the future and are putting greater effort into that area. We have made a new appointment to deal with that side of our work.

**Q157 Mr Hepburn:** What about staffing and accommodation?

**Mr Spence:** A modest staff increase but no accommodation consequence.

**Mr Masefield:** As I mentioned earlier, we have had an extensive programme modelled really on that of the core department, the Northern Ireland Office, covering ten or so different work streams. It includes training that we have had for staff. The main area that I would highlight for us is increased scrutiny and focus. We do welcome visits, for example, from MPs and MLAs at the moment and I think we will get many more of those coming to our establishments. It is interesting that we benchmarked against one department here at devolution and they had a 600% increase in the number of questions asked by the Assembly as opposed to parliamentary questions, so we are anticipating gearing up our secretariat function, the communications element that Ronnie Spence referred to as well. Overall, financially it should not be a huge additional facet. The other thing I would say is we are taking the opportunity to restructure

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headquarters, which is not explicitly tied into devolution but hopefully that will give us the opportunity to gear up and ensure that we have a better focus on the absolute key strands that any new Minister would want in modernising the service and performance improvement in the service itself. So we will have, as it were, two directorates driving forward operational improvements within a couple of months' time.

**Q158 Mr Hepburn:** At the present time is there a marked difference in the way that you run your affairs? Will there be a revolutionary change or will there just be a seamless change?

**Mr Masefield:** Somewhere between the two, if I may say. If time allowed there are a number of secondary strands I could get into, but I am rather conscious of the point the Chairman has made about timing. There are some points that we will need to reflect on that mirror the document that was provided for the parties in February 2008 on devolution taking forward the legislation, so there will be the Transfer of Functions Order, of which you will be aware, that will be coming forward to your House hopefully in the near future and there will be some ramifications for the Prison Service. Without getting into the detail, national security and elements that will be matters reserved or, indeed, excepted matters to be dealt with by the Secretary of State, whoever he or she may be, as opposed to the local Minister. While the Minister for Justice will be responsible for prisons at large, there will be some small areas that will need to go off and that is a strand of arrangements that we are making sure we get right to put in place and make sure the right Minister has the right information at the right time to enable the right decisions to be made.

**Q159 Christopher Fraser:** Before we move on to Probation, may I just ask a question following up from what Stephen Hepburn has asked? Mr Spence, you just mentioned the Justice Committee report and used the very good word, "distinctive". A lot of what they said from my understanding was there were quite a few radical ideas there, thinking outside the box. Do you think Northern Ireland is ready for that type of thinking yet?

**Mr Spence:** That is a very good question. The answer is probably no, the level of debate about issues in relation to prisons and probation is not as mature as it is in some other parts of the UK, and that was one of the reasons why we decided to strengthen our PR capability and why we are going to conduct a number of events over the next year as part of our corporate planning process to try and raise the level of debate about what is the best way to deal with offenders, what works and what does not work, what can we learn from other jurisdictions.

**Chairman:** Thank you very much. I am going to ask Rosie Cooper to come in, but there is one question that we would like to reserve for a five minute private session at the end because of the sensitivities.

**Q160 Rosie Cooper:** In the light of the appalling attack on PC Heffron and the bomb outside the Policing Board, to what extent do you think employees of the Prison Service and Probation Service are at risk from the remaining terrorist groups or individuals?

**Mr Spence:** If I could answer that first because I think there will be two different responses here. The Probation Service worked across the community right through the worst years of the Troubles and we managed to do that successfully. We encountered no serious difficulties in that period. Perhaps Mr McCaughey, as the Director, would like to add to that point.

**Mr McCaughey:** If I could reiterate that through the history of the Troubles in Northern Ireland we worked in every community and our mantra would very much be "in, with and through the community". We have a presence, and always have had, in every locality, have knowledge of every locality and have an acceptance in every locality. We are a social work qualified organisation delivering behaviour change programmes, so are slightly different from other criminal justice organisations. The recent upsurge in activity has not impacted directly on the Probation Board or its staff. The greater percentage of our work now with offenders is done in partnership with other criminal justice organisations and with the necessary escalation in security issues it will have impacted on our criminal justice partners and they may not have been as readily available and will have had more of a security mindset in recent months.

**Mr Masefield:** We would like to position ourselves very much as serving the whole community, as public servants. We bitterly regret that we do come under attack and, of course, we have a different history of 29 members of staff killed during the Troubles, so we did work with our professional advisers nearly a year ago in the light of events at Massereene and Craigavon to see whether it was appropriate to reassess the threat in respect of our staff, and regrettably that was raised from "moderate" to "substantial". We have taken a range of security measures in a fairly low key but, nevertheless, targeted and effective way to provide protection and reassurance for our staff where it is appropriate since then. It may be that we can return to that in private session.

**Q161 Rosie Cooper:** Mr Rodford left your service after five short months. What impact has that had on the morale of your employees and how do you see dealing with that?

**Mr Masefield:** Well, I regret it and so does Paul Goggins. Steve Rodford was appointed following the report that Paul Goggins and I commissioned by Tony Pearson and colleagues. I had worked with Tony in the English Prison Service in the 1990s and have immense respect for him. One of the key findings of his team was that we should, if you like, aim to achieve a blend at senior level, not dissimilar to the PSNI for a number of years now, a blend of experience from our own staff home-grown who

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perhaps have gone out and worked elsewhere on exchanges or secondments and staff coming in at senior level for a period either on secondments and sharing that expertise specifically following the move by the Governor and Deputy Governor at Maghaberry. They are both on secondment within the Northern Ireland Office playing a part in the wider criminal justice system—something I had personally been looking to achieve for a number of years so I welcome that—and they will be coming back to the Prison Service. My colleague, Mr Murray, and the Head of Personnel also interviewed a number of people and Mr Rodford came forward as the candidate. As I put in the press release on 5 December it was primarily down to personal and domestic reasons that he left us, although obviously the security incident in particular was highlighted as one point. It was a blow to us. He had been giving a clear lead to the establishment, working with the staff, setting up the improvement team. They are not all in place yet, but we have a number of colleagues there, both internal and external, supplementing the current senior management team to help make the improvements that we all want to see in Maghaberry. Good progress had been made in that four-month period and it has not come to a halt as a result of Mr Rodford's departure. The excellent Deputy Governor is the Acting Governor and I signed off a compact with him just last week precisely as Tony Pearson advocated that sets out the work streams with targets, with dates for implementation, and the momentum is very much being maintained. We will continue taking forward that blend of expertise to which I have referred because it is absolutely right that our own people gain more expertise, we are small and insular—with no disrespect to our staff, it is inevitable—and we gain from going elsewhere and seeing precisely the same sort of response Ronnie gave to the question, we benefit from seeing wider criminal justice experience elsewhere and from having that input.

**Q162 Mr Murphy:** So you would suggest, Mr Masefield, that there is not any truth in the suggestion that Mr Rodford's departure was linked to difficulties in reforming the regime at Maghaberry?

**Mr Masefield:** In a number of media interviews that I did when we announced that Mr Rodford was going back, I said clearly, and Paul Goggins is also on the record as saying, that it was primarily or largely for personal and domestic reasons. I also went further and said Steve Rodford did have a number of frustrations and those were precisely the same frustrations that I have had that indeed, with respect, the Committee identified in seeking to move us forward. We have a number of issues that relate partly to elements in the organisation—I am not singling anybody out, I am certainly not going to point the finger and say the Prison Officers' Association—a number of staff who are more resistant to change than others. I think that is one facet. Maghaberry has a wide range of issues and challenges to take forward and there are questions as

to how far one can move on some things. Finally, to give you a simple example: Steve Rodford, as a governor in the English Prison Service, was used to being able to “hire and fire” in his terms. A governor in the Northern Ireland Prison Service cannot hire and fire, I cannot hire and fire, because all the employees in the Northern Ireland Prison Service are actually employees of the Department of Finance and Personnel even now prior to devolution. That is a constraint under which we work. It is understandable, and I have grown up with it, but others may perhaps have a slightly different perception of the constraints it places upon their ability to make progress as fast as they would like.

**Q163 Mr Murphy:** The recent Criminal Justice Inspectorate's report on the regime in place for vulnerable prisoners was fairly critical of the current system. What steps are being taken to try and address that?

**Mr Masefield:** I am glad you ask me that. I would like to put something on the record. Within six months from the initial criticism in January, the publication of the report by the Prisoner Ombudsman into Colin Bell's sad death in August 2008, we had taken 43 recommendations she identified and it was principally those recommendations that the Criminal Justice Inspector was coming back to look at. He found in his report we had achieved fully or partially 85% of those 43 recommendations within six months. They inspected in August at a time when the new governor, Steve Rodford, had been there precisely two weeks. If I may invite you to compare and contrast: I looked at six sample reports by HMCIP of England where the average period is three years and the level of “not achieved” is 30%, so in six months with a new governor in for two weeks we had implemented all but 15% partially or fully and in England and Wales after three years they still failed regularly to implement 30%. With respect, we have a long way to go, and I am not complacent, but sometimes we get rather more criticism than we think is merited, certainly from the media.

**Q164 Mr Murphy:** There was also a suggestion contained within that report that the staff were very unhappy with the rate of progress, or lack of it in some cases. Is that still the case?

**Mr Masefield:** It certainly paid tribute to a number of individual staff and the progress there. For the record, it also said that very much good progress had been made in Magilligan and Hydebank Wood. Maghaberry is inevitably more challenging because it is a hugely complex prison as every inspectorate says.

**Q165 Chairman:** As we know.

**Mr Masefield:** Indeed, Sir, yes, as you yourselves identified. I think there are frustrations at all levels. Perhaps I should bring in my colleague because as Director of Operations he has even more direct responsibility than I.

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**Mr Murray:** It is definitely frustrating trying to make a move in Maghaberry. Steve's departure was regrettable because he had built up a momentum that was having an effect on the ground. Whilst there were differences of view in terms of him and some of his staff, people recognised that the direction of travel was entirely appropriate, and that did include bringing forward the safer custody strategy. There is a central group now working in headquarters developing a new strategy. We have just introduced a whole new procedure for the management of vulnerable prisoners called the SPAR procedure—supporting persons at risk—and that is proving to be very effective. The recent audit carried out at Maghaberry shows accident recording in the daily logs, observational checks, things that were not happening previously. We do think that certainly in the six months since the CJI published the report we have made significant strides forward. We accept we have a long way to go but we have made significant advances.

**Q166 Mr Murphy:** Are you currently meeting your targets of 20 hours activity for sentenced prisoners and ten hours of activity for others?

**Mr Masefield:** Yes is the simple answer. If you ask me the underlying question are Max and I are satisfied with the level of constructive activity, the time out of cell in particular for remands, who constitute 50% of the population in Maghaberry, no we are not, we still need to work at that and get that better.

**David Simpson:** Chairman, my apologies for being late, the traffic was horrific this morning. You will be aware that some time last year there was some press in relation to prisoners gaining access to illegal drugs. Under the reforms and targets that you have spoken about this morning how is this being addressed because it seems to be an issue not only in Northern Ireland but right across the United Kingdom and in the Republic? How do you see that being addressed and resolved so that this does not happen?

**Q167 Chairman:** When you answer that could you also say whether you are considering what they were doing in part of the Republic when we went, which was to prevent contact between visitors and inmates? Are you experimenting there? If you could take the two things together that would be very helpful.

**Mr Murray:** Part of the difficulty with managing mobile phones is that the mobile phones now are so small and, frankly, prisoners carry them in body cavities. In the Northern Ireland context we do not have a search procedure that involves body cavities. We do have an extensive search strategy in place in each prison that includes searches on the landings, searches to and from visits, searches of people on committals and discharge coming into and going out of the prison. We do use the most modern handheld detectors which are sufficient to detect on the majority of occasions if there is metal secreted in a body cavity. We do put people into the special segregation unit in isolation waiting for them to

hand over the item. We have to go through the medical procedure where somebody claims they have got a metal plate. We feel we are very successful in the context of what we do in Northern Ireland. When you consider our finds as against what is happening in the Irish Republic or HMPS we have been very successful. It is a big problem and not one that is easily resolved. We have looked, for example, at phone blocking and we do know in the Republic of Ireland they had a very major initiative ongoing at Midlands Prison in terms of phone blocking from the perimeter in, but, unfortunately, that has now had to be decommissioned because of the collateral intrusion out into the community. We know of pilots in England and Wales that we are keeping an eye on and if any of those prove successful then obviously we will look to bring forward those initiatives into our prisons. Certainly phones are an issue.

**Mr Masefield:** Can I perhaps move on to the drugs element, which is very closely linked to that? We had a major review of that, following your report, that was published in the summer of 2008. We have found it hard. We were very clear that it was about minimising the supply of drugs that got in, you can never eradicate it, which I think was implicit in your question, and we have taken forward a range of measures. Frankly, I think we are at a disadvantage in Northern Ireland because we have a higher proportion of prisoners going out on home leave and we do not have the intrusive searching and sometimes, for example, Belmarsh would go further, to name but one prison. Culturally we do not have that history. As the Chairman absolutely rightly points out, up to this point we have not gone for screened visits. There are three things, very briefly. As you may be aware, Sir, we have published amendments to the prison rules, quite an extensive set of amendments, some of which are fairly mundane, that in particular will gear us up in this area, so we will go for mandatory drug testing and from next month we are introducing saliva testing which will give us much quicker point of contact checks on the prisoner. We will have a programme that will work with case conferences with prisoners who are found to be consistent drug users. Certainly in Magilligan and potentially in Maghaberry we are looking at drug-free wings. Very much both in the redevelopment of the Magilligan visits, which need to be extended short-term, and then in the new Magilligan Prison redeveloped, we will be putting in a range of screened visits that will make it more difficult for the traffickers.

**Chairman:** Could I just thank you for sending the Committee your change of rules. That was a courtesy that was much appreciated.

**Q168 Christopher Fraser:** If I may ask one question on that point about drug smuggling. Is there any evidence of coercion of staff in terms of bringing drugs into prisons?

**Mr Murray:** Not coercion but there is evidence of staff being subverted.

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**Q169 Chairman:** So being complicit in it?

**Mr Murray:** Absolutely. We have one member of staff suspended at the moment.

**Q170 Christopher Fraser:** Can I talk about prison population numbers? The average population in prisons here is going to go up to about 1,738 in 2012, which is an increase from 1,635. Why is this increase expected and what is being done to prepare for it?

**Mr Masefield:** May I give you an answer which may not be quite that which you were expecting, and it is not really what we were expecting either, as it were. The prison population this year, as of yesterday, was 7% lower than this time last year, which is counterintuitive, to use a technical term. We had done our best projections and did indeed anticipate a projected increase that was very much on the basis you were referring to. In the context of building the new Magilligan Prison we have commissioned a rather wider ranging study which I am very interested in, shared with my colleague in the Probation Service, trying to look across the criminal justice system, Prosecution Service, courts and probation, to try to understand why there seems to be this temporary dip in the prison population.

**Q171 Chairman:** Mr Masefield, in our report we identified two things in particular that gave us very real cause for concern and commented on them. One was the very large number of remand prisoners you had and two was the number of people who were in for trivial financial offences, if I can put it that way, often for very tiny lengths of time but nevertheless gumming up the works administratively. We also pointed to the fact that we felt many of the women who were in could have been otherwise dealt with. Have you addressed, and are you continuing to address, these points?

**Mr Masefield:** Yes, we are, Chairman. Let me start first of all with the women. We currently hold 31 women and a year ago it was over 50 and peaked in the 60s. The number of women prisoners has halved, partly as a result of a good work initiative taken by Paul Goggins and worked on particularly by Probation. They have this very positive project called Inspire, and you may like to hear a little bit about that, and that is undoubtedly having an impact on diverting women from custody, which is excellent. In the last year or so we have now had electronic monitoring, tagging, set up and that appears to be being used by judges primarily at the bail point rather than elsewhere. Whether individuals would have been remanded in custody or not is hard to tell because as of yesterday I still had 33% of all prisoners in the Northern Ireland population on remand compared to 17% in England and Scotland. The Minister has very much got a focus on that. Delay undoubtedly plays a part in that and he is looking to tackle that, as we are with renewed energy in the Criminal Justice Board. On the fine defaulters, last year there were over 1,700 and the numbers are holding up. Again, however, the Minister with the Probation Board has an initiative looking at supervised activity orders beginning to

come on-stream in April in the pilot and, again, we very much welcome that. There is a lot of very proactive work going on in the criminal justice area that is entirely consistent with the thrust of your recommendations.

**Q172 Christopher Fraser:** What proportion of the population are young offenders?

**Mr Masefield:** There were 155 yesterday, so it was a little over 11%. There were 11 juveniles, that is to say 16/17 year olds. The young offender we would class as potentially an individual from 18 through to 23. We exceptionally hold a small number, about 20 or so, above 21 at Hydebank Wood.

**Q173 Christopher Fraser:** Because of their age and nature of their position as a young person, does that have a disproportionate effect on how much money or effort has to go into dealing with them when they are in prison?

**Mr Masefield:** Again, a very lively topic at the moment. It is certainly true to say—using the term that I was delighted the Committee and we ourselves seek to move away from as far and as far as we can, “the cost per prisoner place” because it has many failings as a comparator—the cost per prisoner place in the Prison Service has been reducing and the target this year is 78,000, so it is steadily coming down. The cost per prisoner place in Woodlands Juvenile Justice Centre would be significantly above that, probably twice that, because they run a regime that is geared specifically to meeting the needs of juveniles. Again, Paul Goggins has recently invited us to undertake an initiative to see how we can work more closely together and, indeed, to see what scope there may be for treating, if you like, and it is a slightly odd way of putting it, more juveniles as juveniles.

**Chairman:** You still make the Ritz seem rather cheap.

**Q174 Christopher Fraser:** In answer to that, is the reason why Paul Goggins has asked you to do this because there is a need to save money?

**Mr Masefield:** With respect to the Minister, I think primarily in his mind, and I would like to invite Brian in because he is working very closely on this project, is about achieving the right outcome in the right place for the juvenile and, therefore, for society to tackle their offending needs and behaviour as soon as possible, to provide the right regime at that level and to give them the best chance of not creating further victims in society.

**Q175 Christopher Fraser:** But at less cost.

**Mr Masefield:** At the appropriate cost, if I may put it that way.

**Mr McCaughey:** Chairman, if I could broaden the picture out from prisons to give a fuller picture of the assessment and management of offenders in Northern Ireland. The Probation Board is currently supervising 4,400 orders in Northern Ireland. That is about 4,200 people in comparison with the 1,500 who are in prison. Of those 4,200, 800 are currently

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in prison and coming out towards us. You mentioned the figure of 1,738 by 2012. We might debate that figure in terms of the estimates and it is 7% lower than this time last year. I believe the Probation Board, in partnership with other organisations, has made a significant impact on the prison population. I believe electronic monitoring, particularly in relation to bail cases, of people who would normally have been remanded in custody, there are over 100 cases being managed in the community by PSNI and other bodies at the present time. The Women's Centre, as Mr Masefield has referred to, we have worked collectively to develop that centre in the community. That was launched by Minister Goggins in January. There are 30 less women in prison now because of that centre and we are managing 135 women in the Greater Belfast area in co-operation with the voluntary community sector. We have not replicated services, we have collaborated with existing women's centre networks throughout the Greater Belfast area and it is a very positive synergy and a way of leading the way. Mr Masefield mentioned supervised activity orders, which we will bring in in 2010–11 in a very planned and measured way, and we believe that will make a significant impact on those individuals who go to prison for non-payment of fine. Those are some significant impacts on the prison system and we believe that further co-operation across criminal justice will drive those figures down.

**Q176 Christopher Fraser:** In what ways has the Prison Service changed its dealing with mental health problems?

**Mr Masefield:** I am delighted to say that I really think we are beginning to get the benefits of the transfer that took place in April 2008 of responsibility for prisoner healthcare to principally the South Eastern Health and Social Care Trust. The current Chief Executive, Hugh McCaughey, and his senior management team are collectively putting a lot of weight behind working with Maghaberry management, with the senior management, the improvement team, and we have a joint improvement board that is meeting again tomorrow. There are eight work streams and two of those address directly mental health issues. The numbers remain as high and, if anything, they are increasing. With 60%–70% of individuals with mental health issues, including personality disorder, and as many again with substance abuse, often co-morbidity, the challenge remains huge. We are refurbishing the healthcare facility in Maghaberry, so we are operating in temporary facilities. We are looking to bring in with the Trust additional expertise to provide better facilities, a better regime and, frankly, better diagnosis and assessment and also discharge co-ordination, which is another key area. I have appointed two discharge co-ordinators with the Trust, which goes back to linkage of offender management to which my colleague referred.

**Chairman:** Mr Masefield, you will know that the Committee was very concerned about this in its report. Although we recognised explicitly the

devolved responsibility for health, we had to look into this because of the impact on the Prison Service. It is such an important issue. One of our Members, who sadly cannot be here, Dr McDonnell, is particularly interested in that. Could you please let our clerk have a very short paper summarising the advances you have made there.

**Q177 Stephen Pound:** Looking at the six of you crammed into such a limited space, which is probably entirely unacceptable in the Prison Service, it makes me wonder what the current status of the 120 prisoner accommodation block at Maghaberry is. Can you tell us?

**Mr Masefield:** We can with great pleasure. It is open.

**Mr Murray:** It is state of the art accommodation with its own discrete en-suite facility in the room. That sounds grander than it is but it does give private facilities. They are larger than normal cells: 9.2 square metres as opposed to the normal of around 7 seven square metres. It does allow for doubling if we ever have to do it. It is not presently doubled. It is being used by mid-stage life sentence prisoners. They are finding it an entirely different environment with big wide open spaces, natural light, good lines of sight and more critically, and most important for the Prison Service, the association is on the landing so there is immediate interaction between staff and prisoners. We have moved away from the square house syndrome where staff would go back to their class offices, they are now on the landing co-located with the prisoners. Both in the 120 cell unit at Maghaberry and in Halward House where we have a similar 60 bed unit that has had major benefits.

**Q178 Stephen Pound:** Continuing with the physical estate, what is the current state of play at Magilligan with the improvements?

**Mr Masefield:** Very briefly, we have done minimum refurbishment, being prudent with public funds. We have put in cell alarms and there is the new 60-bed unit at Halward House. I am delighted to report steady progress on the Magilligan project for the redevelopment. We have an excellent business case team in place and design team in place that consists of both Northern Ireland architectural expertise and professionals who have been involved in prison building in England, Wales and Scotland. We are looking to finalise the outline business case very shortly after Easter and that will be going forward, I would like to say, Chairman, to the Department of Finance and Personnel rather than the Treasury but we are able to ride both horses and for the time being we are working closely with the Strategic Investment Board. The question then will remain in the longer term in the next CSR period and beyond will we have sufficient financial capital to enable us to maximise the benefit of completing that redevelopment project in one phase, if you like, albeit sequenced, which would give the best bang for the bucks and highest productivity of the staff and the best efficiencies, or phase it in over a longer period. In the meantime, however, it does mean that we still have 300

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prisoners in traditional H-blocks still slopping out, although the governor is looking, for example, to give some of them who are low security their own access to ablutions at night, which would be a good development there. I still regard it as fundamentally unacceptable and inhumane in this day and age that we still have slopping out for 300 prisoners at Magilligan.

**Q179 Stephen Pound:** How are you going to meet the needs of the Offender Management Unit? When that comes completely on-stream there are going to be physical demands. What are your plans?

**Mr Masefield:** At the moment, without being complacent, we have formed a team specifically to take it forward on a programme basis. We have an offender management model and we published that a couple of months ago. They have done excellently. The numbers so far have perhaps been slightly smaller than we would have anticipated; it is of the order of between 15 and 20. Extended custodial sentences are slightly more now and determinate custodial sentences, which are the new ones that came on-stream a year subsequent to that, are building up. What I am obliged to question is our ability to provide the full range of services, in particular through psychology and elsewhere, to work with prisoners who need to address their offending behaviour and the full range of programmes, and there I fear I have to report we still struggle. Since your report we have gone out with three UK-wide campaigns for psychologists, and I know my colleagues in Probation have had two, and we have had limited results. We sent out a tender specification for anyone—private, public sector, existing providers in Northern Ireland—in the last few months and only had two bids and only one was acceptable that met the criteria, as it were. We do still struggle with that. The staff, if I may say so, are very much up for the challenge and that is superb because it is our own prison staff who are the sentence managers and the probation staff provide case management, and that is working excellently at the individual level.

**Stephen Pound:** Chairman, in view of all the physical changes that have taken place on the estate, would it be appropriate to ask at some stage for a very brief snapshot of where we are?

**Q180 Chairman:** Yes, that is a very good point, if you could add that. On one very final point on prisons we are going to go to Mr Grogan. When we visited Magilligan we were all rather impressed by the prefabricated units being used as pre-release and were very impressed too by some of the very constructive work, gardening, et cetera, that some of the prisoners were doing before being released. Are you still giving proper emphasis to that?

**Mr Murray:** Absolutely. There are 82 places in Foylevue but they are not all filled because of the low risk area and with minimum supervision people have to be suitably assessed. With both the blend of working within the community, that is the self-help process within Magilligan in terms of looking after

the internal fabric of the prison, but it is also about community experience, we have about 20 or 30 prisoners who every day work out in the community on a range of projects.

**Q181 Chairman:** And Foylevue flourishes?

**Mr Murray:** Foylevue flourishes.

**Q182 Mr Grogan:** I note there are four objectives for the Probation Board this year and I just want to go through each one in turn and focus on them and what progress is being made. The first objective is producing a progress report on services for the young, if you could say a word about that.

**Mr McCaughey:** I will start with that, if I may, and my colleague, Ms Lamont, may come in. We have a reducing number of young offenders under the supervision of the Probation Board of Northern Ireland, probably around 250. That is because of the introduction of the Youth Justice Agency and particularly youth conferencing of the Youth Court, so the necessity for the preparation of pre-sentence reports has greatly decreased and, therefore, the number of young people coming under our supervision has decreased subsequently. So as to maximise resources and demonstrate effectiveness, and collaboration and co-operation, we have developed a model with the Youth Justice Agency, a priority youth offending project, which we are piloting for a number of years. It is probably approaching the end of its first year and we will do a review. I think there have been cultural differences. Certainly we would apply very clear standards and service requirements to the supervision of offenders, including young offenders, and particularly young offenders who may be more at risk than adult offenders. We would apply a very standards led and supervisory approach whereas the Youth Justice Agency may apply a more educational or individual or family led approach. There have been some cultural differences and some structural differences, but I anticipated those over the first year of the pilot. We are working together and they are evidencing creativity, co-operation and collaboration. That is where I would leave it at this point in its first year. Cheryl, I do not know if you would like to add anything.

**Ms Lamont:** Just to say that we are going to report more fully in a report in March and we do hope, as Brian has said, we will be taking it on into the second year.

**Q183 Mr Grogan:** Another issue that you highlighted in your objectives was the treatment of vulnerable offenders, including those with personality disorders.

**Mr McCaughey:** We have led with the Prison Service on this issue in discussions with the Northern Ireland Office. I have been concerned, as I know Mr Masefield has been and he alluded to it in his earlier comments, about the number of vulnerable prisoners and offenders who have been diagnosed with personality disorder, particularly some very serious sex offenders. I have had instances in the past

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where people have come out from prison and there have been issues of personality disorder, of accommodation, the appropriateness of accommodation, and balancing the risks to the public and the management of those offenders. I have brought those matters to the attention of the court. We have raised the issue with the Northern Ireland Office and the Department of Health and have put proposal papers into our sponsoring body. I understand the Department of Health is leading on that now to look particularly at accommodation in the community for the management of those individuals who would come under our supervision.

**Q184 Mr Grogan:** You also highlighted the question of electronic monitoring, tagging, and how effective that is.

**Mr McCaughey:** The new legislation has certainly moved the Probation Board centre stage in terms of the management of offenders. As Mr Masefield has said, there are currently 18 extended custodial sentences all in custody at the present time. There are no indeterminate custodial sentences. There are 13 determinate custodial sentences, one of whom is in the community. We only have four people on electronic monitoring in the community under PBNI supervision. I have not got today's up-to-date figure but there are over 100 individuals on bail who are being electronically monitored via PSNI and the courts. The legislation has certainly placed us centre stage in terms of assessment: the assessment of risk; the assessment of dangerousness; enabling sentencers to make decisions and, unlike in Wales, our sentencers have the discretion. That is the difference and perhaps where it has impacted on both Mr Masefield's and my guestimates on the anticipated increase in the prison population that has not necessarily materialised at this stage.

**Q185 Mr Grogan:** Finally, you talked about putting in place to provide victims' information to the Parole Commissioners. What progress has been made as regards that?

**Ms Lamont:** In terms of information being made available to the Parole Commissioners there have been several sessions with the Parole Commissioners in terms of enacting the whole Criminal Justice Order. As we move forward, our staff have been trained in terms of how we deal with what are very sensitive issues and to date we have been working to deliver on those if needs be. The Probation Service itself has a victim information scheme which came into effect in 2005 and we have had some 560 victims we have progressed through that and provided information to. In terms of providing information to the Parole Commissioners, this is a new piece of work and we are taking that forward in an ongoing way.

**Mr McCaughey:** In answer to all of the questions, in relation to the new legislation and the new sentencing framework we have trained all our staff to new standards and service requirements to implement all of those new orders, so regardless of the number of orders made we are ready and prepared for any increase.

**Mr Murray:** On the implementation of the Criminal Justice Order and bringing it forward, the co-operation there has been between the Probation Service and the Prison Service has been exemplary with probation staff senior managers embedded within the implementation team working directly with prison staff and training prison staff. Everybody recognises that one of the major obligations of public protection is that both the custody element and the supervision element have to work hand-in-hand. From that point of view it is worth recording that I am grateful for that co-operation.

**Chairman:** That is very encouraging and I am delighted to know about that. Thank you for what you are doing. It is quite clear that since our report you have made some progress, but it is equally clear there is still quite a long way to go. We encourage you to complete the journey as soon as you reasonably can, and we hope under a devolved administration. We thank you for your co-operation this morning. I would like to declare the public session closed. Thank you.

# Written evidence

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## Submission by the Northern Ireland Court Service

### INTRODUCTION

1. The Northern Ireland Court Service (“the Court Service”) was established in April 1979 under section 69 of the Judicature (Northern Ireland) Act 1978 (the Judicature Act) as a unified court administration for Northern Ireland. Constitutionally, the Court Service is a separate and distinct Civil Service of the Crown independent from the Northern Ireland Civil Service and the Northern Ireland Office. The Lord Chancellor is the Minister responsible for the Court Service.

2. The primary function of the Court Service is to provide administrative support for the courts, tribunals and the Enforcement of Judgments Office, as well as to support the Lord Chancellor in the discharge of his responsibilities in Northern Ireland, including those in relation to judicial appointments and the legal aid system.

3. The Court Service has approximately 750 members of staff. Its estate comprises 21 courthouses.

4. The Court Service budget for the period 2010–11 is at Annex B.

### MAIN FUNCTIONS

5. The functions carried out by the Court Service in support of the Lord Chancellor fall into the following main areas:

#### *Court Administration*

- (i) The Lord Chancellor is under a statutory duty (section 68A of the Judicature Act as inserted by the Constitutional Reform Act 2005) to ensure that there is an efficient and effective system to support the carrying on of the business of the courts in Northern Ireland and that appropriate services are provided for those courts. He is also under a duty to maintain the Enforcement of Judgments Office (the office responsible for enforcing civil court judgments).
- (ii) The statutory functions of the Court Service (under section 69 of the Judicature Act) are to facilitate the conduct of the business of the courts and to give effect to judgments to which the Judgments Enforcement (Northern Ireland) Order 1981 applies. In practice this involves providing court venues and court staff, supporting the judiciary and facilitating court users.
- (iii) The Lord Chancellor has a range of other functions associated with the administration of the courts including, for example, the administrative arrangements for jurors.

#### *Tribunals*

- (iv) The Lord Chancellor, through the Court Service, is responsible for the administration of a number of Northern Ireland tribunals. Under a programme of tribunal reform, responsibility for other tribunals will transfer to the Court Service from other Northern Ireland Departments.

#### *Judicial Appointments*

- (v) The Lord Chancellor is the Minister responsible for judicial appointments in Northern Ireland, and for the Northern Ireland Judicial Appointments Commission (JAC) which was established under the Justice (Northern Ireland) Act 2002 to make recommendations on judicial appointments up to and including High Court judges. The Lord Chancellor is also responsible for the appointment of the Judicial Appointments Ombudsman (under the Justice (Northern Ireland) Act 2002 as inserted by section 124 of the Constitutional Reform Act 2005) who has power to investigate complaints connected with judicial appointments.
- (vi) The Lord Chancellor has certain powers and responsibilities in relation to removing a member of the judiciary from office.

#### *Legal Aid*

- (vii) The Lord Chancellor has a range of responsibilities in relation to publicly funded legal services, as provided for in the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 and the Access to Justice (Northern Ireland) Order 2003. This includes sponsorship of the Northern Ireland Legal Services Commission which administers the legal aid system.

## THE JUDICIARY

6. The Lord Chief Justice of Northern Ireland, Sir Declan Morgan, is President of the courts of Northern Ireland and Head of the Northern Ireland judiciary. The Lord Chief Justice is responsible for aspects of judicial administration such as court sittings, the assignment of judges and handling of complaints against members of the judiciary. He is also responsible for representing the views of the judiciary to Parliament, the Northern Ireland Assembly and to Ministers.

7. Section 1 of the Justice (Northern Ireland) Act 2002 (as substituted by section 4 of the Constitutional Reform Act 2005) confirms the continued independence of the judiciary. On devolution, it is intended that this will be underpinned by a Concordat on Judicial Independence between HM Government and the Northern Ireland Executive.

## DEVOLUTION

8. On devolution of policing and justice, the functions of the Lord Chancellor in relation to court and tribunal administration and legal aid will transfer to a new devolved Department of Justice.

9. The Court Service will be abolished as a separate Civil Service and re-established as an Agency of the new Department of Justice (to be known as the Northern Ireland Courts and Tribunals Service). The specific role and responsibilities of the Court Service as an Agency will be detailed in a Framework Document.

10. The Lord Chancellor's functions in relation to judicial appointments are the subject of specific post-devolution provision in the Northern Ireland Act 2009. That Act confers an enhanced role on the Judicial Appointments Commission. The Lord Chancellor will retain responsibility for the determination of judicial salaries and pensions.

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Annex B

### NORTHERN IRELAND COURT SERVICE CSR SETTLEMENT 2008/09–2010/11

The terms of the CSR 07 settlement were based on the 2007–08 baseline (agreed under SR2004).

It set out the departmental expenditure limits as in the following table.

<i>Northern Ireland Court Service CSR 07 Settlement</i>	<i>2008–09 £m</i>	<i>2009–10 £m</i>	<i>2010–11 £m</i>
DEL: Court Service	67.0	66.1	65.6
DEL: NI Legal Services Commission	65.0	65.0	65.0
DEL: NI Judicial Appointments Commission	1.5	1.6	1.6
Total Departmental Expenditure Limit (Resource)	133.5	132.7	132.2
<i>Of which: near cash</i>	<i>115.7</i>	<i>114.8</i>	<i>113.8</i>
<i>Of which: Non cash</i>	<i>17.8</i>	<i>17.9</i>	<i>18.4</i>
Departmental Expenditure Limit (Capital)	7.0	7.4	7.4

DEL: Departmental Expenditure Limit

(NB: The above figures do not reflect the additional funding for legal aid which will be available under the devolution of policing and justice).

### Further Submission from the Northern Ireland Court Service JUDICIAL APPOINTMENTS IN NORTHERN IRELAND

I was grateful for the opportunity to assist the Committee on 25 January.

During the course of my evidence Lady Hermon MP asked me about the percentage of women holding full-time judicial office in Northern Ireland. I undertook to write to the Committee with this information.

I can confirm that as of 1 February 2010:

<i>Judicial Post</i>	<i>No. in Post</i>	<i>No. of Women</i>	<i>% of Women</i>
Lord Chief Justice	1	0	0
Lord Justice of Appeal	3	0	0
High Court (currently 9 in post)	10	0	0
High Court Masters	7	2	29%
County Court Judges	17	5	29%

<i>Judicial Post</i>	<i>No. in Post</i>	<i>No. of Women</i>	<i>% of Women</i>
District Judges (Magistrates' Courts)	21	5	24%
District Judges (County Court)	4	2	50%
Social Security & Child Support Commissioners	2	0	0
Coroners	4	2	50%
Totals	69	16	23%

26 January 2010

### Submission from the Northern Ireland Prison Service

#### 1.0 INTRODUCTION

This document has been prepared for the Northern Ireland Affairs Committee to provide an overview of the NI Prison estate, the work that occurred in recent years and its future strategic direction, acting as a catalyst to facilitate organisational reform.

#### 2.0 BACKGROUND

Development of the prison estate is seen as one of the key drivers to modernisation and facilitating the cultural change needed to provide a more effective and efficient service.

The prison estate suffered from being driven reactively to respond to the “Troubles” which saw the rapid expansion and subsequent contraction of the estate over the last 40 years, including the closure of Armagh, Belfast and Maze Prisons. This left the three remaining establishments to house categories of inmates, and in some instances populations for which they were not originally designed. In particular, this has brought an unprecedented level of operational complexity to Maghaberry.

The Service's Estate Strategy, endorsed by the Management Board, in 2006 sought to provide a clear strategic vision for the development of the estate over the next decade and beyond. It incorporated work on population growth and the future role of each prison to provide a view of the accommodation needs for a 10–15 year period. It also identified work that was required in the short to medium term to address the increase in prisoner numbers.

The Select Committee's report published on 12 December 2007 contained a number of recommendations relating to the estate.

#### 3.0 CURRENT ESTATE

The prison estate consists of three establishments, a prisoner assessment unit, the training college and headquarters. In 2004 the Women's population was relocated to a houseblock at Hydebank Wood (within the confines of the Young Offender campus).

Maghaberry Prison	800 place adult male prison accommodating all categories of inmates (This includes Categories A-D; Separated; Fine Defaulters and all Remand prisoners).
Magilligan Prison	560 place adult male prison accommodating categories C-D (no Remands due to its geographical location)
Hydebank Wood (Young Offenders Centre & Prison)	325 place campus housing all male Young Offenders (both sentenced and remand) and separately housing all Women prisoners (both sentenced and remand)
Prisoner Assessment Unit	25 place pre-release unit providing overnight and weekend accommodation for those working in the community on a pre-release programme

#### 4.0 ADULT MALE ESTATE

A comprehensive review by the Service which was published in December 2007 provided a detailed analysis of the options for the future development of the adult male prison estate in Northern Ireland. This examined the future population patterns, the role of the prisons within the future estate and the role for the replacement of Magilligan prison.

In summary, the report projected a total prison population over the next 15 years in excess of 2500. (In 2001 the population averaged 926 and had risen to 1,455 by 2006). Updated projection models are now being developed to test and more accurately predict population trends. The report also contained a recommendation to progress the development of a new build 800 place adult male prison on the site of the existing Magilligan prison.

To address the short to medium term needs the Minister announced on 18 December that an additional 400 spaces would be created over the following three years (2008–11).

A long-term master-plan for the Maghaberry main site has been developed to expand the capacity to 1000 cell spaces, whilst reducing (subject to funding) the number of Square houses down from four to two. (Successive HMCIP reports have condemned their inadequacy.)

#### 4.1 *Additional Cell Capacity*

The Estate strategy 2006 took cognisance of the need to introduce additional short-medium term capacity into the system in locations which would be compatible with future development. Since the Ministerial announcement in December 2007 230 cell spaces have been added into the prison system:

- (a) Halward House, Magilligan—60.
- (b) Alpha, Magilligan—50.
- (c) Braid House, Maghaberry—120.

Halward House opened in late 2008, and Braid in late 2009 for operational purposes. Both are state of the art two-storey accommodation with much more efficient staff-prisoner ratios. In addition a limited amount of cellular accommodation in Mourne House at Maghaberry has been refurbished and brought back into use.

Currently contracts to construct another 120 cell block and a 20 cell special purpose unit at Maghaberry are out to tender; those 140 places are to be operational before the end of 2011.

#### 4.2 *New 800 Bed Magilligan Prison*

A design team, programme managers and business case team were appointed in 2009 to progress the development of exemplar design proposals for a new 800 place facility at Magilligan following the approval of the Strategic Business Case. The teams are developing proposals which will see the submission of two outline business cases (OBC1—based on outline design—early summer 2010) and (OBC 2—based on detailed design—end 2010). Good progress has been made in finalising the design brief and in preparation for subsequent developments.

The business cases will consider a range of procurement options and, subject to financial considerations, provide a recommended procurement route and spend profile. The project, subject to business case approval, is planned to commence construction in 2011.

The design brief for Magilligan includes the creation of a therapeutic community for vulnerable prisoners, a restorative practice facility and scope for interaction with the community. The prison will be zoned to provide appropriate environments for the different security categories. This will include independent living units for qualifying prisoners.

#### 5.0 **WOMEN'S ESTATE**

The Service has received criticism over the co-location of women prisoners within the Hydebank Wood site. NIPS has stated that this is not the most appropriate long term solution and ideally, subject to funding, a dedicated women's facility should be built. The Minister asked that a detailed review be undertaken of the needs of women and a three day conference was held at Hillsborough Castle during 2008 to inform the review and provide a gender-specific focus to policies and planning within the women's estate. A comprehensive strategy for women offenders was published for consultation in 2009.

A Strategic Business case has been prepared for a dedicated Women's prison (serving 90 women). An initial study has been undertaken to determine the feasibility of progressing a development on the existing land at Hydebank Wood. The next steps will be taken in the light of progress to devolution.

In recent years the following works have been delivered to the women's estate:

### 5.1 Accommodation

The Ash house accommodation block was upgraded in 2004 to provide safer cell fitted-furniture, anti-ligature windows, in-cell sanitation and enhanced fire safety measures. New classrooms were also created within the block.

### 5.2 Enhanced Unit

A new female enhanced facility has been created in the ground floor of Ash House to provide opportunity for independent living and regime advancement. The self-contained unit provides 10 bedrooms with access to dedicated kitchen/dining room, bathrooms and communal living space.

### 5.3 Female Reception

A new dedicated reception facility has been built to provide discrete arrangements for searching, assessment and interview of women entering the prison system. The facility also includes a dedicated video-link and drug testing suite.

### 5.4 Healthcare

The existing healthcare facility has been refurbished to create discrete accommodation for women including two ward bays, medical and holding rooms together with a new laundry, kitchen and interview room.

### 5.5 Extended Visits

In recognition of the gender-specific issues around the role of women within the family a pilot project is being trialled to accommodate visiting children. A single storey facility has been built behind Ash House to provide extended visits for children with a mother in prison.

## 6.0 SPECIALIST CELL PROVISION

A Programme of physical improvements across a range of accommodation types has been undertaken to raise both the standard of normal cellular accommodation, increase the number of specialist dedicated "Observation Cells" and enhance the standard in known high risk areas. This has allowed NIPS to increase the number and accessibility of specialist cell types, availing of new accommodation blocks in conjunction with a programme of refurbishment to existing key stock.

### 6.1 Safer Custody

A programme of physical improvements across a range of accommodation types have been made to raise the standard of normal cellular accommodation, increase the number of specialist dedicated "Observation cells" and "Listener cells" and to enhance the standards in known high risk areas.

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#### Observation Cells

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	Braid House	8
	Lagan	2
	Special Supervision Unit	2
Maghaberry	Bann (2010)	(2)
	Refurb Healthcare (2010)	(4)
	New 120 Block (2011)	(8)
	New 20 SPU (2011)	(1)
	Ash (women)	4
	Beech	2
Hydebank	Cedar	4
	Willow (juveniles)	1
	Special Supervision Unit	1
Magilligan	Halward	4
	Special Supervision Unit	1
		29 delivered (15 planned)

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#### Listener Cells

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	Braid House	4
Maghaberry	Lagan	1
	Bann (2010)	(1)
	New 120 Block	(4)

*Listener Cells*

Hydebank	Ash (women)	1
	Beech	1
	Cedar	1
Magilligan	Halward	2
	H1	1
	H2	1
	H3	1
		13 delivered (5 planned)

6.2 *Low Mobility Cells**Low Mobility Cells*

Maghaberry	Braid House	4
	Erne	1
	Bann (2010)	(1)
	New 120 Block	(4)
Hydebank	Ash (women)	1
	Beech	1
	Cedar	1
Magilligan	Halward	2
	Alpha	1
		11 delivered (5 planned)

6.3 *Vulnerable Prisoners*

Maghaberry Prison, in consultation with PSHQ, has finalised a business case to relocate the REACH landing to provide better accommodation for vulnerable prisoners. The refurbishment of the Healthcare Unit at Maghaberry is very nearly complete.

6.4 *Mother & Baby Provision*

The relatively small numbers of women in Northern Ireland's prisons have generated only an occasional need for mother and baby provision. It has been decided to create provision within the main accommodation where daily support can be more readily accessed. Two cells have been converted within Ash House to provide for the mother & baby provision.

## CONCLUSION

It can be seen that the NIPS estate has been developed very much in line with the recommendations in the Select Committee's report of December 2007.

**Submission from Northern Ireland Audit Office****NIAO SOCIAL SECURITY BENEFIT FRAUD AND ERROR REPORT—FIGURE 2 (UPDATED FOR 2007–2008)**

	2003–04	2004–05	2005 <sup>1</sup>	2006 <sup>1</sup>	2007 <sup>1</sup>	2008 <sup>1</sup>
Benefit Expenditure	£3,179m	£3,320m	£3,406m	£3,501m	£3,630m	£3,789m
Estimated level of fraud and error	£70.7m 2.2%	£75.3m <sup>2</sup> 2.3%	£66.1m <sup>2</sup> 1.9%	£60.1m 1.7%	£47.5m 1.3%	£44.5m <sup>2</sup> 1.2%
Fraud and Error comprises:						
Customer Error	£7.4m 0.2%	£12.6m 0.4%	£14.2m 0.4%	£14.0m 0.4%	£11.3m 0.3%	£13.4m 0.4%
Internal (staff) error	£24.5m 0.8%	£33.8m 1.0%	£23.4m 0.7%	£28.0m 0.8%	£23.9m 0.7%	£18.4m 0.5%
Customer fraud	38.8m 1.2%	£28.8m 0.9%	£28.6m 0.8%	£18.1m 0.5%	£12.3m 0.3%	£12.6m 0.3%
Internal (staff) error as percentage of total estimated level of fraud and error	35%	45%	35%	47%	50%	41%

Source: The Agency's Accounts 2006–07 (for 2003–04, 2004–05, 2005–06 figures) and 2008–09 (for 2007–08 figures).

Note:

<sup>1</sup> Prior to 2005, estimates were based on the financial year. Since 2005, estimates are based on a calendar year.

<sup>2</sup> The difference between the figure of total estimated level of fraud and error and the sum of customer error, internal (staff) error and customer fraud in 2004–05, 2005–08 is due to the effects of rounding of figures.

March 2010

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**Submission from the National Audit Office**

**OVERPAYMENTS OF BENEFIT EXPENDITURE IN THE LAST FOUR YEARS**

<i>Year</i>	<i>Total benefit expenditure £ million</i>	<i>Due to Official error £ million</i>	<i>Due to Customer error £ million</i>	<i>Due to fraud £ million</i>	<i>Total £ million</i>	<i>Percentage of total benefit expenditure</i>
2008–09	135,900	900	900	900	2,700	2.0
2007–08	126,100	1,000	900	800	2,700	2.1
2006–07*	119,800	900	1,000	800	2,700	2.2
2005–06**	115,800	900	1,000	800	2,700	2.3

Source: Department for Work and Pensions Resource Accounts, rounded to nearest £100 million.

\* 2006–07 figures were re-stated subsequent to publication of the 2006–07 Resource Accounts.

\*\* Previous estimates included c. £600 million in relation to overpayments of Disability Living Allowance which were due to gradual improvements in the medical status of claimants, so that the level of benefit in payment would no longer have been considered to be appropriate to the claimants' current status had it been reviewed. Those overpayments have been omitted from the above estimated overpayments because, unless a fresh assessment of the claimant's health is carried out, the existing level of benefit remains consistent with legal requirements.

**UNDERPAYMENTS OF BENEFIT EXPENDITURE IN THE LAST FOUR YEARS**

<i>Year</i>	<i>Total benefit expenditure £ million</i>	<i>Due to Official error £ million</i>	<i>Due to Customer error £ million</i>	<i>Total £ million</i>	<i>Percentage of total benefit expenditure</i>
2008–09*	135,900	500	700	1,200	0.9
2007–08*	126,100	400	600	1,100	0.9
2006–07	119,800	500	600	1,000	0.9
2005–06	115,800	400	500	900	0.8

Source: Department for Work and Pensions Resource Accounts rounded to nearest £100 million. Amounts may not sum due to roundings.

\* State Pension has been included for comparative purposes, acknowledging that in 2007–08 and 2008–09 the audit opinion has not been qualified in respect of fraud and error relating to this benefit.

March 2010

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**Submission from the Director General, Political, Northern Ireland Office**

Sir Patrick Cormack asked if I would provide the Northern Ireland Affairs Committee with a short note describing the role and responsibilities of the Northern Ireland Office following the completion of devolution of policing and justice. A note is attached. I hope it is helpful.

**THE NORTHERN IRELAND OFFICE POST DEVOLUTION OF POLICING AND JUSTICE**

1. The long term machinery of government arrangements for the Northern Ireland Office (NIO) post devolution will be a matter for the next Prime Minister following the forthcoming General Election. However, our current planning assumption, and the basis on which the NIO will initially operate when powers are devolved on 12 April, is that the NIO will continue as a separate department with its own Secretary of State and Minister, albeit given its small size drawing on the back office services of a larger department as do the Scotland and Wales Offices.

*Role and responsibilities*

2. The Northern Ireland Office's key role will be "to oversee the devolution settlement and to represent NI interests at UK Government level and UK Government interests in NI".

3. The NIO will also retain specific policy responsibilities for national security (including the Limited Home Protection Scheme), Human Rights, Elections, Civil Service Commissioners and Legacy issues (including Inquiries).

4. The British Irish Secretariat will continue as part of the NIO.

5. In addition the NIO will retain responsibility for Hillsborough Castle and matters relating to the Royal Household, such as the appointment of Lord Lieutenants and Royal Visits.

6. The Crown Solicitor's Office (CSO) will continue as part of the NIO, providing legal services in Northern Ireland to all Whitehall departments and to certain other public bodies and Office Holders in Northern Ireland.

7. A list of bodies which will continue to be sponsored by the NIO is attached at Annex A.

*Staff/structure*

8. The Northern Ireland Office will have around 175 staff; about a third will be based in London and two thirds in Belfast. The CSO will comprise around 70 staff. The structure we envisage is attached at Annex B.

*Accommodation*

9. The NIO London office will continue to be 11 Millbank.

10. In Belfast, the NIO "headquarters" will be Stormont House. The British/Irish Secretariat will as now, continue to be in Windsor House. The Crown Solicitor's Office will be at the Royal Courts of Justice.

*Budget*

11. The NIO's baseline budget will be £26 million. The CSO operate on a cost recovery basis.

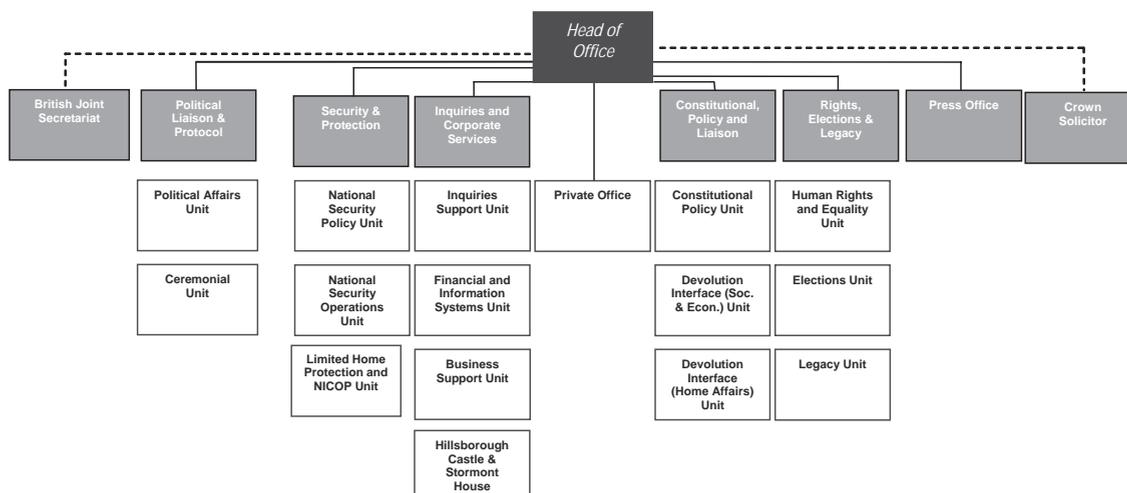
**Annex A****ARM'S-LENGTH BODIES WHICH WILL REMAIN SPONSORED BY THE NIO**

<i>Body</i>	<i>Status</i>
Crown Solicitor's Office	Legal Office
Northern Ireland Human Rights Commission	Executive NDPB
Boundary Commission for Northern Ireland	Advisory NDPB
* Sentence Review Commissioners	Independent Office Holders
Remission of Sentences Act Commissioners	Independent Office Holders
The Chief Electoral Officer	Independent Office Holder
Independent Monitoring Commission	International Body
Independent International Commission on Decommissioning	International Body
Bloody Sunday Inquiry	Inquiry
Hamill Inquiry	Inquiry
Wright Inquiry	Inquiry
Nelson Inquiry	Inquiry
Office of the Surveillance Commissioner	Misc
Reviewer of police and military powers under the Justice and Security (Northern Ireland) Act 2007	Independent Office Holder (NB Not yet appointed)
Independent Commission for the Location of Victims' Remains	International Body
Parades Commission**	Executive NDPB
District Electoral Areas Commissioner***	<i>Ad-hoc</i> Advisory Body

\* To be supported by a devolved joint Secretariat also covering the Parole Commissioners, and the Remission of Sentences Act Commissioners.

\*\* The Hillsborough Agreement envisages that there will be a new framework for regulating and adjudicating on parading with legislation providing for this completed in December this year. It also envisages that responsibility for parading will be devolved to the Northern Ireland Assembly and Executive.

\*\*\* The District Electoral Areas Commissioner (DEAC) is a periodic and temporary statutory appointment. The Commissioner's role is to make recommendations on the grouping of wards into District Electoral Areas (DEAs) for the purpose of local government elections.



16 March 2010

**A Joint Submission to the Northern Ireland Affairs Committee from the National Audit Office and the Northern Ireland Audit Office**

**COMBATING ORGANISED CRIME IN NORTHERN IRELAND**

**INTRODUCTION**

*What is organised crime and how important is it?*

1. For the purposes of this Memorandum, organised crime is defined as “three or more persons engaged in continuing serious illegal activities for the generation of substantial profit or gain, whilst employing protective measures.” The key features of this definition emphasise that organised crime is a resilient and enduring activity aimed at major criminal profit and designed to avoid detection. It distinguishes organised crime from crime that is individual or opportunistic or directed at minor gain.

2. Organised crime is, and is likely to remain, a major national and international phenomenon from which Northern Ireland has no immunity. Local gangs, whether with a paramilitary background or not, remain active, not least in exploiting opportunities presented by the border between Northern Ireland and the Republic of Ireland. Tackling such a major and dangerous threat effectively requires the combined efforts of all public sector bodies operating in Northern Ireland, working together to protect the public purse, taxpayer’s interests and the health of society. It is sensible, therefore, that any review in this area should look at the scope for action across the responsibilities of the UK government and the devolved administration.

3. The Northern Ireland Affairs Committee (NIAC) of the House of Commons published a report in 2006<sup>1</sup> into organised crime in Northern Ireland recommending actions which needed to be taken to combat its spread. This Memorandum assesses progress and sets out areas which the Committee might wish to consider further. It is intended to: set out the estimated scale and impact of the organised crime problem in Northern Ireland; update the Committee on actions taken to date and how far these can be judged to be a success in combating organised crime; and outline areas where further action is needed.

4. The Memorandum focuses on matters which, following the restoration of the Northern Ireland Assembly and devolution of policing and criminal justice powers to it, will continue to be the direct responsibility of HM Government. The Northern Ireland Audit Office is submitting a separate, parallel Memorandum to the Public Accounts Committee of the Northern Ireland Assembly, dealing with those areas which already are, or will become, the responsibility of the Assembly and its Executive.

*The scale and impact of the organised crime problem in Northern Ireland*

5. Fundamentally, serious organised crime is all but impossible to quantify with complete accuracy because of its very nature: covert, often sophisticated and professional. In a nutshell, if it could be reliably quantified, it could more easily be successfully countered because our knowledge of it would be so much greater.

<sup>1</sup> *Organised Crime in Northern Ireland*, Third Report, HC 886-1, Session 2005–06.

*Scale of the problem*

6. The threat to the UK from serious organised crime is set out in the United Kingdom Threat Assessment published annually by the Serious Organised Crime Agency (SOCA) on behalf of the UK law enforcement community. The UK's response to serious organised crime is the Serious Organised Crime Control Strategy, which co-ordinates all operational work flowing from the Threat Assessment through 16 national programmes of activity. SOCA provides the co-ordination mechanism for these, although they rely for success on multi-agency effort and collaboration. Currently, these programmes of activity are arranged into five clusters:

- criminals and their business;
- cross cutting issues;
- drugs;
- organised immigration crime; and
- fraud.

7. SOCA's partners in Northern Ireland have a standing invitation to contribute to any of these programmes of activity which they feel appropriate. Whilst the work of these programmes is not regionally focussed, it is designed to be sufficiently flexible to take account of regional variations and local priorities.

8. There is no overall quantification of the "value" of organised crime in Northern Ireland. Recent reports have variously estimated the value in the UK as a whole at between £20 billion and £25 billion (Home Office 2007 and SOCA 2008), but no separate figures exist for Northern Ireland alone. The Attorney General's Fraud Review in 2006 emphasised the importance of measuring fraud generally, and its recommendations led to the establishment of the National Fraud Reporting Centre whose work may prove helpful to the Organised Crime Task Force in measuring organised crime in Northern Ireland.<sup>2</sup>

9. Table 1 shows the different types of organised crime currently being committed in Northern Ireland, the approximate size of each and whether they are thought to be increasing or decreasing.

10. Like any other area of economic activity, organised crime changes and develops and new areas come to light. There is little in the way of solid evidence for these but Table 2 shows anticipated areas of increasing organised crime activity. No costs are available.

**Table 1**

**MAIN TYPES OF ORGANISED CRIME IN NORTHERN IRELAND: ESTIMATED COSTS AND WHETHER RISING OR FALLING**

<i>Type</i>	<i>Activity</i>	<i>Estimated Cost/ Loss</i>	<i>Bodies with policy or other interests<sup>1</sup></i>	<i>Rising/Falling</i>
Oils	Non payment of UK Duty including Fuel Laundering and Cross-Border smuggling due to differential duty	£250m	HMRC; DETI; District Councils	↓
Cigarettes	Smuggling, the majority counterfeits, estimated at 15% of sales in NI	£7m	HMRC; DETI; DHSSPS	↔
Alcohol <sup>2</sup>	Smuggling	Seizure figures only	HMRC; PSNI; DSD	↓
Counterfeiting and Intellectual Property Crime	Faking of goods	£200m	PSNI; DETI; UKBA; DHSSPS	↔
Armed Robbery and Cash in Transit <sup>3</sup>	Theft	Number of crimes only known	PSNI	↔
Drugs	Supply of illegal drugs	No reliable measure; £25m a possibility	PSNI; NIO; DHSSPS; HMRC; SOCA	↑

<sup>2</sup> Assessments of the value of fraud in the UK include in early 2007 the Association of Chief Police Officers' estimate of some £14 billion a year, including the cost of countering it. This has little specific to say about Northern Ireland and is, in its quantifications, an amalgam of a range of sources based on different methodologies and underlying data and relates to fraud in general.

<i>Type</i>	<i>Activity</i>	<i>Estimated Cost/ Loss</i>	<i>Bodies with policy or other interests<sup>1</sup></i>	<i>Rising/Falling</i>
Human Trafficking	For the purposes of exploitation, forced labour or services (sex industry), slavery, servitude or the removal of organs. Also people smuggling—immigration crime.	No reliable measure	DEL; DARD; GLA; UKBA; PSNI; SOCA; NIO; OFMDFM	↑
VAT and IT fraud	“Carousel” fraud; abuse of tax credits	No estimate	HMRC; SOCA	↔
ID theft	Used in illegal activity	No estimate	All departments	↑
Money Laundering	Hiding the proceeds of crime	No estimate	DETI; SOCA; DFP; PSNI	↔
Extortion	Extracting money by threats	£10m	PSNI; DFP	↔
Illegal dumping <sup>4</sup>	Dumping of waste from (1) the Republic of Ireland due to differential rates of tax; and (2) from construction sites in Northern Ireland	No overall estimate	NIEA; PSNI; HMRC; NIO; District Councils	↓  ↑
Tax evasion in construction sector	Extortion; tax scams	No overall estimate	HMRC; DETI; DFP; PSNI; NIHE;	↔
Social Security	Fraud	£18m/year	SSA	↓

Source: NIAO.

Notes:

<sup>1</sup> See list of abbreviations.

<sup>2</sup> The latest strategic intelligence indicates that, at a UK level, alcohol fraud is increasing. However, this has not yet presented itself in Northern Ireland.

<sup>3</sup> While conventional armed robbery and cash in transit is in decline the threat from “Tiger” kidnappings remains a concern for the business community.

<sup>4</sup> Illegal dumping of waste from the Republic of Ireland is decreasing. In contrast, the illegal dumping of waste from construction sites in Northern Ireland is increasing.

**Table 2**  
ANTICIPATED NEW AREAS OF ORGANISED CRIME ACTIVITY

<i>Type of crime</i>	<i>Activity</i>
Foreign National Crime	Crimes brought into the UK or managed from “home”, for example human trafficking
Technology enabled	Use of IT; Identity theft

*Other impacts on society and economic growth*

11. Organised crime has a depressing effect on confidence, investment and jobs (perhaps most particularly in disadvantaged parts of Belfast). For instance, the construction industry has long been the target of abuse by organised crime, primarily in the form of tax scams and extortion (often by paramilitaries or those claiming to be so). But, as NIAC reported in 2006, it has a particularly corrosive effect on communities when paramilitary gangs use crime to continue to exert influence over them. In addition, intellectual property crime and Counterfeiting can be highly dangerous to the health and wellbeing of individuals.

12. If efforts to defeat and disrupt organised crime do not succeed, then the Executive’s overarching aim—“a peaceful, fair and prosperous society in Northern Ireland, with respect for rule of law and where everyone can enjoy a better quality of life now and in years to come”—will be made more difficult to attain. Indeed, many of its other key priorities will too. For example:



14. The NIO keeps its structures, composition and working methods under regular review. This is important: as organised crime evolves, so must the mechanisms set up to counter it.

15. Reflecting concerns expressed in a number of quarters about the adequacy of sentences imposed for organised crime, NIAC recommended (paragraphs 180–192 of their report) a study into sentences in Northern Ireland, compared with those in England and Wales. This has now been conducted by the NIO: we were told that it concludes that sentences passed in Northern Ireland are broadly comparable with those handed down in England and Wales for equivalent offences.

#### AREAS FOR FURTHER CONSIDERATION

##### *Increasing and improving partnership working*

16. One of the keys to countering organised crime effectively is that all bodies need to work in partnership, sharing information and coordinating activity. This is essential, irrespective of whether they are in the reserved or devolved fields. So it will be important to ensure that the OCTF structure, including UK-wide bodies like HMRC and SOCA, remains effective when policing and criminal justice powers have been devolved, including the continuation of necessary information flows

17. To enable this to happen, the NIO should ensure that links between the NI departments and the law enforcement agencies, especially the PSNI, be actively built upon.

18. The PSNI, HMRC and SOCA cannot successfully counter organised crime without the support of the NI departments and wider public sector. These need to recognise their shared responsibility for countering organised crime because:

- they have a responsibility to help protect tax revenues which finance their expenditure, even if that is primarily the function of HMRC;
- law enforcement agencies will not succeed unless Northern Ireland departments' regulatory, licensing and enforcement powers are vigorously deployed; and
- they are already under attack in relation to illegal dumping, construction and social security and could become new targets as organised crime changes and develops.

19. Other steps that the Committee might encourage HM Government to take include:

- the NIO might institute a review of the effectiveness of appropriate co-operation between the law enforcement agencies and the criminal justice system in bringing organised criminals to justice, particularly but not limited to the area of oils fraud;
- regulation and licensing of the security industry, including door supervisors are an NIO responsibility, relevant to combating both extortion and alcohol/clubs crime. Improved arrangements using the newly conferred powers in the Justice and Security (NI) Act 2007 should be implemented when practicable;
- the NIO could adopt for Northern Ireland the provisions of the Crime and Disorder Act 1998 to promote partnership working between public authorities and the PSNI and to require those authorities to exercise their functions with regard to their effect on crime and to the need to do everything reasonably possible to prevent it;
- the effective work of the former Assets Recovery Agency in Northern Ireland should be continued and developed following its merger with the Serious Organised Crime Agency; and
- HMRC should enforce both the new Construction Industry Scheme and the Money Laundering Regulations 2007, and review the effectiveness of both in due course.

##### *Improving North/South partnership working.*

20. North/South mechanisms must be maintained if organised criminals' ability to exploit the border is to be neutralised. The appropriate North/South machinery set up under the Belfast Agreement should be used for systematic reviews to ensure that relevant bodies in both jurisdictions are co-operating fully to combat organised crime. In particular, the NIO, together with other departments as appropriate, should review whether adoption of the Schengen Agreement's provisions on hot pursuit would contribute to countering drugs and other forms of organised crime

21. A general area for policy consideration is the potential for policies and schemes introduced in one jurisdiction to vary from their cross-border counterpart in a way that opens one or other to attack or abuse by organised crime. Fuel and alcohol duty and landfill taxation are examples of policy instruments where differences have created opportunities which organised crime has readily exploited. We recommend systematic reviews to ensure that:

- relevant bodies in both jurisdictions are co-operating fully to combat organised crime;
- relevant policies developed in each jurisdiction are analysed with a view to altering features that might facilitate organised criminal activity;
- decisions on new policies, North and South, are taken in the light of the assessed consequences for criminal exploitation; and

- where such consequences are identified likely, policy adjustments or counter-measures, as appropriate, are put in hand in both jurisdictions.

#### *Improving knowledge.*

22. Organised crime is widely believed to be seriously underreported, as noted in the NIAC report. Other crimes, particularly those involving individual consumers, for example, intellectual property crime, rely to an important extent on public ignorance or indifference. NIAC confirmed a widespread view that organised crime is victimless, assessing it as deeply corrosive: in reality, we are all victims, whether taxpayers or consumers. Hence, the importance of efforts by the OCTF and its constituent members to increase levels of public understanding. We believe that these should be continued, including measures to promote use of confidential phone lines and release of information about both the threat of, and successes against, organised crime.

#### *Better estimating of the problem*

23. Convincing the public (whose support is important as they are, usually unwittingly, both collaborators and victims) of the scale of the problem might be made easier if a reliable headline figure (or set of figures) were available. Likewise convincing departments and the wider public sector of the need for more commitment and concentrated action would be facilitated if a figure for losses—and the cost countering organised crime—were to hand.

24. We know that the Home Office, the NIO and the PSNI have examined various ways of getting a better grip on quantification, but have encountered a range of methodological difficulties. Despite that, we believe that efforts to achieve better quantification should continue, even if the benefits would not be realised right away. This could include the development of greater capability for evaluating the impact of organised crime in the public sector, including the cost of countering it. It could, for example, seek to bring together a number of tricky but important issues: study of harm caused by organised crime, building on the work already done by the Home Office, SOCA's Harm framework and the NIO; information already available on perceptions of the impact of organised crime; quantification, analysis of current information, identifying gaps and exploring ways progressively to fill those; and the development of performance measures to assess the impact of actions taken to combat organised crime.

25. The OCTF and IDGOC should review whether their constituent members properly reflect the drive against organised crime within their own business plans, supported by objectives and performance indicators. Ways of forestalling identified growth areas of organised crime should be developed now.

#### *Data exploitation*

26. Perhaps the most important point to emerge from this review is the potential for more extensive use, in the drive against organised crime, of existing data held by the public sector. Government departments and public bodies hold very large amounts of data on individuals and bodies, collected in the normal course of business, whether for individual benefits, amenities, grants, statutory registration and so on. This potentially enormous asset in countering organised crime should be exploited to the full. Two ways of maximising its exploitation should be explored in particular—both are already in use to differing degrees, but could potentially be extended. A very powerful way of detecting organised crime and indeed fraud more widely is the intelligent and frequent interrogation of databases for patterns and consistency.

#### *Pooling of information.*

27. The second way to exploit available data arises when it is shared with other agencies and it is often this that provides the greatest potential for acting against organised crime in the form of data matching. The potential of this tool has been exploited by the Audit Commission's National Fraud Initiative (NFI) since 1998 and in Audit Scotland since 2004. The Serious Crime Act 2007 conferred powers on the Comptroller and Auditor General for Northern Ireland to provide data from public bodies in Northern Ireland for data-matching for the prevention of fraud, financial irregularity and crime. The first exercise commenced in October 2008, and is due to be finalised later in 2010, with 70 bodies participating on a mandatory basis and a number of others are taking part voluntarily.

28. Participation in the NFI is aimed at fraud generally, but may in itself make a contribution to combating organised crime. We recommend that the OCTF Strategy Group should consider if the underlying technique could usefully be applied to countering activities of prolific offenders. It is likely that some, if not all of these, will have transacted a range of business with Government departments and public bodies, whether in the normal course, or as part of, their criminal activities. Examination of their transactions may provide a powerful tool in detecting offences which may themselves be prosecutable, or which may provide wider investigative leads.

29. Clearly, such initiatives must comply with the terms of the Data Protection Act 1998, the Human Rights Act 1998 and the Commissioners for Revenue and Customs Act 2005 and measures must be in place to prevent loss or abuse of such data collected.

30. To implement this recommendation, the OCTF Strategy Group might consider commissioning work, in conjunction with the Northern Ireland departments, to: identify current holdings of data in NI departments, NIO and HMRC (and other public bodies and UK departments) that might be relevant:

- assess, together with the law enforcement agencies, which data might be of particular assistance in countering the organised crime threat;
- identify those departments and agencies which might materially help to detect, prevent, investigate or prosecute organised crime if they had access to that data;
- examine ways of enabling data to be shared in the light of any statutory or other restrictions, with the clear accent on overcoming obstacles;
- establish a mechanism for controlled and efficient sharing of data amongst departments and agencies entitled to receive it for the purpose of countering organised crime, perhaps involving the development of memoranda of understanding such as DSD's Catalogue on Data Sharing;
- explore the utility of the Audit Commission's NFI as a potential vehicle for data matching for these purposes; and
- develop a working group composed of representatives from the NIO, the Northern Ireland departments, PSNI, HMRC, and SOCA with others co-opted as the case demanded (and perhaps supported by some central analytical capability of the kind developed by the PSNI Analysis Centre), to manage the application of data analysis to investigate individual, or groups of, prolific offenders.

## Annex 1

### PROGRESS IN IMPLEMENTING RELEVANT NIAC RECOMMENDATIONS

(Comments in italics following NIAC's recommendations provide headline reports on progress to date towards implementation.)

#### *Conclusions and recommendations*

1. Paramilitary organised crime continues to threaten the stability of communities in Northern Ireland and poses a real threat to future political progress. We are deeply concerned by the control which paramilitary groups from both communities continue to exercise over those communities, the fear that this creates and the attendant negative consequences that this has for the reporting of organised crime. (Paragraph 21)

This is a matter for the Independent Monitoring Commission to measure, and as such is not within the ambit of this review.

2. We share the Independent Monitoring Commission's (IMC) concern about the potential for the process of paramilitary transition to create an instability which is open to exploitation by organised criminals with paramilitary backgrounds. It is vital that the Police Service of Northern Ireland (PSNI) and other law enforcement agencies in Northern Ireland take every possible step to combat paramilitary organised crime. If this requires extra financial and logistical support, then we call upon the Government to provide it. Ministers should be in no doubt that their political efforts could be completely undermined by another Northern Bank robbery. (Paragraph 22)

Where resources are an issue, this is commented on in the relevant section of our Note.

3. While we note the progress HM Revenue and Customs are making in combating oils fraud, we believe that it must increase its efforts to counter this activity. The amount of illicit fuel sold in Northern Ireland remains at an unacceptably high level. Despite recent increases in the numbers of laundering plants disrupted and gangs broken up, much remains to be done. (Paragraph 30)

We are satisfied that countering oils fraud is a priority for HMRC as a matter very close to its core revenue collection function. In addition, the OCTF established a cross-border fuel fraud enforcement group in mid 2008. We note that PSNI believe crime in this sector has reduced as a result of law enforcement.

4. We are pleased to note the success of the Registered Dealers in Controlled Oils Scheme established under HM Revenue and Customs' Oils Strategy, although we are concerned that the import of rebated oils from the Republic of Ireland threatens to replenish the illegal supply chain. We accordingly note the importance of cross-border cooperation in combating misuse of rebated fuels. We recommend that the Government reconsider its dismissal of the Danish model of payment of duty on rebated fuels at the point of sale as a matter of extreme urgency and that it give its conclusions when it replies to this Report. (Paragraph 37)

HMRC told us that its working relations with the Irish Revenue Commissioners are good. Wider taxation issues are outside the scope of this review.

5. It is clear that there is a perception in Northern Ireland that those guilty of the crimes with which we are dealing get off lightly because the crimes are regarded as "victimless". There is no such thing as a victimless crime and we welcome the Minister's emphatic agreement with this statement. Society itself, and the reputation of Northern Ireland, are victims of these crimes. On a personal level, the extortion and

intimidation that go with these crimes have countless individual victims, each of whom lives in a permanent state of fear. Those responsible for this mental cruelty, and those who benefit from the proceeds of crimes associated with it, should be treated with no degree of leniency, but rather with the utmost severity the law allows. (Paragraph 39)

There is a continued NIO drive to underline key messages. OCTF commissioned research into how to improve effectiveness at raising awareness of harms caused by organised crime and encouraging every one in Northern Ireland to play their part in tackling the problem. As a result a number of public outreach events have been held throughout Northern Ireland for local business, voluntary, civic groups and schools. Christmas advertising campaigns have also been run aimed at the 18–34 age bracket (the key market for purchasing counterfeits)—these highlighted the dangers associated with a range of fake goods. This was also a theme of the OCTF 2008 Annual Report and Threat Assessment (June 2008).

The most recent Northern Ireland Omnibus Survey shows that 35% of the sample interviewed were aware of the work of the OCTF in Northern Ireland; although acknowledged as relatively low, it is an increase of 5% over the previous year.

6. Cigarette smuggling is a major and highly lucrative organised criminal activity in Northern Ireland. We acknowledge the efforts of HM Revenue and Customs in tackling what is a large scale, highly organised and complex problem. We welcome the close cooperation between HMRC, the PSNI, An Garda Síochána and the Revenue Commissioners in the Republic of Ireland. We believe that this area of organised crime can be tackled effectively only through close cooperation with law enforcement agencies in those countries involved in this trade and with international law enforcement agencies such as Europol and Interpol. We note that the supply chains for counterfeit cigarettes and the smuggling of genuine cigarettes extend across Europe and far beyond. (Paragraph 43)

The principle and practice of co-operation are clearly crucial to all attempts to combat Organised Crime and is covered in the memorandum.

7. We welcome the measures taken by the PSNI in conjunction with the Organised Crime Task Force's (OCTF) expert group and commend their efforts in tackling this major area of organised crime in Northern Ireland. We are deeply concerned by the effect which intellectual property crime is having on the local economy and the potentially hazardous effect which some counterfeit goods, including cigarettes and alcohol, have on the health of those who are duped into buying them. We welcome the publicity that accompanied the launch by the Policing and Security Minister of the OCTF's 2006 Annual Report, highlighting the potential hazards of counterfeit goods and conveying the message that intellectual property crime is not victimless.

We urge the Government to take every possible step to ensure that this message is conveyed to the whole community. (Paragraph 46)

See comments on paragraph 5 above.

8. We note with satisfaction the work that the PSNI is doing to combat illegal dumping and welcome its close collaboration with An Garda Síochána and the Environment and Heritage Service. We urge the Government to introduce legislation, before the end of this Parliamentary Session, to give the police powers to detain vehicles suspected of transporting waste. (Paragraph 50)

This power was included in the Waste (Amendment) (NI) Order 2007 which was made on 6 March 2007.

9. While we welcome the steps being taken by the Social Security Agency to combat identity fraud and to improving the process of issuing national insurance numbers, we are concerned by the weaknesses identified by Criminal Justice Inspection Northern Ireland in the Agency's Benefit Fraud Investigation Unit. We urge the Benefit Fraud Investigation Unit to implement the recommendations of the Criminal Justice Inspection report without delay. Given the experience in Great Britain of organised criminal gangs operating benefit fraud, we urge the Department of Social Development to continue to give urgent attention to this. (Paragraph 53)

All recommendations have now been implemented.

10. We welcome the initiatives taken by the law enforcement agencies, but, if public confidence is to be increased, it is essential that the public understand what is being done on its behalf and so those agencies must use plain language when they explain their work. (Paragraph 63).

See comments on paragraph 5 above. Public understanding and awareness is being increased through research and surveys, and the publication of the Annual Report and Threat Assessment.

11. We gladly recognise the important steps taken by law enforcement agencies on both sides of the border to address the disturbing increase in the sophistication of organised crime. It is, however, of crucial importance that their investigations and response continue to be sufficiently robust to act as a deterrent. In this context, it is vital that more criminals are convicted; that the statutory penalties are adequate; and that sentences reflect the severity of the crime. (Paragraph 64).

OCTF partner agencies told us that they work closely together to ensure effective implementation of existing law and to review penalties.

12. The involvement of “professionals” is a further worrying attribute of organised crime. We suspect, given the evidence of increased sophistication, that “professional” assistance is an important element in organised criminal activity. We commend the work that has been undertaken by the law enforcement agencies in conjunction with the Law Society and with the financial services sector. We believe that this area will require an ever vigilant approach by the agencies of the OCTF. They must remain alert to the problem and take all possible steps to bear down on it. It is also incumbent on the professional bodies, such as the Law Society and the Institute of Chartered Accountants, to satisfy themselves that their membership requirements are sufficiently rigorous and that observance of them is carefully monitored. (Paragraph 75)

Whilst professional bodies have monitoring and disciplinary arrangements in place to guard against members falling short of prescribed professional standards, it is important that they maintain a rigorous level of compliance and take action in cases of breach.

OCTF continues to work closely with its business representatives through various events. The NIO Minister for Policing and Security hosted an event with the regulated sector in September 2006, attended by the chairman of SOCA, to announce the outcome of a SARS review and to remind the sector of its statutory duties under the regime. This was followed by the issue of leaflets to approximately 1,700 relevant organisations reminding them of their obligations to comply with money laundering regulations. OCTF held a workshop with the banking sector in March 2009 and events were held with the business community and the regulated sector in September 2009.

13. We welcome the Policing and Security Minister’s acceptance that there is a need for an enhanced understanding of organised crime in Northern Ireland. Understanding its nature and the gangs and networks involved is vital in order to ensure a wholly effective and robust response by the law enforcement agencies. We welcome the Minister’s assurance that the focus of the law enforcement agencies will be on targeting organised criminal gangs. We are encouraged by Sir Hugh Orde’s assertion that the battle against organised crime is “winnable”. His putting it in these terms, however, shows that it has yet to be won. (Paragraph 86)

Work to evaluate the harm caused by Organised Crime continues in both Home Office and NIO.

14. A comprehensive assessment measuring the economic and social harm caused by organised crime in Northern Ireland would demonstrate how great the problem is. The time for determined new initiatives has come. (Paragraph 87)

In June 2009, OCTF partner agencies agreed a baseline measure of harm caused by organised crime. This is to be used to set a target as part of the NIO’s Public Service Agreements targets to reduce the harm caused by organised crime.

OCTF is also committed to the principles of the national organised crime mapping project. Work is ongoing to develop a harm reduction framework which can be used to measure the impact of enforcement activity on crime problems in Northern Ireland.

15. We are concerned by the significant though unquantified effect organised crime is having on businesses in Northern Ireland and the consequential impact on the economy. We are concerned too by the evidence that parts of the business community do not have sufficient confidence in the PSNI. We welcome the assurances by the PSNI that all possible steps are being taken to tackle extortion. However, we urge the PSNI to do everything possible to convince the communities in which the problem is rife, and the victims of extortion, that if they do not report incidents the police will not be able to help them eradicate the fear that this creates. This will involve creating a climate in which the victim will feel safer by reporting a crime than by remaining silent. Elected politicians at all levels have a crucial role, alongside the PSNI, in creating such a climate. (Paragraph 97)

While PSNI report little use made of the extortion helpline, where cases have been reported to them, they have been successful in bringing prosecutions.

PSNI extortion helpline continues to be promoted with leaflets distributed at OCTF awareness events; OCTF press releases and website routinely advertise the confidential telephone lines provided by the law enforcement agencies.

16. We recognise that levels of taxation are not within the remit of this Committee, and we understand that the harmonisation of tax rates between one region of a Member State and another Member of the European Union is no easy matter. However, we must put it on record that it was a widely shared opinion of witnesses in public sessions, and amongst those we met informally, that if the United Kingdom and the Republic of Ireland could agree a common regime for fuel duty in Northern Ireland and the Republic of Ireland, they would deliver a fatal blow to those involved in this area of organised crime. We are concerned at the scale of the problem and that law-abiding members of the public may unwittingly be helping to feed the illegal market. We therefore urge the Government to give urgent further consideration to the desirability of introducing a differential rate for fuel duty in Northern Ireland. (Paragraph 103)

Outside the scope of this review.

17. We recommend at paragraph 220 that the PSNI should take further steps to publicise its confidential helpline. These steps must include measures targeted at those sectors of the economy in which extortion is a particular problem. (Paragraph 106)

See comments on paragraph 15 above.

18. We welcome official assurance that the Independent Private Sector Inspector Generals pilot projects are proving to be effective. We are glad to note that these projects are being extended with a view to developing a model for potential use in other sectors. (Paragraph 110)

All Government construction works contracts now have enabling clauses permitting the contracting body to appoint a Construction Contract Monitor. However, there are concerns about adequacy of sanctions and risk to their crucial deterrent effect.

19. We note that trading standards officers have had success in ensuring that the licensed trade serves only legitimate alcohol and we also note the substantial costs to businesses of measures to combat counterfeiters. But we remain extremely concerned at the widespread distribution of illegal alcohol, and at the many serious implications of this including particularly dangers to public health and sales to children. We therefore urge the Government to mount a publicity campaign to highlight the dangers of consumption of counterfeit alcohol and to make it clear to consumers that they are taking a serious personal risk as well as supporting organised criminal activity by purchasing such alcohol. Alcohol fraud can not be seen as a victimless crime. We are glad to note that, after we raised these issues with the Minister, he gave prominence to them in the release of the Organised Crime Task Force's Annual Report for 2006. (Paragraph 115)

See comments on paragraph 5 above in terms of general awareness measures.

20. We note the importance of careful oversight of licensing in cash-based industry to prevent infiltration by those intent on using such businesses as a means of laundering money. We note that statutory guidance will be in place to ensure that district councils meet their obligations under the new licensing provisions. However, any licensing system is only as effective as the level of its enforcement and we accordingly ask the Government to provide reassurance both to the Committee and the people of Northern Ireland that provisions for oversight of district councils' exercise of their licensing functions will be thorough. (Paragraph 125)

This is under review by the NI Assembly.

21. Having taken careful note of the evidence received, we believe that a totally convincing case for these changes has still to be made. We are disturbed by the financial loss that would be suffered by individuals whose retirement plans took account of the value of their licences should these changes be implemented. In our opinion there is a strong case for giving urgent consideration to the possibility of making compensatory payments which recognise the loss of legitimate expectations. (Paragraph 126)

Outside the ambit of this review.

22. We welcome the review of the Organised Crime Task Force structures undertaken by the Northern Ireland Office in 2005. All structures need to be overhauled from time to time and that is particularly so when the threat from organised crime constantly evolves and mutates. It is essential that the agencies of the OCTF remain as alert to the threat as organised crime gangs are to the opportunities. (Paragraph 135)

Overall the OCTF structures seem to be working well. However, it is clear from discussions with a number of departments that agencies and public bodies are not systematically briefed on the work of the OCTF or IDGOC, or on prevailing threats or means to counter them. There are also concerns about the priority given by some Northern Ireland departments and their links with PSNI. We are aware that these arrangements are in transition but believe that our review could be helpful in identifying improvements.

23. We welcome the fact that the CBI and the Federation of Small Businesses are now represented on the OCTF's stakeholder group, but are concerned that its membership does not include representatives of specific key industries affected by organised crime, including road haulage, the licensed trade and construction industries. We recommend that membership of the stakeholder group is extended to include key specific industries; that it meets quarterly rather than twice a year; and that its work is given wider publicity within the community at large. (Paragraph 136)

OCTF now meets quarterly. Specific sectoral interest groups are invited to meetings as appropriate, and sub- and expert groups are kept under review with sectoral groups co-opted as appropriate.

24. We welcome the measures taken by PSNI to strengthen its capacity to combat organised crime. We are in no doubt about the seriousness with which they treat their responsibilities in combating this problem. The pattern of paramilitary organised crime is changing and the potential for paramilitaries to use their expertise and skills to mutate into professional criminal enterprises is high. We welcome PSNI's commitment to adapt its approach in response to the changing pattern of organised criminal activity, and its assurance that its intelligence picture has strengthened. (Paragraph 143)

We consider that the Policing Plan could more adequately reflect the priority given by the PSNI to combating Organised Crime and the resources for this work.

25. Combating organised crime is not the sole responsibility of the PSNI, but the shared responsibility of the PSNI, the other law enforcement agencies and indeed all Government Departments. We strongly believe that a partnership approach, under which responsibility is accepted by all these bodies will have a much more direct and significant bearing on organised crime, particularly paramilitary crime. (Paragraph 144)

This is the crucial factor in combating Organised Crime. There is still some way to go, particularly as far as Northern Ireland departments are concerned.

26. We are under no illusions that gaining the community support that is essential in tackling organised crime and reducing the hold of the paramilitaries will require time, patience and strenuous effort. We therefore welcome the PSNI's commitment to assure local communities that organised crime is being addressed. This vital work must be given high priority. (Paragraph 145)

See comments on paragraphs 5 and 13 above.

27. We recognise, however, that the success of the police in tackling organised crime will be significantly limited so long as one of the major political parties, Sinn Fein, withholds its support for, and recognition of the legitimacy of, the PSNI—and continues to encourage its supporters to follow this lead. Comprehensive and thoroughly effective policing requires the recognition and support of all communities and particularly of the leaders of those communities. (Paragraph 146).

Sinn Fein have now committed to support the PSNI.

28. The Committee has received conflicting reports in private on schemes for community restorative justice (CRJ). While it is clear that there are schemes which act in the wider interests of the community and in constructive cooperation with the PSNI, there are other schemes that purport to be an alternative police force. Nothing must be done to give the latter further encouragement. We go further and urge that every possible step be taken to ensure that any future schemes are not infiltrated or controlled by paramilitaries. We recommend the adoption of clear and firm requirements which will apply to all such schemes. We further recommend that any community restorative justice group should only qualify for funding if it cooperates with the PSNI. We will therefore assess carefully the guidelines which the government has promised to issue to satisfy ourselves that they are adequate for their purpose. (Paragraph 147)

A protocol requiring CRJ bodies to communicate directly and meaningfully with the PSNI was issued in February 2007. The protocol clearly identifies the requirements for schemes to comply fully with the rule of law, spells out the centrality of the police, and provides safeguards to protect the rights of both victims and offenders. At the current time 15 community-based restorative justice schemes have been accredited.

In July 2008, a £600,000 package of funding, in partnership with The Atlantic Philanthropies, was announced which will be made available to accredited community-based restorative justice schemes over the next three years to assist in implementing the protocol.

29. Our inquiry has shown that oils fraud and tobacco fraud are significant and sophisticated areas of organised crime in Northern Ireland which require a vigorous law enforcement response. We welcome the steps taken by HMRC through its strategies to tackle both areas. We are encouraged by the increase in the sale of legitimate fuel in Northern Ireland, HMRC's commitment to ensure further growth in the legitimate market, and its determination to continue to bear down on tobacco fraud. (Paragraph 154)

HMRC remain committed to tackling both these areas.

30. However, we are deeply concerned by the evidence that crucial information about illegal activity is not always reaching HMRC headquarters. This situation cannot be allowed to continue. Receiving reports of illegal activity is critical to HMRC's capacity to tackle the problem effectively and timeously. We recommend that it review its systems for receiving information, particularly from officers working on the ground, and takes every possible step to encourage reports of suspicious activity, including wider publicising of its confidential telephone service. (Paragraph 155)

HMRC rebutted the internal information point as a misunderstanding in HM Government's response to NIAC. The freephone number is regularly advertised through OCTF material/events.

31. The HMRC has wide responsibilities none of which it can neglect. We welcome the particular attention it is giving to its customs and excise responsibilities in assisting the fight against organised crime. Nonetheless, diligent examination of individuals' tax affairs also has a very important role to play. It follows that the approach to thresholds adopted in the rest of the UK for examining an individual's tax affairs is not necessarily appropriate in Northern Ireland. There it is essential to target key members of organised crime gangs and those who may sponsor or protect them and such targeting inevitably necessitates a more flexible approach. (Paragraph 156)

Arrangements for targeting key individuals' tax affairs are in place. For example, the Criminal Taxation Unit (CTU) in Belfast comprises four members of staff (a case director and three investigators). Currently, 27 cases are being investigated or have been settled by the CTU with a projected yield in excess of £3.5 million.

32. Although UK wide, the Assets Recovery Agency has an assistant director and an office in Belfast specific to Northern Ireland. It has a total staff complement of approximately 200 and a Home Office budget of £15.5 million. The Belfast office has 47 staff and a budget of £3.59 million. We are bound to question whether this is an adequate distribution of resources, bearing in mind the importance of the issues on which this Report focuses. (Paragraph 157)

SOCA have developed an operational resource in Belfast and are committed to delivering effective results in Northern Ireland. SOCA is also represented on OCTF and is working closely with other members.

33. The Assets Recovery Agency also suggested that Part 5 of the 2002 Act required “a number of small amendments”. We agree that such amendments would improve the Agency’s efficiency and effectiveness. We ask the Government to undertake an urgent review of the legislation. (Paragraph 162)

Some of the powers sought have been included in the Serious Crime Act 2007.

34. The Assets Recovery Agency has been operating for only three years. We believe that within that relatively short period of time, the Agency has made a positive start towards recovering the very substantial proceeds of organised criminality in Northern Ireland. We welcome the growing number of referrals to the Agency, and the Agency’s assurance that it pursues all viable cases referred to it, regardless of whether the cases have a loyalist or Republic of Ireland link. We cannot stress enough the importance of the law enforcement agencies in Northern Ireland continuing to refer cases they believe can be pursued by the Agency. We also note from the Agency’s latest Annual Report that the costs of its operations to date far exceeds the value of assets it has recovered. We must express concern at this, particularly in light of the much greater financial success of the Criminal Assets Bureau in the Republic of Ireland. (Paragraph 168)

This was largely covered in NAO’s report<sup>3</sup> and subsequent PAC report<sup>4</sup> on the Assets Recovery Agency. However, there is still a patchy picture on referrals from Northern Ireland departments.

35. We also welcome the Minister’s willingness to carry out a review of the Proceeds of Crime Act 2002. We heard strong evidence that the taxation powers of the Assets Recovery Agency would be more effective if they were equivalent to those of the Criminal Assets Bureau (CAB) in the Republic of Ireland. The CAB has the power to initiate cases without having to wait for a referral. We do of course recognise that the CAB is an integral part of An Garda Síochána. Whilst we advocate increased powers for the Assets Recovery Agency, we recognise that actions initiated by them must not prejudice wider police investigations. (Paragraph 170)

See comments on paragraphs 32 and 33 above, although the Public Prosecution Service needs to be appropriately skilled and resourced to discharge its duties in relation to civil confiscation conferred by the Serious Crime Act 2007. There is also the need to resolve its access to the Incentivisation Fund.

36. We have also received disturbing reports that, as a result of changes in legal aid legislation, criminals have been able to use the proceeds of their crime to fund their defence costs. We hold firmly to the view that those accused of crimes are innocent in law until proven guilty, but anyone found guilty in these circumstances should receive a sentence that reflects the illicit use of ill-gotten gains. We recommend that the Government keep this matter under close review. (Paragraph 171)

No change.

37. We welcome the growth in cross border cooperation in tackling organised crime and the establishment of more formal arrangements for joint operations. This cooperation is vital to the fight against organised crime. (Paragraph 176)

Generally a positive picture on North/South co-operation, but there are some concerns about impact of absence/insufficiency of Schengen arrangements on drugs especially.

38. We endorse Sir Hugh Orde’s call for a comparative study to be conducted into sentences in Great Britain and Northern Ireland. It is only on the basis of such a study that an assessment can be made as to whether the perception that sentences are more lenient on average in Northern Ireland is valid. (Paragraph 185)

The statistical comparison has been completed. NIO wrote to the NIAC in June 2007 on sentencing compared with England and Wales—the findings showed that the picture was broadly similar across jurisdictions for offences related to organised crime, and the wider picture for all indictable offences shows consistently longer sentences in Northern Ireland for a wide range of offences. (The analysis is now being extended to Scotland and the Republic of Ireland).

39. The Committee holds strongly to the view that politicians should not criticize individual judges and takes most seriously the points made by the Lord Chief Justice to the Committee. Nevertheless, the Attorney General himself has expressed a clear interest in these matters, as the senior Law Officer of the Crown. He is of course a Member of the Government, and it is the Committee’s duty to hold the Government to account. We recognise the clear perception that exists in Northern Ireland that those found guilty of so-called “victimless” crimes (about which we have previously expressed our opinion) are not given sentences commensurate with the seriousness of their crimes. If this perception continues, it will have a detrimental effect on confidence in the administration of justice and on the process of upholding and enforcing the law in Northern Ireland. We welcome the exercise by the Attorney General of his right to appeal against unduly lenient sentences and recommend that his right to appeal against a lenient sentence be extended to appealing against sentences in “either way offences”. (Paragraph 191)

Rejected by HM Government as impracticable in February 2007 response to NIAC.

<sup>3</sup> The Assets Recovery Agency HC 253, Session 2006–07, 21 February 2007.

<sup>4</sup> Assets Recovery Agency HC 391, Fiftieth Report of Session 2006–07.

40. We note the judgment of the Court of Appeal that those convicted of offences connected with paramilitary violence should receive more severe sentences. We also note that paramilitaries are not just engaged in violent activities; they are also clearly involved in other crimes including oils and revenue fraud. While recognising the complexities that might be involved, and noting the caveat entered by the Lord Chief Justice in his Principal Private Secretary's letter to the Committee, we nevertheless feel bound to recommend that careful consideration be given to making connection with organised crime an aggravating factor in sentencing in Northern Ireland. (Paragraph 192)

Putting the term "organised crime" into law is seen as creating technical difficulties because it would have to be defined for the courts and the multi-faceted nature of organised crime means that criminals continually adjust their ways to get around the law. Practice to date has been to leave interpretation to the courts.

41. We welcome the Government's decision to establish a licensing regime for the petrol retailing industry, but regret that it has taken so long to implement a recommendation made by the Northern Ireland Affairs Committee in 2003. We give notice that we intend to keep the implementation and operation of the proposed licensing scheme high on our agenda and we urge the law enforcement agencies to give sufficient priority to the licensing scheme to ensure that it is enforced. (Paragraph 196)

A Fuel Oils Forum and a liaison unit have been set up within HSENI to provide strategic oversight of the partnership with District Councils and HSENI in order to maximise the effectiveness of the new arrangements, particularly given concerns about the slow rate of progress so far.

42. Throughout the evidence that we have received on this subject, and indeed on others, the inability of trades to regulate and discipline their own members was all too apparent. Fundamental to combating crime of this nature is the agreement of Codes of Conduct which are rigorously enforced. But no organisation will feel able to introduce disciplinary measures unless it feels absolute confidence in the determination of the police to pursue criminals and the knowledge that the police has the unreserved support of all elected politicians, at all levels, in Northern Ireland. (Paragraph 197)

See comments on paragraphs 12 and 27 above.

43. We are extremely concerned by the reports of the Independent Monitoring Commission on the involvement of paramilitaries in the taxi trade. While we welcome the official assurance that revised licensing legislation will be brought forward, this legislation is long overdue. We will continue to take an interest in this area and will examine the proposals closely. (Paragraph 200)

This is now an issue of less concern on part of the PSNI. The Taxis Act (Northern Ireland) 2008, contains new powers enabling reform of the taxi operator licensing regime. Once these powers are in place, anyone wanting to operate a taxi business will have to be "a fit and proper person" and will have to comply with certain duties related to record keeping and the drivers who can work for them. There will also be greater enforcement powers to ensure that taxi operators and drivers comply with the legislation. DOE is planning for a phased introduction of operator licensing, with the first phase due to start later this year.

44. We recommend the establishment of a system for training and registration of door supervisors. We note that the Northern Ireland Office is currently reviewing legislative provisions governing the private security industry, including door supervisors, in Northern Ireland. The Policing and Security Minister acknowledged that Northern Ireland did not have a properly licensed, well regulated, private security industry. We urge the Government to ensure that this review is carried out as a matter of priority. (Paragraph 203)

The Justice and Security (Northern Ireland) Act 2007 extends the authority of the Security Industry Authority (SIA) to Northern Ireland. Transitional provisions have been put in place to regulate the private security industry in Northern Ireland during the SIA's implementation period.

A project board has been set up to manage the delivery of SIA regulation to NI. The implementation process is well advanced. By December 2009 it will become illegal to work without a SIA licence in almost all designated licensable sectors in Northern Ireland, including door supervisors provided under contract. In-house door supervisors will be required to have a licence by April 2010.

45. We are astounded that it has taken so long to come to a sensible decision on the regulation of charities in Northern Ireland and we urge that there be no further delay in bringing forward the appropriate legislation. The Committee would be glad to play its part in the framing of such legislation, and in monitoring its implementation. We also believe that there is a case for the use of Independent Private Sector Inspector Generals (IPSIGs) in the charitable sector; we ask the Government to review its policy on this point. (Paragraph 210)

The Charities Bill received Royal assent September 2008. The Charity Commission was established in March 2009 and its powers and functions under the Charities Act (NI) 2008 will be transferred to it under a series of commencement orders beginning in September 2009.

46. Although we welcome the assurance that proposals for a licensing regime for the road haulage industry will be brought forward in 2007, we are disappointed by the delay in bringing forward the proposals, given that a road haulage licensing regime has been operating in England and Wales since 2000. We cannot stress too highly the importance of providing appropriate licensing and regulatory frameworks for key industries in Northern Ireland. (Paragraph 212)

This is now for devolved Ministers and the Assembly. The Goods Vehicles (Licensing of Operators) Bill completed Committee stage on 4 December 2008 and is now being given further consideration by the Minister.

47. We believe that it would be helpful to establish a “crime proofing” test of all policy initiatives and future legislation by both the Northern Ireland Office and Northern Ireland Departments. This would help ensure that they were not open to exploitation by those involved in organised crime. In this context, we welcome the creation of the Northern Ireland Civil Service Interdepartmental Group, the aim of which is to promote awareness of the threat from organised crime both in Government Departments and throughout the public sector. We recommend that this Group, in consultation with the Northern Ireland Office and the PSNI take every necessary step to ensure that policy initiatives and proposed legislation are thoroughly examined to ensure that they are not capable of exploitation by criminal elements. (Paragraph 213)

A crime-proofing element has been incorporated into the integrated impact assessment to which policies are subjected. This includes guidance on an initial policy screening exercise and on a full crime impact assessment the toolkit will be updated and refined in light of further research and as feedback on its implementation is received.

48. We note that the PSNI announced the opening of a new dedicated telephone line for the reporting of incidents of extortion on 15 May 2006; the helpline 028 90 92 22 67 will be open on Mondays to Fridays from 8 am to 4 pm. The decision to open this line was made in response to the Committee’s questions at the beginning of this inquiry. We are grateful for this prompt response but emphasise that this initiative needs wider publicity. (Paragraph 215)

See comments on paragraph 17 above.

49. We urge the PSNI and HMRC to take further steps to publicise their confidential telephone lines. (Paragraph 220)

See comments on paragraph 17 above.

50. We believe that it is essential that adequate provision for non-jury trials for appropriate offences in Northern Ireland is maintained. It is only by maintaining them that many witnesses will feel able to give evidence against organised crime gangs. We therefore urge the Attorney General to assess with the prosecuting authorities whether the use of such trials would encourage more witnesses to give evidence. (Paragraph 222)

The Justice and Security (NI) Act 2007 provides for non-jury trial in certain limited circumstances in Northern Ireland ie where the DPP has certified that it is necessary to protect the administration of justice. This includes cases where members of paramilitaries act for personal gain as well as where they act on behalf of the organisation.

## Annex 2

### LIST OF BODIES CONSULTED IN PREPARING THIS MEMORANDUM

Assets Recovery Agency  
 Association of Chartered Certified Accountants  
 Audit Commission  
 Barclays Bank plc  
 Confederation of British Industry (NI)  
 Central Finance Group DFP  
 Central Procurement Directorate DFP  
 Chartered Institute of Management Accountants  
 CIFAS  
 City of London Police  
 Council of Mortgage Lenders  
 Criminal Justice Inspection Northern Ireland  
 DARD  
 DCAL  
 DEL  
 DE  
 DETI  
 DHSSPS  
 DOE  
 DRD  
 DSD  
 DVTA and DVLNI  
 NIEA  
 Federation of Small Businesses (NI)  
 Financial Services Authority  
 General Registrar’s Office DFP  
 HMRC

Institute of Chartered Accountants in Ireland  
 Law Society of Northern Ireland  
 NI Bankers' Association  
 NI Chamber of Commerce and Industry  
 NI Construction Employers Federation  
 NI Court Service  
 NI Housing Executive  
 NI Information Commissioner  
 NI Inter-Departmental Group on Organised Crime  
 NI Legal Services Commission  
 NIO  
 OFMDFM  
 Organised Crime Task Force Strategy Group  
 Planning Service DoE  
 PSNI Analysis Centre  
 PSNI Economic Crime Bureau  
 Public Prosecution Service  
 Serious Organised Crime Agency  
 Trading Standards Service DETI

**Annex 3**

LIST OF ABBREVIATIONS

C&AG	Comptroller and Auditor General for Northern Ireland
DARD	Department for Agriculture and Rural Development
DETI	Department for Enterprise, Trade and Investment
DFP	Department of Finance and Personnel
DHSSPS	Department of Health, Social Services and Public Safety
DoE	Department of the Environment
DSD	Department for Social Development
GLA	Gangmasters Licensing Agency
HMRC	HM Revenue and Customs
ID	Identity
IDGOC	Inter-Departmental Group on Organised Crime
IT	Information Technology
NAO	National Audit Office
NFI	National Fraud Initiative
NIAC	Northern Ireland Affairs Committee
NIAO	Northern Ireland Audit Office
NICS	Northern Ireland Civil Service
NIEA	Northern Ireland Environment Agency
NIO	Northern Ireland Office
OCTF	Organised Crime Task Force
OFMDFM	Office of the First and Deputy First Minister
PSNI	Police Service of Northern Ireland
SOCA	Serious Organised Crime Agency
SSA	Social Security Agency
UKBA	UK Border Agency
VAT	Value Added Tax

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