REPORT ON THE OPERATION IN 2006 OF THE TERRORISM ACT 2000

BY

LORD CARLILE OF BERRIEW Q.C.

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INTRODUCTION

1 I write this report five years after my original appointment as Independent Reviewer of the *Terrorism Act 2000 [TA2000]*. My reports can be found most easily online, via www.homeoffice.gov.uk and following the 'security' links.

2 For consistency and ease of reference, this report follows a similar sequence to those I have written previously on this subject.

3 Also in 2001, I was appointed reviewer of the detention provisions of the *Anti-Terrorism Crime and Security Act 2001*. Those provisions were repealed and replaced by the Control Orders system provided for by the *Prevention of Terrorism Act 2005:* I review those provisions too. My report on the second period of operation of that Act was published in February 2007[1].

4 I have in the past written separate reports on the provisions of *Part VII* of *TA2000*. That part applied to Northern Ireland only. It has been replaced by continuance (subject to some repeal) in new primary legislation the *Terrorism (Northern Ireland) Act 2006*. Its continuance is time limited to the 31st July 2007 plus a possible one year of extension. At the time of writing the *Justice and Security (Northern Ireland) Bill* is making its way

[1] http://security.homeoffice.gov.uk/news-publications/publication-search/independent-reviews/lord-carlile-ann-report.pdf

through Parliament. The effect of that legislation will be to replace *TA2000 Part VII* altogether: the replacement will consist of public order (as opposed to terrorism) provisions. *Part VII* will be no more, and a new reviewing mechanism, entirely domestic to Northern Ireland, will replace my role. My most recent material report on the operation of *Part VII* was in January 2006.

5 Given the changing legislative picture, this year I decided to incorporate what would have been my *Part VII* report for 2006 into this document.

6 I agreed recently to a request by the Secretary of State for Northern Ireland that for a three year period from late 2007 I would provide a review of the operation of the arrangements for handling national security related matters in Northern Ireland, after the Security Service has taken the lead for national security intelligence work there later in 2007. This is a non-statutory role, and the reports will be separate. I have commenced the briefing process for that task, and intend to provide a preliminary report on that subject later in 2007.

7 This is my fifth report on the working of the Act as a whole. I am the first Independent Reviewer of the *TA2000* in its full range of applicability. My predecessors' reports were principally upon the operation of the *Prevention of Terrorism (Temporary Provisions) Act 1989*. That Act, and the *Northern Ireland (Emergency Provisions) Act 1996* ceased to have effect when the present statute came into force on the 19th February 2001.

8 *TA2000* has itself been the subject of significant amendment by the *Anti-Terrorism, Crime and Security Act 2001 [ATCSA2001]*. For example, *sections 24-31* were repealed from the 20th December 2001, and form no part of this review[2]. A consequence of the repeal of parts of the *TA2000* without substituting new sections into the same Act is that those parts are no longer subject to this form of review, whereas new sections inserted into the *TA2000* are. *The Prevention of Terrorism Act 2005* and the *Terrorism Act 2006*[3] add further elements. There are indications of possible further legislation specific to terrorism in 2007. At the time of writing no Bill has been published. There have been several detailed amendments to the *TA2000* during 2006.

9 Given my previous requests for a free website with a constantly updated version of the *TA2000*, and the prevalence of new criminal justice legislation as a policy preference in most Parliamentary sessions, I am delighted that the website www.statutelaw.gov has appeared. Although its functionality has some limitations, it is being improved. It will provide a complete free online library of all UK primary and secondary legislation. It is to be hoped that it will be updated routinely and often.

10 I was until their repeal the independent reviewer of the very controversial detention provisions introduced by *Part 4 of the ATCSA2001*. Separate reports were published periodically in relation to my duties under that Act. I act too as the statutory reviewer of the *Prevention of Terrorism Act 2005*[4] and of the *Terrorism Act 2006*[5]. My reviewing tasks demand far more of my working time than ever before: they now occupy the majority of my professional life.

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[2] Anti-Terrorism, Crime and Security Act 2001, sections 1(4), 125, Sch 8 Pt 1; and SI 2001/4019, art 2(1)(a), (d)

[3] Royal Assent 30th March 2006

[4] Section 14 contains the requirements for the review.

[5] See Section 36

11 My responsibilities in relation to *TA2000* in 2006 and throughout the past four years have confirmed the shift of emphasis towards international terrorism, as the process of normalisation in Northern Ireland has become more evident in the evolution of the Good Friday Agreement and more recently the St Andrews agreement. There remains justification for continual vigilance in Northern Ireland, despite recent progress. There is some evidence that small, dissident paramilitary groups remain a risk there. However, my periodic contacts with the political parties and others in Northern Ireland leave me optimistic about the future of political and legal institutions there. The willingness of all political parties to be involved in political responsibility for the police service there is an important step.

12 As against that, the material I have seen and briefings received, together with the large volume of publicly available material, leave me pessimistic about the future of international terrorism as evidenced by violent Islamist jihad. The police and other control authorities have made numerous arrests. Several trials are continuing and many are pending, founded on allegations of jihadist violence.

13 Those trials apart, there is an abundance of evidence of the continuing threat. This was made especially clear by the Director General of the Security Service Dame Eliza Manningham-Buller, when she spoke at Queen Mary College London on the 9th November 2006. Complacency would be a shocking error of judgment.

14 I am grateful for the very considerable and patient help received from officials in the Home Office, the Northern Ireland Office, and elsewhere in government, as well as from my many consultees and correspondents from well outside government. I am conscious that there are numerous persons and organisations with much to offer my review. I have

attempted during 2006 to widen as well as consolidate my range of such contacts, and to learn as much as possible from the experience and opinions of others.

15 I was provided during 2006-7 with all the resources I needed to complete this and my other reports. I anticipate that this need will increase.

16 My purpose and the requirement of this report are to assist the Secretaries of State and Parliament in relation to the working of *TA2000*. My terms of reference may be found in the letters of appointment to my predecessors and myself. They are to be found too in the Official Report of the House of Lords debate of the 8th March 1984, which shows clearly what Parliament intended when the post of reviewer was first established: the Reviewer should make detailed enquiries of people who use the Act, or are affected by it, and the Reviewer may see sensitive material. All this I have attempted to do.

17 The statutory foundation for this report is to be found in section 126 of *TA2000*;

> *"The Secretary of State shall lay before both Houses of Parliament at least once in every 12 months a report on the working of this Act".*

18 It is outside my terms of reference to advise as to whether such legislation is required at all. Nevertheless I take it as part of my role to make recommendations accordingly, if it were to be my view that a particular section or part of the Act is otiose, redundant, unnecessary or counter-productive. I have been informed that this is considered useful. Some repeals have occurred in consequence.

19 Once again this year I have received almost complete co-operation from all whom I have approached. There are still many whose interest in the subject I have yet to identify. However, there is a steady increase in the number of informal contacts and suggestions I receive from members of the public. They are sometimes of real value, and I welcome them all. The academic community has been extremely generous in its advice to me during the past year: this has included many contributions from abroad. My knowledge of the subject has been increased by attendance at numerous seminars and workshops, and I have been a speaker at some. There are now so many such events that, unfortunately, I am unable to attend them all.

20 I do not offer any kind of appeal procedure for individual cases. However, I do read some documents referring to individual cases. Where appropriate I ask questions about them and can offer advice and comments. I am particularly anxious to obtain the assistance of more members of the public who have had some contact with the *TA2000*, whether as observers, witnesses, persons made subject to powers given under the Act or as terrorist suspects. It is not always as easy as one would wish to make contact with those who have had these real-life experiences.

21 Lawyers who are instructed by persons arrested under the provisions rarely provide me with material even when they feel driven to make public comments. I would welcome more participation by them in this reviewing process.

22 Anyone wishing to provide me with information is very welcome to do so by writing to me at the House of Lords, London SW1A 0PW or sending me information via the Internet on carlilea@parliament.uk.

23 I travel seeking the views of as wide a range as possible of people, offices and departments having anything to do with *TA2000*. I have also found it valuable to make some comparisons with foreign jurisdictions. During 2006 I visited India, Pakistan, Sri Lanka, Bangladesh and France. The South Asia visits were designed mainly to assist with a separate report on the definition of terrorism[6]. In addition, they provided additional material for my review of the operation of *TA2000* and enhanced my perspective on the level of co-operation between states with some shared interests but very different approaches to human rights. My visit to France was to obtain material and views from persons with a particular interest in proscription issues.

24 As in previous years, my activities have included visits to port units and other establishments listed in Annex B. I find it extremely valuable to watch and speak to police officers, Revenue and Customs officers and others as they do the real everyday work of policing those who enter and leave the UK, or import and export freight.

25 In that context, I note that the Conservative Party has stated that it would introduce a single, integrated borders agency, containing police, customs officers, immigration staff and others. This is a suggestion often discussed among those working in the field. It has strong attractions. The reorganisation of the Home Office announced in late March 2007 should assist integration of material functions and activities. Of course, the resolution of problems in the countering of terrorism does not lie in structures themselves. In my view structures are far less important than shared aims and joined-up working practices. As can be seen below, I have some concerns about the limitations at present upon seamless co-operation between the various control authorities. For the time being at least, resolving those limitations is at least as useful a task as changing management structures.

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[6] Published 15th March 2007: see www.homeoffice.gov.uk/documents/carlile-terrorism-definition

26 The persons I have seen include those listed in Annex A; for reasons of requested or implicit confidentiality I have excluded some names from that list.

27 Given the time commitment this task involves, I suggest that in the future consideration should be given to whether the role of the independent reviewer should become full-time or near to full-time. Events material to counter-terrorism legislation occur all the time. The extent and deployment of the reviewer's activities will be a matter for discussion with the Home Office during coming months. I have no doubt that they wish the reviewer's activities to be facilitated fully, and to good effect.

28 In preparing this report I have taken it once again as a basic tenet, not open to question as part of this review process, that specific anti-terrorism legislation is necessary as an adjunct to and strengthening of the ordinary criminal law.

29 I understand that there will be at least one Parliamentary Bill shortly dealing with terrorism issues. As the current Home Secretary The Rt. Hon Dr John Reid MP has suggested, it is to be hoped that the debates in Parliament and in the media over new legislation may be improved by a higher level of consensus than in 2005 and 2006. However, I suspect that realism leads to the conclusion that fresh legislation may prove politically very contentious.

30 On the 5th February 2007 the Archbishop of York the Most Revd. Dr John Sentamu compared the UK counter-terrorism situation with Uganda as ruled by Idi Amin, and suggested that the UK had adopted some of the characteristics of a *"police state"*. Whilst his intervention in the debate was stimulating and a legitimate part of the considerable moral leadership he offers, the language used was extravagant. I have no doubt that it

will be quoted out of context. Hopefully the Parliamentary debate on new legislation, however strong as between political parties, will concentrate more closely on the merits of the legislative issues under debate. I do not believe that we are anywhere near living in a police state[7].

31 After any amending legislation, I hope very much that a Consolidation Bill will be introduced, with the intention that all counter-terrorism legislation can be included in a single Act of Parliament. This would be of immense value to all whose work touches on terrorism.

32 I seek out and receive such briefings as are needed from time to time to ensure that I have an appropriate state of knowledge. I remain of the clear opinion that there are active and present threats to the security of the nation as a result of terrorist activity. The risks of a terrorist attack on places of public congregation are real. There is no justification for the slightest complacency. The potential means of perpetrating terrorist acts are becoming more diverse, subtle and difficult to anticipate and detect, and thereby present a greater challenge for the authorities than ever before.

33 In so far as I have judged it necessary, I have seen and examined closed material relevant to the operation of the *TA2000*. I have not been refused access to any information requested by me. I have been briefed as fully as has been necessary in my judgment. I have taken all that material into account on what I hope is a proportional basis in preparing this report.

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[7] I have written on this issue for the Independent on Sunday. See http://comment.independent.co.uk/commentators/article2258796.ece

34 I would highlight early in this report issues related to *section 44*. As I have reported repeatedly, difficult problems arise in connection with the use of *section 44* of the Act by police around the country. There is inconsistency of approach between chief officers and their forces as to why, and if so when, *section 44* should be used. The section, which permits stopping and searching for terrorism material without suspicion, is rightly perceived as a significant intrusion into personal liberties.

35 Once again in 2006 I have paid close attention to *section 44*. Whilst there is continuing work to improve the way in which *section 44* is used, it is still used too much. It should never be used where there is an acceptable alternative under other powers. Before each *section 44* decision is made the chief officer concerned should ask him/herself very carefully if it is really necessary, without reasonable alternative. The geographical area covered should be as limited as possible. It is fully recognised as important that police officers on the ground (in sometimes challenging situations) must have a fuller understanding of the differences between the various stop and search powers open to them. The aim should be that in all circumstances they stop and search in appropriate circumstances only, and that they use the powers most fit for purpose.

36 Although during my years as independent reviewer there has been a general increase in caution before utilising *section 44*, in my opinion its use could be halved from present levels without risk to national security or to the public.

1 PART I OF THE ACT: DEFINITION OF TERRORISM

37 As stated above, I have conducted a separate review of the definition of terrorism. I shall not repeat that report here. Doubtless there will be further debate on the definition, to which my report is but one contribution.

38 In this context it is worth mentioning that the *Terrorism Act 2006 section 5* provided a new offence of preparation of terrorist acts. In the past two years I have expressed the view that there is clear evidence that such an offence would provide for some cases a way of dealing with suspects more acceptable in perceptual terms than *control orders*[8].

39 My most recent report on control orders highlighted some problems in their policing and enforcement. The enforcement of post-conviction criminal sanctions is less problematic. As a clear rule of thumb, it is better that state sanctions should follow conviction of crime rather than mere administrative decisions.

40 I shall follow carefully the way in which the new offence is applied. Cases are beginning to filter through the criminal courts.

[8] Control Orders are civil orders against terrorist suspects, introduced by the *Prevention of Terrorism Act 2005*

2 PART II OF THE ACT: PROSCRIBED ORGANISATIONS AND THE PROSCRIBED ORGANISATIONS APPEAL COMMISSION.

41 The current list of organisations proscribed under the Act is at Annex E. I have continued to take a close interest in the operation of the regime of proscription of organisations and the appeals process. As reported before, I have received representations that proscription should form no part of the law, indeed that there should be no special criminal justice provisions targeted against politically motivated groups and crimes, with their consequence of reduced rights for participants in such activities.

42 It should be borne in mind that proscription is a common measure around the world, seen as valuable by all comparable jurisdictions.

43 I believe that there is general public acceptance that the proscription of organisations prepared to use or condone terrorism is proportionate and necessary.

44 It can be difficult for the authorities to keep track of proscribed organisations and their members. On the whole members do not carry membership cards. The task of the security services in keeping up with changes in terrorist organisational structures (in so far as any formal structures exist) is extremely difficult.

45 It appears to me that the Joint Terrorism Analysis Centre (JTAC), a multi-agency approach to information and evidence, continues to offer a good resource in the context of developing understanding of terrorist organisations. Taken as part of the *Contest Strategy* pursued by the control authorities, JTAC's work provides significantly towards effective public protection.

46 The grounds of proscription were amended by *Terrorism Act 2006 section 21*. 'Glorification' of terrorism was added as a basis for proscription. It still remains to be seen how much difference this makes in practice: I tend to think that it will make little difference.

47 *Section 22* has the sensible effect of preventing a group of people evading proscription by simply changing the name of their group. There have been consequential changes to secondary legislation[9], mainly to incorporate the procedural results of *section 22*.

48 Since the beginning of 2002 there have been changes. 4 organisations were added on the 1st November 2002[10], and a note concerning one of those 4 was added on the same date[11]. A further 15 were added by Order on 14 October 2005[12], all on the basis of involvement with violent Islamist jihad. 4 more organisations were added on the 26th July 2006[13]. No organisations have been removed during the period 2002-2006. 14 of the scheduled organisations have their origins in Northern Ireland and/or Ireland.

49 A working group exists within the government service at which all the interested officials meet and scrutinise proscriptions.

50 The group meets every 3 months and considers the proscription of organisations on a rolling basis. The Foreign and Commonwealth Office is involved in the process. They are conscious of the human rights implications of rendering unlawful membership of

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[9] *Proscribed Organisations Appeal Commission (Human Rights Act 1998 Proceedings) Rules 2006* SI 2006/2290; *Proscribed Organisations (Appeals for Deproscription etc) Regulations 2006* SI 2006/2299

[10] SI 2002/2724, arts 1 and 2

[11] ibid. art 3

[12] SI 2005/2892, art 1

[13] SI 2006/2016, art 1

political organisations whose targets are well outside the UK. The prospect of further proscriptions continues, though subject to the Parliamentary affirmative resolution procedure.

51 It is important that the scrutiny of proscribed organisations should be such as to enable organisations to be removed from the list should they genuinely eschew violence as part of their policy. One organisation has complained strongly to me that such a change in their approach has not been considered fully.

52 I have received representations from various quarters to the effect that the proscription system is unfair in the way in which decisions are both made and reviewed. However, there have been very few applications for deproscription. The system of law provided is there to be used. I urge those who feel that their organisation or affiliations have been treated unfairly in the system to use it, by applying for deproscription.

53 On the basis of the material that I have seen and the representations received, I repeat the conclusions of my previous reports. It is clear to me that there are organisations that present a significant threat to the security of the state and its citizens. There are some extremely dangerous groups, with a loose but reasonably definable membership, whose aims include activities defined in *section 1* of the *TA2000* as terrorism and which if carried out would injure UK citizens and interests at home and/or abroad. The level of danger is well demonstrated by events around the world.

54 Subject to satisfaction with the system of law provided to safeguard organisations against arbitrary proscription and mistakes, I have concluded that the retention of proscription is a necessary and proportionate response to terrorism.

55 The inevitably confidential processes used to determine whether an organisation should be proscribed are generally efficient and fair. In this context at least, intelligence information appears to be cautious and reliable.

56 The system of law governing proscription is subject to the jurisdiction of the Proscribed Organisations Appeal Commission [POAC], established under *section 5 of the TA2000*. Procedural provisions are made under *Schedule 3*. Where proscription has taken place, the proscribed organisation or any person affected by the organisation's proscription may apply to the Secretary of State to remove the organisation from the list contained in *Schedule 2*. The Secretary of State must decide within 90 days. Where an application under section 4 is refused, the applicant may appeal to POAC. By *section 5(3)*:

> *"The Commission shall allow an appeal against a refusal to deproscribe an organisation if it considers that the decision to refuse was flawed when considered in the light of the principles applicable on an application for judicial review."*

57 *Schedule 3* to *TA2000* gives the basic requirements for the constitution, administration and procedure of POAC. One of the three members sitting on a POAC hearing must be a current or past holder of high judicial appellate office. The other members are not judges, and are appointed by the Lord Chancellor. Perceptually it is preferable for judicial members to be serving rather than retired judges.

58 Currently before POAC is an application by what is known generally as the PMOI for deproscription. This is an internationally active Iranian opposition group based in Paris. Recent litigation before the EU Court of First Instance has led to international calls for

the removal of the PMOI from proscription. I make no comment about the merits. However, having followed closely the progress of the application to POAC, I am concerned by the slowness of the proceedings. There are not many cases heard by POAC, and it is to be hoped that they can be dealt with expeditiously. Hopefully, energetic case management can ensure that no application for deproscription need take more than 6 months from application to decision, save where delays are caused by the applicant.

59 POAC sits in public in Central London, but is able to hear closed evidence in camera and with the applicant and their representatives excluded. Where an organisation's appeal to POAC has been refused, a party to that appeal may bring a further appeal to the Court of Appeal (or its Scotland and Northern Ireland counterparts) on a question of law with the permission of POAC or the Court of Appeal. There may also be an appeal on a question of law in connection with proceedings brought before POAC under the *Human Rights Act 1998*, by virtue of *sections 6(1) and 9 of TA2000*. The procedural rules for appeals from POAC to the Court of Appeal[14] require that the Court of Appeal must secure that information is not disclosed contrary to the interests of national security. This enables the Court of Appeal, like POAC, to exclude any party (other than the Secretary of State) and his representative from the proceedings on the appeal[15].

60 Pursuant to *TA2000 Schedule 3 paragraph 7*, special advocates are appointed by the Law Officers of the Crown *"to represent the interests of an organisation or other applicant in [the] proceedings ..."*[16]. They are selected for the purposes of this legislation from advocates with special experience of administrative and public law.

[14] The Court of Appeal (Appeals from Proscribed Organisations Appeal Commission) Rules 2002 and subsequent SIs amending the procedural rules

[15] See rule 4

[16] Paragraph 7(1)

61 The role of the special advocates is to represent the interests of an organisation or other applicant, but they are not instructed by or responsible to that organisation or person. Like the members of POAC, the special advocates see all the closed material. They are not permitted to disclose any part of that material to those whom they represent.

62 Thus they may face the difficult task of being asked by or on behalf of those whose interests they are instructed to serve to present facts or versions of events in relation to which there is the strongest contradictory evidence, but evidence which they are not permitted to reveal in any form. Those whose interests they represent can and in practice do have their own lawyers too, but those lawyers are excluded from closed evidence and closed sessions of POAC. Special advocates have a difficult task, and as much help as possible should be given to them in organising the material with which they have to deal. A dedicated team and office have been established to assist the special advocates, and they are now given considerable informed help. For example, in each case the Security Service has lawyers and other staff (with operational experience) who can and do act as a resource for the special advocates. In general, however, there is a shortage of fully security vetted lawyers in the government service. There is a particular shortage in the Crown Prosecution Service. This needs to be remedied.

63 The quality of those instructed as special advocates is very high indeed. I have received no criticism of them, and considerable praise.

64 Amnesty International, Liberty and other respected lobby and campaign groups take a very straightforward view of POAC and its sister organisation the Special Immigration Appeals Commission [SIAC], which deals with immigration cases in which there is a national security concern. This view is that international and European human rights law

do not permit of a jurisdiction in which an individual or organisation is not told the nature of all the evidence to be deployed against them. That approach begs certain obvious questions about national security and the need for the continuing use of material gained from hard-won intelligence in relation to alleged terrorists. I do not take it as my task to determine whether there is justification for the POAC procedure, but rather to advise as to whether the procedure provided works and can be regarded as fair. The judgment of Richards J in the *Kurdistan Workers' Party Case*[17] sets out with estimable clarity the continuing foundation of legality provided by the POAC system of law. The decision of SIAC in the case of Abu Qatada[18], and the decision of the High Court in *E v Secretary of State for the Home Department*[19] in my view show a thorough examination of the issues in such cases.

65 *Sections 11-13 of the TA2000* provide for offences in relation to membership *(section 11)*, support *(section 12)* and uniform *(section 13)* in connection with proscribed organisations. In the previous five years I have expressed concerns about the breadth of these offences.

66 The statistics appended as Annex C to this report show a restrained use of the discretion to prosecute. This group of offences was charged only 15 times 2006, a small number given the scale of the problem faced.

67 I shall continue to observe closely the application of this part of the Act. The progress of the PMOI deproscription application will make an instructive case-study.

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[17] R (on the application of the Kurdistan Workers' Party and others) v Secretary of State for the Home Department, 17th April 2002, Administrative Court (Richards J) [2002] EWHC 644 (Admin)

[18] Decided by SIAC on the 26th February 2007

[19] [2007] EWHC 233 (Admin)

3 PART III OF THE ACT: TERRORIST PROPERTY

68 *Part III, sections 14 to 31*, dealt with terrorist property, offences in relation to such property, and seizure of terrorist cash. *Sections 24-31* were repealed and replaced by provisions contained in the *Anti-Terrorism, Crime and Security Act 2001[ATCSA200]1*.

69 The offences provided under *sections 14 to 19* impose considerable responsibilities on members of the public.They include the offence of providing money in the knowledge, or having reasonable cause to suspect, that it may be used for the purposes of terrorism. Money laundering with a terrorism connection is very broadly defined in *Section 18*. For example, an estate agent collecting rent from office premises might be totally unaware that the ultimate beneficiaries of the profits are a company operating for the benefit of a terrorist organisation. If charged, the statutory defence made available under *Section 18(2)* would place a reverse burden upon him to show *"that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property"*.The maximum sentence on indictment for a money laundering offence is 14 years' imprisonment.

70 *Section 19* imposes the positive duty on a citizen to disclose to the police a suspicion of an offence connected with terrorism funds, if the suspicion comes to his attention in the course of employment. This is a wide and under-publicised duty, to which the only statutory exception is genuine legal professional privilege. The limitations of legal professional privilege are not as well understood as they should be, and merit study[20]. *Section 20* provides essential whistle-blower protection to any person making such a disclosure.

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[20] See e.g. Chapter 11 of *May and Powles: Criminal Evidence* 5th edition [2004]

71 *ATCSA2001* inserted new *sections 21A and 21B* into the *TA2000*. These have been in force since the 20th December 2001. They deal with the regulated sector, as defined in new *Schedule 3A*. These provisions have led to a terrorism based focus on compliance in financial sector firms. Generally issues of money-laundering and similar type information are being taken extremely seriously, and the aims of the various items of legislation in this broad context are recognised and effective.

72 The statistics at Annex C to this report show some use of the offences under *Part III*. In 2006 there were 5 charges in respect of funding arrangements for terrorism purposes. In my judgment the rationale for the introduction and retention of this group remains sound.

73 The powers for the seizure and forfeiture of terrorist cash remain useful and necessary powers, and there is no evidence of defect in the working of the provisions. The amount of money seized in 2006, was £81,818, compared with £9,318-13 in 2005. Whilst still a relatively modest sum of money, it has to be borne in mind that most terrorist devices are extremely cheap to make given the necessary skills; and that large scale transfers of cash can be broken down relatively easily into smaller sums, for example as remittances to named individuals in other countries. It need hardly be said that terrorists generally are astute to such statutory provisions.

4 PART IV OF THE ACT: TERRORIST INVESTIGATIONS

74 *Part IV* provides for the cordoning of areas for the purposes of a terrorist investigation, and powers of entry, search and seizure.

75 Cordoning may occur as a matter of urgency under the direction of any constable. It must be recorded fully and placed under the supervision of a police officer of at least the rank of superintendent as soon as reasonably practicable. The maximum initial period for designation is 14 days, subject to extension to a total maximum of 28 days (*section 35(5)*). Police powers are provided by section 36 to clear persons and vehicles from cordoned areas. Maximum sentences for offences in relation to offences of failure to comply have been increased from three months to 51 weeks.[21] Annex D describes cordons used during 2006.

76 Extensive cordoning was used in 2005 for investigation and public protection in the aftermath of the London events of the 7th and 21st July 2005. In 2006 the main concentration of cordons was around arrests in August/September in Manchester. Arising from those arrests charges are pending connected with an alleged plot to destroy aircraft in flight.

77 My conclusions are the same as for 2002-2005. I have received no representations during 2006 in relation to *sections 32 to 36*. They are proportional and necessary, and are working satisfactorily. The statistics at Annex D are acceptable in proportion to the risk. Indeed, it is commendable that cordons are used only rarely, given their obvious convenience as a means of control and security.

[21] Criminal Justice Act 2003, Schedule 26, para55.

78 *Section 37* and *Schedule 5*, and *section 38* and *Schedule 6* are important provisions of the *TA2000*. *Schedule 5* contains the regime for requiring production of persons and/or material, and also carrying out searches of premises for the purposes of a terrorist investigation. Separate provisions make appropriate arrangements for Scotland and Northern Ireland respectively. The material sought will often include documents, which by their very nature are likely to be confidential. Excluded and special procedure material, familiar concepts from the *Police and Criminal Evidence Act 1984*, are subject to the Order of a Circuit Judge. *Paragraph 13* and corresponding Scotland and Northern Ireland provisions deal with cases of 'great emergency' requiring 'immediate action'.

79 A cadre of Circuit Judges has experience of dealing with applications under this part of the Act. The judges concerned have specific training. Problems of court building security have been addressed apparently successfully by the provision of secure storage facilities in the court building, and of secure recording of hearings. Reasons are given at the conclusion of hearings.

80 I have concluded again this year that the *Schedule 5* procedure works smoothly. I remain confident that rigorous judicial inquisition and the regular experience of presenting police officers act as quality control mechanisms.

81 I ask once again for the views of police and lawyers who have been involved in the procedure. As in past years, I have received no complaints on this score. The Metropolitan Police view is that the judges involved are far from acquiescent, but rather are aware of the implications of their orders and scrutinise carefully the material placed before them.

82 *Schedule 6* relates to financial information. A parallel regime is provided to the *Schedule 5* system. Most of the applications heard by Circuit Judges relate to bank and credit card accounts. *Schedule 6* ranges widely over the kind of information financial institutions hold about their customers.

83 Once again I have received no representations of concern about the operation of *Schedule 6*. There is now well established cooperation between the police and the financial services industry.

84 In addition, an effective system of law is needed to empower the obtaining of financial information under compulsion where necessary, subject to solid judicial protection against arbitrariness. That appears to be accomplished by *Schedule 6*. Most other countries now have similar provisions. An increasing level of international co-operation on the financial front will prove increasingly fruitful in the countering of terrorism.

85 I have concluded once again this year that *Schedule 6* as amended works well and is an essential part of the legislation.

86 *Section 38A*, together with *Schedule 6A*, deals with account monitoring orders. An account monitoring order may be made only by a circuit judge or District Judge (Magistrates' Courts)[22] or equivalent in Scotland and Northern Ireland. The schedule makes it clear that there must be an evidential basis for the Order if it is to be made: speculation or a 'fishing expedition' will not do. The measure and the control of its use are necessary and proportionate.

[22] District Judges (Magistrates' Courts) were added by the Courts Act 2003, section 65 and Schedule 4 paragraph 11

87 *Section 38B* covers information about acts of terrorism. It is widely drawn. Its clear intention is to secure the maximum possible information so as to avoid acts of terrorism that might otherwise be prevented. In my view it remains necessary and proportional, given the danger to human life and to the economy posed by terrorist acts. It was used in 2006 – as Annex C shows, there were 6 charges under the section.

88 *Section 39*, which corresponds to *sections 17(2)-(6)* of the former *Prevention of Terrorism (Temporary Provisions) Act 1989*, makes it an offence punishable on indictment by up to 5 years' imprisonment for a person to disclose to another anything likely to prejudice a current or anticipated terrorist investigation of which he has knowledge or has reasonable cause to suspect. Although not used in 2006, this remains a reasonable and proportional provision, similar in effect to other offences against justice such as doing an act tending and intended to obstruct the course of justice.

5 PART V OF THE ACT: COUNTER-TERRORIST POWERS; ARREST AND DETENTION; STOP AND SEARCH; PARKING; PORT POWERS

89 *Part V* of the Act contains counter-terrorism powers available to the police to deal with operational situations. *Section 44* in particular continued to provoke debate in 2006, as in every previous year for which I have been the independent reviewer.

90 *Section 41* provides constables with powers of arrest without warrant. These powers replace those formerly given by *Section 14 of the PTA*. The ordinary powers of arrest available to the police under the *Police and Criminal Evidence Act 1984 [PACE]* require them to have reasonable grounds for suspecting that the person concerned has committed or is about to commit an offence. In his report on terrorism legislation Lord Lloyd of Berwick considered[23] that the pre-emptive power of arrest under *Section 14(b) of the PTA* was useful, because it enabled the police to intervene before a terrorist act was committed. If the police had to rely on their general powers of arrest, he argued, they would be obliged to hold back until they had sufficient information to link a particular individual with a particular offence. In some cases that would be too late to prevent the prospective crime[24]. However, Lord Lloyd expressed concern that the *Section 14(b)* power under the PTA contravened a fundamental principle that a person should be liable to arrest only when he was suspected of having committed, or being about to commit, a specific crime. He was especially mindful of *Article 5(1) (c) of the European Convention on Human Rights*, now part of our domestic law. Since then most ECHR rights have been capable of assertion in British courts.

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[23] 1996 Cm 3420, Chapter 8

[24] 1996 Cm 3420 paragraph 8.5

91 *Section 41 of the TA2000* was the government's response to the concerns expressed by Lord Lloyd and others. The government at that time rejected his view that it was necessary to introduce a new offence of being involved in the preparation etc. of an act of terrorism[25]. Such an offence is included now by *Terrorism Act 2006 section 5*, beneficially in my view.

92 The basis for the power of arrest, set out in *Section 41* subject to definition of 'terrorist' in *Section 40*, works satisfactorily.

93 *Section 41* and the accompanying procedural system for detention set out in *Schedule 8*[26] were designed to bring the UK into compliance with *ECHR Article 5(3)-(5)* following the decision of the European Court of Human Rights in 1988 the case of *Brogan v UK*[27] that there had been a breach of *Article 5(3)* where a person had been detained for 4 days and 6 hours without judicial authorisation. In its decision on the narrow facts of that case the Court held that the power of arrest had been justified, in the light of the fact that on arrest the applicants had been questioned immediately about specific offences of which they were suspected. Substantially as a consequence of that case the UK government derogated from the relevant parts of the ECHR and of the UN International Convention on Civil and Political Rights – clearly not a desirable position. There have been various procedural changes to *Schedule 8*, none of substantive concern[28].

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[25] Repeated by Lord Lloyd in House of Lords debate on the Terrorism Act 2005: see House of Lords Hansard for the 10th March 2005 (via www.parliament.uk; follow debates links)

[26] As amended in paragraph 4 by section 456 and Schedule 11 paras 1, 39(1) and (5) of the Proceeds of Crime Act 2002; see SI 2003/333, art 2, Schedule; and SI 2003/210, art 2(1)(b), Schedule

[27] Brogan v United Kingdom [1988] 11 EHRR 193

[28] See Courts Act 2003, section109(1), Schedule 8 paragraph 391; section 109(3), Schedule 10

94 Annex C shows the level of arrests under the TA2000 and associated legislation as a whole in 2006. Of a total of 185 persons arrested, 94, just over half, were released without charge. Whilst at first glance this may seem a high proportion, the nature of terrorism investigations means that those associated with or accompanying a suspect may well find themselves arrested out of an abundance of caution by the authorities. This should be avoided whenever possible, but the realities of this kind of policing increase the possibility of arrests later found to be of innocent members of the public. It may be small comfort to those arrested, but in other comparable countries the same issue arises commonly. Once again this year, I consider the level of arrests to be proportionate to perceived risk, especially when set against the high level of vigilance operated by the statutory services and the large number of stops at ports of entry.

95 Detention under *section 41* and under *Schedule 7* is subject to the regime set out in *Schedule 8*. Codes of Practice have been issued under *Schedule 8*. By *section 306 of the Criminal Justice Act 2003, Schedule 8 of the TA2000* was amended to allow up to 14 days' detention for the purposes of questioning and associated investigation. This was extended further to 28 days by the *Terrorism Act 2006 sections 23-24*. The adequacy of this extended period remains the subject of heated and frequent debate. I expect in the course of time to see cases in which the current maximum of 28 days will be proved inadequate. I have seen no such cases since the increase to 28 days. If a change is made in the law, it should be founded on close and continuous judicial scrutiny of detention, with a presumption against extension save where the judge concerned is satisfied that it will facilitate the just determination of the investigation and any consequent trial.

96 During the year I have visited by request the police custody suites for terrorist suspects in Northern Ireland, Scotland and London (including the reserve facility at Belgravia Police Station for Paddington Green).

97 The facilities I saw were all acceptable for up to 14 days detention. In my view it is only acceptable for prisoners detained after 14 days to be held overnight in conditions equivalent in levels of comfort, food and exercise to prison conditions. In London this has become a problem, especially as the proposals for improving Belgravia police station will not achieve such a standard. In Scotland and Northern Ireland changes are being made to render the facilities fit for detention of up to 28 days.

98 In my view it is plain that the Metropolitan Police need a new custody suite suitable for up to 30 terrorism suspects, and possibly for use in other serious inquiries. Such a facility would ideally be purpose built, very secure, and in a location causing as little disruption as possible to nearby residents and businesses.

99 The *Schedule 8* powers are subject to a system of law supervised by District Judges (Criminal) with particular knowledge and experience of the system for extension of detention under *section 41* and *Part III of Schedule 8*. Currently they are led for this purpose by Judge Workman, the Senior District Judge and Chief Magistrate. These provisions apply too to persons stopped at a port and dealt with under *Schedule 7*, and subsequently arrested under *section 41*. The system has been tested recently in Manchester, Birmingham and elsewhere, as well as London. It appears to function satisfactorily.

100 I had my attention drawn to some issues concerning the recording of information from Schedule 7 examinations. Some police officers use sophisticated handheld computers for portability and transfer. There is a lack of clarity, I was told, as to whether and if so when they may transfer information gained, from one computer or system to another. This is part of a general picture of concern about sharing and transferring information when to do so might make the detection of terrorism more efficient.

101 Senior circuit judges supervise 14-28 day detentions, pursuant to the *Terrorism Act 2006*. These responsibilities too have been tested extensively in the past year, and have proved fit for purpose.

102 *Section 42* permits the search of premises under a warrant issued by a justice of the peace on the application of a constable if the justice of the peace is satisfied that there are reasonable grounds for suspecting that a person "falling within *Section 40(1)(b)* is to be found there". There has been no evidence presented to me that this provision is misused or presents any problems.

103 I turn next to *sections 43-45*. *Section 43* provides stop and search powers connected with *sections 41 and 42*. *Sections 44-47* provide stop and search powers in relation to persons and vehicles within specified geographical areas, for the purpose of seizing and detaining articles of a kind that could be used in connection with terrorism. It is an offence not to comply. Such stops and searches can occur only within an area authorised by a police officer of at least the rank of or equivalent to assistant chief constable.

104 Every year since I became independent reviewer there have been severe criticisms of the provisions of *sections 44 and 45*, and of their operation.

105 Work has been done towards providing a clearer understanding throughout police forces of the utility and limitations of *sections 43-45*.

106 *Section 44* was considered by the House of Lords in *R (Gillan) v (1) Commissioner of Police for the Metropolis (2) Secretary of State for the Home Department*[29]. It was held there that *section 44 is ECHR* compliant. It was held that the powers are lawful, if properly authorised and confirmed under the Act. However, the precision of the legislation means that any person stopped and searched must be given all the information he needs to know, and the police in stopping and searching cannot act arbitrarily. Thus, if a citizen is stopped and searched pursuant to a lawful *section 44* authorisation, and is searched in a lawful way, and has explained to him/her that the search is for terrorism materials pursuant to the Act, that is lawful. Any arbitrariness on the part of the police is unlawful, and gives rise to potential civil liability.

107 From the above it can be seen that it is essential that the police must know what they are doing and be accurately briefed. This means that police officers on the ground, exercising relatively unfamiliar powers sometimes in circumstances of some stress, should have a reasonable degree of knowledge of the scope and limitations of those powers.

108 Most important, terrorism related powers should be used for terrorism related purposes; otherwise their credibility is severely damaged. The damage to community relations if they are used incorrectly can be considerable.

109 During 2006 I have discussed the nature and use of section 44 and section 45 with police and others wherever possible.

[29] [2006] UKHL 12; and via www.parliament.uk and follow House of Lords and judgments links

110 *Section 43* is relatively straightforward. It allows a constable to stop and search *"a person whom he reasonably suspects to be a terrorist to discover whether he has in his possession anything which may constitute evidence that he is a terrorist"*. The familiar thread of reasonable suspicion flows throughout this stop and search procedure, and that for the seizure and retention of material discovered during the *section 43* search.

111 In contrast, *section 44* provides for the authorisation of geographical areas for the purposes of *section 45 searches*, which do not have to be founded on reasonable suspicion. Authorisations may only be given by an ACPO rank officer[30], and solely *"if the person giving it considers it expedient for the prevention of acts of terrorism"*[31]. Pursuant to *section 46* the Secretary of State must be informed as soon as possible, and authorisation lapses if not confirmed by the Secretary of State within 48 hours[32].

112 On enquiry I am given details of *section 44* activity. It continues to be used throughout London on a continuous basis, and in other police areas.

113 My view continues as expressed in the past two years – that I find it hard to understand why *section 44* authorisations are perceived to be needed in some force areas but not others with strikingly similar risk profiles.

114 I remain sure that *section 44* could be used less and expect it to be used less. There is little or no evidence that the use of *section 44* has the potential to prevent an act of terrorism as compared with other statutory powers of stop and search. Its utility has been questioned publicly by senior Metropolitan Police staff with wide experience of terrorism policing.

[30] Sections 44 (4)-(4C)

[31] Section 44(3)

[32] Section 46(4)

115 The Home Office continues to scrutinise applications critically. I think that they could and should refuse more often.There are instances in which public order stop and search powers are as effective – and they are always more palatable to those stopped and searched.

116 In my view *section 44* and *section 45* remain necessary and proportional to the continuing and serious risk of terrorism. However, I emphasise again that they should be used sparingly. They encroach into the reasonable expectation of the public at large that they will only face police intervention in their lives (even when protesters) if there is reasonable suspicion that they will commit a crime.

117 A Home Office Circular[33] provides helpful further guidance in respect of the use of *section 44*. Its general emphasis is on the reduced use of the section only when necessary.

118 *Section 44* has been amended by the *Energy Act 2004 section 57* to allow authorisations by an officer of the rank of Assistant Chief Constable in the British Transport Police Force, the Ministry of Defence Police and the Civil Nuclear Constabulary. These are appropriate changes and are unlikely to cause any difficulty. It was amended too by *section 30* of the *Terrorism Act 2006*. This amendment extended its scope to internal waters: this was a sensible and necessary change in the law.

119 CENTREX, the Central Police Training and Development Authority, has produced practical guidance for the Association of Chief Police Officers on stop and search in connection with terrorism[34]. The issue of this guidance hopefully will improve the use of the powers.

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[33] Circular 038/2004, 1st July 2004

[34] A useful summary is at www.centrex.police.uk

120 *Sections 48-51* provide similar powers for the designation of areas by ACPO rank officers, in this instance to prohibit or restrict the parking of vehicles on roads specified in the authorisation. This is a proportionate provision in the public interest. As in past years, there is no evidence of excessive use, nor of insensitive use of prosecution for contravention. It is noted that possession of a disabled person's badge is not of itself a defence to a contravention offence.[35]

121 *Section 53 and Schedule 7* provide for port and border controls. This remains a very important aspect of the *TA2000*. In the past I have suggested that the number of random or intuitive stops could be reduced considerably. That view is entirely consistent with a policy and practical drive towards a stronger intelligence base for all counter-terrorism activity. The FBI *Behavioral Analysis Unit* in the United States has done some useful work in refining what here is sometimes called *"copper's nose"* into a more analytical technique. Certainly I do not reject the value of intuitive stops by police officers with observational experience. If modern analytical methods can distil something of the operation of quality intuition, and use it for training purposes, that is to the benefit of all. Nevertheless, I remain of the view that stops at ports can be reduced in number without risk to national security.

122 What would be of real help towards national security would be a more efficient system of reading passports electronically. A great deal of information about terrorist activity can be gleaned from the travel patterns of individuals. If all passports were read electronically on departure form the United Kingdom, the prevention and detection of terrorist plans and offences would be assisted greatly. This suggestion may give rise to some civil liberties concerns: in my view these could be met by clear protocols limiting the period for which such information could be retained, in what form and by whom.

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[35] Section 51(3)(4)

123 The Home Office has now abandoned its earlier proposals to amalgamate some police forces, although in a comment on the 27th March 2007 the Prime Minister spoke once again of police reorganisation and reform. I have given particular attention this year to the level of joint working between police forces, and between police and HM Revenue and Customs, and the Security Service. As part of that task, I have been able to observe parts of two major exercises in real time, in which a critical terrorism scenario was played out with a significant degree of verisimilitude. Without the need to set out great detail, I can say that I am impressed by the level of co-operation regionally and nationally between police forces, supervised by ACPO and its Scottish equivalent ACPOS, together with the respective Chief Constables of the Police Service of Northern Ireland and of the British Transport Police. Cooperation between police and Security service appears to be very high in frequency and quality. However, I do have some real concerns, summarised as follows:

a) Some police forces have small special branches (or equivalent) with little experience of and expertise in terrorism. All are well organised and determined, and well-led. However, they are entirely dependent on regional structures to provide the critical mass of officers and expertise necessary for effective results. A national equivalent of special branches could prove more efficient, and would improve career prospects for expert counter-terrorism police.

b) Under the present system, it would make operational sense if the role of special branch was recognised fully by raising the ranks available to experienced, and to younger highly capable officers. There are many Detective Constables and Detective Sergeants performing work important to national security. The increased availability of promotion of to higher ranks within special branch (whilst enabling officers to continue their existing work) would in my view recognise the importance of that work.

c) From time to time police officers are still being abstracted from counter-terrorism work to other police duties. This is rarely acceptable, especially where the special branch is small.

d) There is a continuing and regrettable problem about the exchange and sharing of information. Computer systems available to one control authority cannot readily be accessed by others. Information provided by passenger carriers may be available to the police but not Revenue and Customs, and vice-versa: I have seen real examples of this. These impediments to the effective countering of terrorism must be removed, if the results of intelligence-gathering and its analysis are to have full value. Good work is being done to improve this, and in my view should be a priority.

e) There is uncertainty about the legality of sharing of information in some contexts – for example passenger information in the hands of airlines. Ministers should consider whether greater legal statutory clarity is required, so that useful information can be shared quickly and seamlessly. This is extremely important.

f) I have received a great deal of assistance this year from HM Revenue and Customs. They perform excellent work in many circumstances. However, in my view their intelligence-led 'brigading' system of deployment leaves some potentially vulnerable ports of entry without Customs officers at times. Probably they simply do not have enough officers to provide the sort of cover that could be regarded as best practice in the effort against terrorism. This is certainly the view of some Customs officers on the ground.

g) In addition, HM Revenue and Customs, as its name implies, is led by the imperative of revenue collection. The discovery from personal baggage of a small piece of information potentially useful in detecting a terrorist cell is of far more value to the national interest than the discovery of a few thousand bootleg cigarettes. Current

Revenue and Customs performance indicators give full value to the discovery of the cigarettes, and almost none to the small but potentially significant sliver of counter-terrorism observational intelligence. That is not to say that individual customs officers fail to pass on such intelligence: many do. However, it is clear to me that the introduction of terrorism-related performance indicators by HM Revenue and Customs would be a valuable step. Customs officers need to feel that they are part of a border control effort, and that their help in detecting terrorism is valued by their employers.

h) The ability of the Security Service to recruit and operate as diverse a workforce as possible remains of self-evident importance. I know that Ministers and senior management of the Service are committed to expansion to achieve this.

124 The points set out in the previous paragraph are born of my visits during the past year to several ports of entry in my capacity as reviewer; and whenever and wherever I travel privately I am sensitised and watchful of security issues. I have received maximum cooperation from officers in all control authorities and at all levels, and from those representing airlines, shipping companies and the ports themselves.

125 I have continued to take note of search arrangements developed for airports and seaports. These have continued to improve.

126 In relation to *Schedule 7*, there is no requirement that the officer should have conceived any suspicion in the initial stages of an examination about the passengers, crew, vehicle or goods subject to the stop. This means that it is a wider power than is normally available to police, immigration or customs officers. I and past reviewers have commented before that the evident presence of port officers is a deterrent to terrorists. This has not changed. Knowledge on their part that a port is manned efficiently and the

subject of strong and well-informed vigilance is a significant inhibition against targeting that port.

127 I am more strongly than before of the opinion that the terrorist traveller has at least as great a prospect of being caught at UK ports of entry as anywhere else.

128 Whilst the adequacy of accommodation for police at seaports and airports remains a matter of less than universal contentment, I have received fewer complaints this year than ever before. The importance of such facilities is generally recognised. *Paragraph 14(1) (b) of Schedule 7*, whereby port managers can be required to provide at their own expense specified facilities, is always an available option.

129 I have received no complaints about the treatment of members of the public at ports in 2006. Other such complaints are made to the police and the Home Office. Most relate to being stopped at all, though I am sure from conversations at air and sea ports that there is general public acquiescence at present in the value of what might occasionally seem excessive vigilance in other circumstances.

130 Language difficulties do occur from time to time and will be liable to cause occasional problems at ports of entry. Considerable sums are spent on the provision of interpreters, though the system is bound to be imperfect in some places. Suitable interpreters of Arabic and other languages are not always available. The use of telephone-based interpretation facilities is now quite well developed, and a useful stop-gap. However, inevitably problems arise where the authorities are under-staffed or hard-pressed. The provision of interpretation to a good standard is an increasingly important aspect of the protection of travellers against unjustified suspicion.

131 In my previous reports I have expressed concern on the subject of general aviation. I have paid special attention this year to the organisation, supply and security of business and general aviation. I have received the highest level of cooperation from the industry, through both industry representatives and individual companies. It is possible to purchase, from reputable international companies, piloted flying hours in sophisticated executive jets capable of high speed travel from continent to continent. The risk of hijacking of such aircraft is a matter of potential concern.

132 My investigation in recent months has led me to conclude that this very fast-growing industry has responded well to such threat as terrorism presents to them. If I may give an example, the international executive aviation operator *Netjets* has a system of security management and counter-terrorism protocols that would make it more difficult for a terrorist to enter one of their aircraft than that of a commercial scheduled service. If that standard of watchfulness were replicated across all operators, there would be little cause for concern. The operators of airfields to which volume business and general aviation fly are well aware of terrorism concerns, and have good levels of cooperation with local police forces and other control authorities.

133 The information available to the control authorities about incoming business and general aviation needs to be as full as possible, to ensure that the real embarkation point of aircraft is known to the UK authorities. At present, if a plane flies from say Istanbul, and stops for a short time en route in say Krakow, it would generally be shown in information to the UK authorities as coming from Krakow. This is self-evidently unsatisfactory.

134 Companies operating in general aviation are growing and often dynamic businesses. They need clarity in the rules under which they operate. Trusted traveller programmes and the equivalent in freight are an important part of their trade. Hopefully there will always be clear and effective channels of communication with government departments and agencies – so that the industry can remain competitive whilst meeting high security standards.

135 Government and the aviation industry have a high responsibility to ensure full passenger information and the effective international policing of such aircraft. The operators, wishing to retain their certifications and reputations, have a strong interest in full cooperation with the authorities.

136 The Maritime and Coastguard Agency continues to play an important role in the policing of small ports and general aviation issues. The Agency should always be seen as a full participant in the stemming of the threat of terrorism.

137 Joint UK and French operations are now in place on both sides of the English Channel. These are designed to secure better quality of information sharing between the two countries, a freer flow of legitimate passengers, and the stemming of the tide of hopeless asylum seekers. This last aspiration is being achieved, with a continuing reduction in the number of illegal entrants through Dover and Folkestone, and the Channel Tunnel.

138 It is part of my annual litany to repeat in connection with aircraft and passenger shipping that manifests are a cause for concern. As has been said by me and previous reviewers again and again, the information provided by shippers and carriers is of great value to port officers. If police know who is on board an aircraft or vessel, or what is being

carried, their knowledge is increased, and they may be able to further important enquiries. If the manifest information is inaccurate, inadequate and given a low level of importance by transport operators, a vital clue may be missed. Good manifest information can save lives.

139 As in previous years, given the fluidity of terrorist organisations, I trust that attention to crew-related terrorism issues is kept under continuing review and the advice of the police and security services heeded.

140 *Schedule 7 of the TA2000* sets out the powers of officers performing port and border controls. The powers under the Act are circumscribed in purpose by *paragraph 2(1)* of the Schedule, to determining if the person stopped *"appears to be a person falling within section 40(1)(b)"* [i.e. a 'terrorist'] whether there are grounds for suspicion or not.

141 Subject to what I regard as the key points made in paragraph 113 above, I am satisfied that in 2006 the port powers and the checks and balances on those powers worked well and remained necessary. Recording systems are sound and accountable. Each port examination (as opposed to short stop) is recorded in written form and superior officers examine written records routinely. Special Branch officers generally function to a very high professional standard. In relation to freight too, solid tactics and systems are in place. Given that there are so many ports, and so extensive a coastline, the effort against terrorism via freight and small vessels is remarkably proficient.

6 PART VI OF THE ACT: ADDITIONAL TERRORIST OFFENCES

142 *Sections 54 and 55* provide for an offence of instructing and training another, or receiving instruction or training, in the making or use of firearms, explosives or chemical, biological or nuclear weapons. The offence includes recruitment for training that is to take place outside the UK.

143 Lord Lloyd reported that the precedent for this offence applicable only in Northern Ireland had never been used, and presented real evidential difficulties[36]. The government responded in its consultation paper prior to the *TA2000*[37] with references to international terrorism and its recruitment methods.

144 In my reports for the previous four years I have expressed the view that the events of September 11th 2001, and of July 2005 in the UK, and evidence available since then demonstrate that international terrorists have recruited young people in the UK, with the potential for use against the UK and around the world. This remains of extreme concern.

145 Any person who invites, incites or encourages young people to receive instruction or training in terrorist violence (wherever in the World such instruction or training was to be given) is guilty of an offence[38]. In the present international climate of general terrorist threat this provision is proportionate and necessary. The threat of terrorist use of weapons capable of injuring whole communities is serious enough to warrant the measures of which *sections 54-55* are part. New offences in relation to preparation for

[36] CM 3420 Volume 1 Paras 14.26-14.28

[37] CM4178 Para 12.12

[38] Section 54(3)

terrorism, training and training camps are included in the *Terrorism Act 2006 sections 5-9*. Those too are a proper response to the threat. Issues of extraterritoriality of offences are referred to in my review of the definition of terrorism[39]: I await the government's response to the suggestion there that there should be a statutory provision setting out matters to which the Attorney General should have regard before permitting prosecution for a terrorism offence committed or intended to be brought to fruition outside the United Kingdom.

146 I remain satisfied that the existing provisions are potentially very useful and effective for dealing with aspects of international terrorism, and are likely to result in prosecutions in the years ahead.

147 *Sections 56-58* deal, respectively, with directing terrorist organisations, possession of articles giving rise to a reasonable suspicion of a terrorist purpose, and possession or collection of information likely to be useful for terrorism.

148 It is not part of my terms of reference to debate the merits or otherwise of reverse onus provisions of the type contained in *sections 57 and 58*, unless they do not work satisfactorily. They were considered by the House of Lords in *R v DPP ex p Kebilene*[40]. The working of *sections 56-58* is satisfactory, and they remain a necessary and proportionate part of the legislation.

149 As can be seen from Annex C, 39 charges were made under *sections 54-58* during 2006.

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[39] Published 15th March 2007: see www.homeoffice.gov.uk/documents/carlile-terrorism-definition

[40] [2000] 2 AC 326

150 *Sections 59-62* provide for offences of inciting terrorism overseas. These provisions incorporate the substance of what was formerly *Sections 5-7* of the *Criminal Justice (Terrorism and Conspiracy) Act 1998*. Whilst the provisions are wide, the consent of the DPP is required before a prosecution can be brought. With the protection of the requirement of such consent, and in my view with the additional statutory safeguard mentioned in paragraph 140 above, the existence of an offence to criminalize, for example, incitement by a person within the UK to murder a British ambassador abroad is a proportionate response. As I observed in my three previous reports, the death of a senior British diplomat and others in Istanbul in 2003 has demonstrated the reality of our worst fears that such events may occur.

151 *Section 63* extends jurisdiction so that if a person does anything outside the UK that would have constituted a terrorist finance offence contrary to *sections 15-18*, he shall be guilty of the offence as if it had been done in the UK. It is my continuing view that this provision remains useful and necessary, and enhances the working of the Act.

152 *Section 64* has been repealed.

7 PART VII OF THE ACT: ANNUALLY RENEWABLE NORTHERN IRELAND PROVISIONS

153 As before, I have been greatly assisted by the patient and purposeful support which I have been given by officials of both the Home Office, the Northern Ireland Office, the police and other law enforcement bodies, those involved in administering justice and running the courts, the political parties in Northern Ireland, human rights organisations, and many, many other organisations and individuals who have advised, helped and contacted me. I have drawn extensively upon their generously given time and documentation.

154 *Part VII* of the Act has been replaced from the 16th February 2006 by the *Terrorism (Northern Ireland) Act 2006*. The main purpose of the 2006 Act is to extend the life of *Part VII* for a limited period[41].

155 The *Justice and Security (Northern Ireland) Bill*, before Parliament at the time of writing, will provide a completely revised system of non-jury trial in restricted circumstances. The Bill introduces other important changes to the law concerning the Northern Ireland Human Rights Commission, powers of the military and the police to stop and search, road closures, compensation and connected criminal justice matters, and the private security industry. The police and military powers will come into force on 1 August 2007 with the non-jury trial provisions intended to commence around the same time.

156 The *Part VII* provisions were temporary in nature and subject to annual renewal by parliamentary order. *Part VII* was also time-limited and in the absence of further primary legislation would have expired at the end of 18th February 2006.

[41] See the explanatory notes to the Act at www.opsi.gov.uk/acts/en2006/2006en04.htm

157 The IRA's statement of 28th July 2005 gave notice that its leadership had formally ordered an end to its armed campaign. The Government responded to this statement by updating and triggering Annex 1 to the Joint Declaration on 1st August 2005. Under the Annex the Government committed to the repeal of the *Part VII* provisions by 31st July 2007 provided the enabling environment is established and maintained.

158 At the time the Bill which resulted in the 2006 Act was introduced into Parliament, the Government assessed the security situation and determined that the Part VII provisions remain necessary until the end of the normalisation programme. The 2006 Act therefore made provision for the *Part VII* provisions currently in force (excluding *section 78*) to remain in force until 31st July 2007.

159 The Government also took the view that it would be prudent to make legislative provision in case the security situation does not improve sufficiently to allow for the *Part VII* provisions to cease to have effect in July 2007. The Act therefore makes provision to enable the Secretary of State to extend the provisions of *Part VII* by order for a specified period ending before 1st August 2008.

160 The 2006 Act additionally makes provision to:

- Add the offences created by the *Prevention of Terrorism Act 2005* to the list of scheduled offences under *Part VII* of the 2000 Act;
- Ensure that all scheduled offences are subject to the Attorney General's discretionary power to deschedule an offence;
- Repeal those provisions of *Part VII* which are not currently in force together with *section 78* (which relates to the sentencing of children convicted of a scheduled offence);

- Retain in force *section 11 of, and Schedule 2 to, the Justice (Northern Ireland) Act 2004* until the 31st July 2007. These provisions ensure that breaches of bail in scheduled cases are dealt with in a similar way to non-scheduled cases; and
- Allow the Secretary of State to make, by order, the transitional and consequential provision necessary on the *Part VII* provisions ceasing to have effect.

161 I am convinced of the increasing realisation that the democratic process is a speedier vehicle towards acceptable change than an armed struggle, even when the political parties may seem irreconcilable on some key issues. Most citizens of Northern Ireland are as opposed to terrorist acts and other heavy crime as their fellow citizens elsewhere in Great Britain and Ireland. The remarkable and courageous decision announced on the 26th March 2007 to resume the Assembly government process provides real grounds for optimism.

162 In carrying out my review of *Part VII* as amended by the 2006 Act, I must examine whether it has been used fairly. In the past part of my role was to determine whether I should recommend that there was a continuing need for each of its provisions, and if so whether any amendments should be made.

163 The St Andrews agreement and subsequent legislation will render this part of my role redundant.

164 I have been briefed fully by the military in relation to their role in Northern Ireland. The same applies to the Police Service of Northern Ireland. The reduction in Army activity, together with the dismantling of watch towers and some other military infrastructure, are clear signs of normalisation.

165 I am in contact with the legal checks and balances in the Northern Ireland situation, having spent time in discussions with (amongst others) the Lord Chief Justice of Northern Ireland and other senior judges, the Director of Public Prosecutions of Northern Ireland, senior management of the PSNI, the Police Ombudsman, the Independent Assessor of Military Complaints Procedures, the former Independent Commissioner for Detained Terrorist Suspects and the Chief Commissioner of the Human Rights Commission, as well as the political parties as mentioned above. All mentioned in this paragraph have made significant contributions to my knowledge and process.

SCHEDULED OFFENCES: SECTION 65 AND SCHEDULE 9

166 *Schedule 9* sets out in three parts those offences which are made subject to special provisions in *Sections 65 to 80* and *Section 82* of the Act. During 2006 the Secretary of State made no orders to add or remove offences from *Schedule 9*, or to amend the Schedule in some other way.

167 Annexed to this report are Northern Ireland Statistics similar to those I have produced in past reports. The details given are fuller and clearer than before[42]. Table NIO/A demonstrates that in 2006 160 indictable offences, representing 25% of the total, remained scheduled. This compares with 15.25% for 2005. However, the increase must be set against a large reduction in the number of persons involved, in 2006 415 as against 528 for 2005. I am satisfied that there is a continuing desire and attempt to try as many cases as possible in jury courts. I trust that this trend will continue under the new statutory arrangement due in force shortly. As many trials as possible should occur in the normal way, with the ultimate fact-finding responsibility in the hands of the jury. Nevertheless there is no evidence that any defendant is at a disadvantage in a Diplock court, where the conviction/acquittal rate over recent years has compared closely with jury courts.

168 There is some evidence of former paramilitaries having become involved in serious organised crime – including drugs importation and distribution, and protection racketeering. These activities are becoming increasingly distant from any political objectives. One can reasonably expect that sentences for such offences will be severe in the future, especially if any attempt is used by what effectively are no more than

[42] Northern Ireland Research and Statistical Bulletin 4/2006, D Lyness; available via www.nio.gov.uk

gangsters to destabilise the political process or communities. Any evidence of intimidation of witnesses and jurors should be met by swingeing penalties.The Northern Ireland justice system must be allowed to normalise quickly and as free from malign disruption as is humanly possible. A welcome step in the process of normalisation will be the involvement of the whole political community in the Policing Board.

169 No new issues have been drawn to my attention arising from the provisions of *TA2000 Section 66*, which requires a Magistrates' Court to conduct a preliminary inquiry into the offence in proceedings before such a Court for a scheduled offence. I have received no adverse representations on the working of this section.

REMANDS AND LIMITATIONS ON BAIL – SECTIONS 67-71 TA2000

170 Section 67 in essence removed the normal presumption in favour of bail. The wording of *Section 67(3)* provided that a judge *"may, in his discretion"* admit to bail a person charged with a non-summary scheduled offence unless satisfied that there exist circumstances which are strong contra-indications to bail.

171 Consistent with recommendations I made in previous reports, *section 67(3)* and *(4)* were repealed in 2006[43].The effect of this is to normalise legal standards for the granting of bail between Great Britain and Northern Ireland.

172 Bail applications in scheduled offences may only be made to a judge of the High Court or the Court of Appeal, prior to being listed in the court of trial (*Section 67(2)*). High Court judges sit at weekends if necessary, to deal with bail applications. Good quality video conferencing court facilities are available for this purpose, so that applicants do not have to be transported to Belfast for applications.

173 Table NIO/B sets out details of High Court bail applications in Northern Ireland in respect of persons charged with scheduled offences in 2006. These reveal that 21% of such bail applications were refused [2005: 21%].

174 Table NIO/C shows that in 2006 68% of defendants charged with scheduled offences were on bail at the time of trial. This compares with 72% of those charged with non-scheduled offences. This compares satisfactorily with the previous four years.

[43] *Terrorism (Northern Ireland) Act 2006, section 5(2)*

175 *Section 68*, a provision relating to legal aid, has been repealed.

176 *Section 69* makes provision limiting to 28 days remands in custody by magistrates' courts in respect of scheduled offences. It has caused no difficulty. *Sections 70* and *71* have been repealed.[44]

[44] *Terrorism (Northern Ireland) Act 2006, section 5(3)*

TIME LIMITS FOR PRELIMINARY PROCEEDINGS – SECTIONS 72 TO 74

177 *Sections 72-73* are concerned with time limits for preliminary proceedings. It empowers the Secretary of State to make regulations by negative resolution procedure to specify, in respect of any of the preliminary stages of proceedings for a scheduled offence, the maximum period for the prosecution to complete a particular stage, and the maximum period for which the accused may be remanded or committed in custody awaiting the completion of that stage. Detailed provisions are made in *Sections 72* and *73* for the contents of such statutory regulations and their consequences. No such regulations were made, and in my view none were necessary.

178 Table NIO/D shows an increase in 2006 in the time between committal and final hearing. This apparent diminution in efficiency should be monitored carefully.

179 My overall view is that a reasonably successful case management system is in operation, including an administrative time limit scheme. The criminal justice reforms have case management and better regulation as a priority.

NON-JURY TRIALS – SECTIONS 74 AND 75

180 It is always worth reminding ourselves that the establishment of non-jury trials in Northern Ireland resulted from Lord Diplock's 1972 Commission to *"consider what arrangements for the administration of justice in Northern Ireland could be made in order to deal more effectively with terrorist organisations."*[45] The urgency of this requirement has evolved over time. Today we aim to have an effective and fair system of trial, robust enough to deal with the special challenges of terrorism without diluting in any way the quality of justice achieved.

181 The central recommendation of the 1972 Commission was that trials of terrorist related crimes, defined as "scheduled offences", should be heard by a judge of the High Court or County Court sitting without a jury, but with all the powers, authorities and jurisdiction of the jury court. Added to this was an unfettered right of appeal. This was first given effect by the *Northern Ireland (Emergency Provisions) Act 1973*. Lord Diplock's rationale for this recommendation was that the jury system as a means for trying such crime was under strain and that there existed no safeguard against the danger of perverse verdicts – a danger which could arise either because of intimidation or partisan juries.

182 The Diplock Courts are retained by the 2006 Act, but will be replaced when it comes to an end by a non-jury court triggered on a different basis. The use of non-jury courts is likely to diminish.

183 *Section 76* has been repealed, with no adverse consequences.

[45] Report of the Commission to consider legal procedures to deal with terrorist activities in Northern Ireland; CM 5185, Dec 1972

POSSESSION OF EXPLOSIVE SUBSTANCES AND FIREARMS – SECTION 77

184 My conclusion in relation to *Section 77 TA2000* is as last year. *Section 77* imposes a form of evidential onus on a defendant charged with a scheduled offence of possessing explosives and petrol bombs, and various offences relating to firearms. It is for the defendant to prove that he did not know of the presence of articles on premises or that he had no control over them if he is to rebut the presumption that he was in possession of such articles (and, if relevant to the offence, knowingly). The effect of the onus placed on the defendant has been illustrated clearly by the Court of Appeal of Northern Ireland in the 2003 judgment of Kerr J in *R v Shoukri*.[46]

185 The presumption referred to above is unusual in such legislation, in that it is one permitted to the Court rather than required of the Court. This leaves room for judicial discretion in appropriate circumstances.

186 Having regard to the terrorist history, and the difficulty in obtaining evidence as to the source and chain of provision of explosives and firearms, in my view the necessity for *Section 77* remains clear, for the time being. It is not causing any injustice.

[46] R v Andre Shoukri; reference KERC4062

SENTENCING AND REMISSION – SECTIONS 78-80

187 *Sections 78* has been repealed[47].

188 *Sections 79-80*, dealing with remission for convictions of scheduled offences, remain in force. They will lapse when the Bill currently before Parliament comes into force.

189 Table NIO/E shows the number of scheduled convictions during remission. The figures are small and not capable of material comment.

190 No complaints have been made to me about these sections in the past year.

[47] *Section 5(2) Terrorism (Northern Ireland) Act 2006*

POWERS OF ARREST, SEARCH, SEIZURE AND EXAMINATION OF DOCUMENTS – SECTIONS 81 TO 88 TA 2000: SCHEDULE 5

191 These provisions provide powers enabling the army to operate independently of the police in Northern Ireland.

192 They also provide additional powers to the police for use in the prevention and investigation of terrorist crime. The provisions include powers to enter premises, to arrest, to stop and search, to search and seize, to examine documents and to stop and question. In this section my conclusions are as in the 2 previous years.

193 *Section 81* allows a police officer to enter and search any premises if he has reasonable suspicion that a person who is or has been concerned in the commission, preparation or instigation of acts of terrorism is to be found there. Table NIO/F shows a reduction in the use of the powers in 2006.

194 *Section 82* provides that any police officer may arrest without warrant any person whom he has reasonable grounds to suspect is committing, has committed or is about to commit a scheduled offence or an offence under the Act which is not a scheduled offence, and may enter and search any premises or other place for that purpose. *Section 82(3)* empowers an officer to seize and retain anything which he suspects is being, has been or is intended to be used in the commission of a scheduled offence or an offence under the Act which is not a scheduled offence. *Section 83* provides a power of arrest and detention for a period not exceeding 4 hours to a member of Her Majesty's Forces on duty who reasonably suspects that a person is committing, has committed or is about to commit any offence, together with corresponding powers of entry and seizure.

195 Tables NIO/G-H show a considerable reduction in 2006 of the use of the *section 82-83* powers. This is welcome.

196 Recent events have brought about the momentous disappearance of the Army from the streets of Northern Ireland. This is a welcome part of the normalisation process.

197 Table NIO/I shows a dramatic decrease in the use of the *section 84* powers to search premises for munitions and transmitters. This too is welcome evidence of less violence, and of normalisation.

198 Table NIO/J shows a reduction of about 70% in the use of the examination of documents powers provided by *section 87*. This too is welcome.

POWER TO STOP AND QUESTION – SECTION 89 TA 2000

199 *Section 89* empowers an officer to stop a person for so long as is necessary to question him and ascertain his identity and movements, what he knows about a recent explosion or another recent incident endangering life, and what he knows about a person killed or injured in a recent explosion or incident. It is an offence to fail to comply and respond.

200 Table NIO/K shows the number of persons stopped pursuant to *Section 89* in 2006.

201 There has been a huge reduction as compared with previous years, with the military no longer involved at all. The reduction in the use of these powers has not been accompanied by any increase in public disorder. This is welcome news.

202 Nobody failed to stop or answer questions in January-September 2006, as in the previous year.

203 The oral and documentary evidence available to me leads me to the conclusion that the power to stop and question is administered and supervised to a high standard.

POWERS OF ENTRY, TAKING POSSESSION OF LAND, ROAD CLOSURE ETC. – SECTIONS 90 TO 95 TA 2000.

204 The powers under these sections are vested severally and in some cases jointly in the police, the military and the secretary of State. All have regarded them as key aids to public order.

205 In 2006 the *Section 91* power to take possession of land was exercised by requisition twice, as is shown By Table NIO/L. This is a significant and welcome reduction, evidence of increasing public goodwill as well as of judicious policing.

206 The requisitioning and road closure provisions are useful for the preservation of the peace and public order. They are well administered, used sparingly and still necessary.

REGULATIONS FOR PRESERVATION OF THE PEACE: SECTION 96

207 *Section 96* provides a general power to the Secretary of State to make regulations for the preservation of the peace.

208 The power is wide ranging. Regulations made under it are subject to the affirmative resolution procedure.The *Northern Ireland (Emergency Provisions) Regulations 1991 (S.I.1991/1759)* and the *Northern Ireland (Emergency Provisions) Regulations 1975 (S.I. 1975/2213)* were made under the predecessor of this power and remain in force.

209 These include rules concerning the halting of trains and the regulation of funerals. The power has been used in the past to prevent the use of certain border roads in South Armagh in order to disrupt an organised fuel smuggling enterprise. Fuel smuggling remains very much a part of criminal activity in Northern Ireland.

210 Although rarely invoked, the regulations still in force are regarded by the police as potentially useful to deal with predictable situations.

211 In my view *Section 96* remains necessary and potentially useful.

212 *Section 97* has been repealed[48].

[48] *Section 5(2) Terrorism (Northern Ireland) Act 2006*

SAFEGUARDS: SECTIONS 98-104

213 *Section 100* has been repealed[49]. *Sections 98-101* and *104* provide safeguards in the operation of *Part VII* including the provision for the appointment of an Independent Assessor of Military Complaints Procedures and a power for the Secretary of State to make Codes of Practice in relation to the police and army powers under *Part VII*.

214 These powers have operated well.

[49] *Section 5(2) Terrorism (Northern Ireland) Act 2006*

COMPENSATION – SECTION 102 AND SCHEDULE 12

215 *Schedule 12* provides for compensation to be paid for certain action taken under *Part VII* of the Act. *Paragraph 1 of Schedule 12* provides for compensation where under *Part VII* of the Act property is taken, occupied, destroyed or damaged; or any other act is done which interferes with private rights of property.

216 The Schedule contains provisions removing the right to compensation for persons convicted of a scheduled offence in connection with which the *Part VII* act was done.

217 Table NIO/M sets out the compensation paid in 2006. They show a more or less steady position. The cost of compensation is at an acceptable level.

218 There has been no indication to me that the compensation system is not working well. The proper provision of compensation for disturbance to private rights is appropriate.

TERRORIST INFORMATION – SECTION 103.

219 *Section 103* is concerned with terrorist information. It creates offences if a person collects, records, publishes, communicates or attempts to elicit information, or has in his possession records or documents containing information that might be useful in committing or preparing an act of terrorism. The offences are limited to information concerning those who might be regarded as particularly vulnerable to terrorist acts, namely judges, constables, members of Her Majesty's Forces, court officers and full-time employees of the Prison Service in Northern Ireland. It includes the disclosure of information, whether maliciously or innocently, and plainly is directed at the media as well as at terrorist organisations.

220 *Section 103* applies only to Northern Ireland. This is because of the specific historic nature of the threat posed there against certain categories of people working within sensitive areas of security.

221 It remains a prudent provision.

SECTION 106 AND SCHEDULE 13: REGULATION OF PRIVATE SECURITY INDUSTRY

222 These provisions provide for the regulation of the private security industry in Northern Ireland.

223 *Section 106* brought into effect *Schedule 13*, which provides a regime for the licensing of private security services. The provision of unlicensed services is an offence. Table NIO/N reveals that 12 applications for licenses and renewals in the first three quarters of 2006 were refused, with none made subject to conditions.

224 I consider that an active licensing regime is desirable and necessary, given the number of persons with criminal records involved in the security industry in some parts of Great Britain.

SPECIFIED ORGANISATIONS – SECTIONS 107 TO 110

225 The specification of proscribed organisations remains necessary, having regard to the continuing danger posed by dissident terrorist groups, those which have placed themselves entirely outside the sphere of influence of the Northern Ireland democratic institutions and political parties despite recent developments. Careful consideration is given to issues of proscription and de-proscription, with the public interest as the key factor.

226 Pursuant to *Section 11 TA 2000* a person commits an offence if he belongs or professes to belong to a proscribed organisation. *Sections 108-111* were introduced following the Omagh bombing.

227 *Section 108* makes provisions for the evidence that may lead a Court to conclude that a *Section 11* offence has been committed.

228 *Section 108(2) and (3)* render admissible, under a *section 11* charge, hearsay evidence which would not otherwise be admissible. The evidence must be given orally by a police officer of at least the rank of superintendent. If it is his opinion that the accused belongs to an organisation which is specified, or belonged to an organisation at a time when it was specified, that statement *"shall be admissible"* as evidence of the matter stated, but the accused shall not be committed for trial, be found to have a case to answer or be convicted solely on the basis of the statement.

229 In considering this section I am mindful that the police officer of at least the rank of superintendent in giving the evidence will be acting on information or intelligence provided to him by others. Against that, there is obviously a risk that the information contained in his evidence may have passed through several hands. I do bear closely in mind the quality of the intelligence and information to which the authorities often have access in Northern Ireland. I remain of the view that the quality of such intelligence and information is generally good and is assessed carefully against appropriate criteria and standards.

230 *Section 108* has not been used, so far as I am aware. As I have said before, I find it difficult to envisage a situation in which a court would find itself able to attach significant weight to evidence given under *Section 108*. In this context weight, not admissibility, is the true issue.

231 *Section 109* allows adverse inferences to be drawn from a failure to mention a fact which is material to a *Section 11* offence and which the accused could reasonably be expected to mention when being questioned or on being charged. It is a pre-requisite of the adverse inference that before being questioned charged or informed the accused was permitted to consult a solicitor. Conviction cannot be founded upon this adverse inference.

232 The adverse inferences available under *Section 109* are consistent with the now established general criminal law in England and Wales, following the enactment of *Section 34 of the Criminal Justice and Public Order Act 1994*.

233 I remain of the view that *Section 109* remains necessary and proportional. I am reinforced in this conclusion by the provisions of *Section 110*, and especially *Section 110(1)(c)*, which sustains other enactments leading to evidence being ruled inadmissible.

FORFEITURE ORDERS – SECTION 111 : SCHEDULE 4 PART III.

234 *Section 111* provides for the forfeiture of money or any other property if a person is convicted of an offence under *Section 11* (Membership of a Proscribed Organisation) or *Section 12* (Support for a Proscribed Organisation).

235 Again this year I have received no representations against the continuation of *Section 111*. Any person other than the convicted person who claims to be the owner of or otherwise interested in anything which can be forfeit under the Section is given an opportunity to be heard.

236 *Schedule 4 part III* makes provision in relation to forfeiture orders made by a court in Northern Ireland under *TA200 Section 23*, where there is a conviction of an offence contrary to *sections 15-18* (fund-raising, use and possession of terrorist money or other property, entering into funding arrangements and money laundering for terrorism).

237 *Paragraph 36* of the Schedule enabled the Secretary of State, rather than the courts, to make and enforce restraint orders. *Section 112(5)(a)* made it clear that this paragraph was to be treated as temporary.

238 The *paragraph 36* powers and their predecessor had not been used for many years. I was advised that in appropriate cases now the police would seek restraint orders through the courts, and that there are more effective powers in any event available under general criminal legislation.

239 I recommended in 2002 that *Schedule 4 paragraph 36* be allowed to lapse. This has happened.[50] *Paragraph 37* may still have some utility: without it only contempt of court powers would be available to deal with breach of a court restraint order.

240 In my view *Section 111* as amended remains necessary and proportional.

[50] IS 2003/427, art 1

8 PART VIII OF THE ACT: GENERAL PROVISIONS

241 *Part VIII* contains general powers necessary to give the Act full effectiveness, definitions and regulation-making powers.

242 Again this year *sections 114-116* have provoked no complaints of which I am aware, either as inadequate or as providing too much power to police officers.They seem to me to be a necessary part of counter-terrorism police powers.

243 *Section 117* requires the consent of the DPP or the Attorney General to prosecutions in respect of most offences under *TA2000*. This is an important safeguard against the arbitrary use of wide powers that could be misused in the wrong hands. The effectiveness of consent to prosecute as a protection against arbitrariness depends on far more than the astuteness and level of knowledge held by the DPP or Attorney General concerned. It depends too on the accuracy and integrity of the information provided for the purpose of the exercise of consent.

244 *Section 118*, which in my previous reports I described as an interesting and apparently effective example of a double-reverse-onus provision, deals with the prosecution's burden of disproving a statutory defence once the defence has complied with the evidential burden of raising it. No problems have been identified about its fitness for purpose.

245 *Sections 119 to 125* are largely formal or definitions consequent upon the Act as a whole. I have reviewed them fully, and have no basis for suggesting that they do not work to meet purpose.

246 *Section 126* establishes the mechanism leading to this report. It provides that the Secretary of State shall lay before both Houses of Parliament at least once in every 12 months *'a report on the working of this Act'*. If necessary, I shall produce supplementary reports either on the Act as a whole or on issues arising under it.

247 The transitional provisions contained in *section 129* have worked satisfactorily, and now are historic.

9 PART IX OF THE ACT: SCHEDULES TO THE ACT

248 All the schedules have been the subject of amendment and partial repeal.

249 *Schedule 1* deals with transitional matters, and has served its purpose.

250 *Annex G* lists those organisations currently proscribed under *Schedule 2*, pursuant to *section 3*.

251 *Schedule 3* provides for the constitution, administration and procedure of POAC.

252 *Schedule 3A* defines the regulated sector and supervisory authorities, and is discussed above.

253 *Schedule 4* was amended by *ATCSA2001*. The schedule covers forfeiture, restraint and connected compensation orders. It remains a necessary part of the Act, and works.

254 *Schedules 5 and 6* were amended by ATCSA2001. The effect of those amendments has not led to any representations to me since my last report. If there have been any particular difficulties I should be pleased to hear of them and give them full attention in the coming year.

255 *Schedule 6A* introduced the system of account monitoring orders. They can be obtained only by order of a circuit judge or equivalent, and on grounds set out in reasonably clear terms in *paragraph 2*. Their potential as a route towards useful evidence is self-evident.

256 *Schedule 7* (port powers) is discussed above. It too was amended, albeit not extensively, by *ATCSA2001*.

257 *Schedule 8*, concerning the detention of terrorist suspects under *section 41* or *Schedule 7*, is discussed above. A significant amendment introduced by *ATCSA2001* allowed authorisation for the obtaining from a detained person of fingerprints, restricted to cases of refusal of identity or where there are reasonable grounds to doubt the claimed identity[51]. Used fairly, this is a proportional and reasonable provision, and should work adequately. Three years ago I recommended that statistics should be kept by the Home Office of the use of this power. Frustratingly, I have yet to be provided with them: they should now be made available.

258 The period of maximum and judicially supervised detention has been extended to 28 days, as described above.

259 *Schedules 9-13* relate to Northern Ireland. They are covered within the ambit of my comments on *Schedule VII* above.

260 The remaining schedules, *14 and 15*, have not given any cause for comment.

[51] See Schedule 8 paragraphs 10-15, 20

10 PART X OF THE ACT: SCOTLAND

261 My travels as reviewer take me reasonably frequently to Scotland. I have been there again in the past year. Scottish special branches have close working relationships together, and I am impressed by their commitment to sharing information. They operate well at both the macro and micro level. There exists in Scottish police forces a very high level of expertise on terrorism matters, and a real sense of purpose. There is a very impressive level of partnership between police and coastal communities in parts of Scotland, with reference to any terrorism threat from incoming boats.

262 Since my last report *section 44* has been used in Scotland, but sparingly.

263 The frequent presence in Scotland of members of the Royal Family has given Scottish forces a long-standing expertise in anticipating and analysing any terrorist threat, as well as of the necessary close protection issues.

11 PART XI OF THE ACT: CONCLUSION

264 My conclusions in general are as before. As always, throughout my travels, reading and discussions in connection with the *TA2000* I have been fully conscious of the delicate nature of the balance between political freedoms and the protection of the public from politically driven violence and disorder.

265 I always have in mind that national security is a civil liberty, to which every citizen is entitled.

266 Overall, and subject to some detailed comment above, I regard the *Terrorism Act 2000* as continuing to be fit for purpose.

Alex Carlile

Lord Carlile of Berriew Q.C.

9-12 Bell Yard, London WC2A 2JR

March 2007.

ANNEX A

PERSONS AND ORGANISATIONS SEEN AND/OR INVOLVED IN CONSULTATIONS and ACTIVITIES and CORRESPONDENCE INCLUDED:

Mohammed Abbasi

ACPO

ACPOS and Scottish Terrorist detention Centre

Lord Adebowale

Ahmadiyya Muslim Association UK

Lord Alderdice FRCPsych

Alliance Party

Amnesty International EU, Brussels

Amnesty International UK

Mrs F Amrani, Cambridge

The Army, HW Northern Ireland

Bangla Desh, Ministers and officials

Bangla Desh Bank, Dhaka

The British Academy

Mr T Boyle, Edenbridge

Mr D H Broome, Northampton

Mr M Budd, Oakworth

British Business and General Aviation Association

Canadian Parliament, Standing Committee on Justice

University of Wales Cardiff

Centre for policy Alternatives, Sri Lanka

CENTREX (National Centre for Policing Excellence)

Chamber of Shipping

Chatham House

Professor Robert Chesney, North Carolina

Christian Concern for our Nation, Haywards Heath

Steven Ciomo M.P. (Australia)

Citizens Against Terror

City Forum

City of London Police

Ms G Clayden, Worthing

Clove Systems

Committee for the Administration of Justice, Northern Ireland

Conservative Party

Council of Europe

Mr Alun Davies, Bell Davies, Leatherhead

The Rt Hon John Denham M.P., Chairman of the Home Affairs Committee

Ms H Dudden, Bath

DUP

Dyfed-Powys Police

Eden Intelligence

Essex Police

University of Essex Human Rights Centre

European Baroque Orchestra

Dr M FitzGerald, London SW1

Professor Conor Gearty

Alwyn Harvey, Falmouth

Mr N Hayes

Hizb ut-Tahrir Britain

Home Affairs Committee, House of Commons

Home Office Ministers and officials

Howard League

Desiree Howells, Wanstead

Andrew Hull, Metropolitan Police Authority

Human Rights watch

Immigration Service Union

Independent Assessor of Military Complaints Procedures, N Ireland

Independent Monitoring Commission

Independent Police Complaints Commission

India, Ministers and officials

Institute of Advanced Legal Studies

Intelligence and Security Committee

International Commission of Jurists, Eminent Jurists Panel

Joint Committee on Human Rights

Joint Terrorism Analysis Centre (JTAC)

JUSTICE

Kent Police

Liberal Democrat Party

The Liberal Institute

Liberty

Lord Chief justice of Northern Ireland

Lydd Airport Action Group

Mr H Lynes, Carshalton Beeches

The Chief Magistrate

Mr D Mery, Islington

Metropolitan Police

Mr J Milner, Cirencester

National Coordinator of Ports Policing

National Joint Unit

National Council of Resistance of Iran

University of Newcastle

Northern Ireland Human Rights Commission

Sebastian Payne, Kent Law School

PUP

Northern Ireland Office Ministers and Officials

Northern Ireland Policing Board

Northern Ireland Public Prosecution Service

National Ports Analysis Centre

Mr D Packham

Pakistan, Ministers and officials

Mark and Julie Pennell, Sherborne

His Honour Judge Playford Q.C.

PICTU (Police International Counter Terrorism Unit)

Police Service of Northern Ireland

Police Ombudsman of Northern Ireland

Pysdens Solicitors (Samuel Perez-Goldzveig)

Mrs Rajavi, NCRI, Paris

HM Revenue and Customs

Royal College of Defence Studies

Royal College of Psychiatrists

Dr Ajai Sahni, Institute for Conflict Management, India

Mr AJFB Samengo-Turner, Hundon

Scotland Against Criminalising Communities

SDLP

The Security Institute

Security Service

Sinn Fein

Southern Maritime Services

South Wales Police

Sri Lanka, Ministers and officials

Strathclyde Police

Bill Thompson, Thompson Training

The Times of India

Mr H Tomlinson, London SE1

Glenmore Trenear-Harvey

UK High Commission, Dakha, Bangla Desh

UK High Commission, Delhi, India

UK High Commission Islamabad, Pakistan

UK High Commission, Colombo, Sri Lanka

United Nations Organisation, New York

UUP

Professor Clive Walker

ANNEX B

PORTS VISITED

Belfast City Airport

Biggin Hill Airport

Farnborough Airport

Port of Felixstowe

London Gatwick Airport

London Heathrow Airport

Port of Hull

Humberside Airport

London Stansted Airport

Luton Airport

RAF Northolt Airport

Oxford Airport

Port of Portsmouth

ANNEX C

2006 (JAN – DEC)

Terrorism Act charges for persons detained in UK (excluding N/Ireland) under Terrorism Act 2000 and Terrorism Act 2006.

	No.
Sections 11-13 (membership offences)	**15**
Section 15-19 (Funding offences)	**5**
Section 38B (Information about acts of terrorism)	**6**
Sections 54-58 (Training/Terrorism Information)	**39**
Schedule 7 para. 18 offences (Ports breaches)	**9**
Offences under Terrorism Act 2006	**32**
TOTAL NUMBER OF CHARGES	**106**
TOTAL NUMBER OF PERSONS CHARGED	**65**
(some people are charged with more than one offence)	

UK Police Terrorism Arrest Statistics (Excluding N. Ireland) 2006

156	People were arrested under terrorist legislation
29	Arrests under legislation other than terrorist legislation, where the investigation was conducted as a Terrorist Investigation.
185	**Total**

Outcomes

44	Charged with terrorism legislation offences only
25	Charged with terrorism legislation offences and other criminal offences
16	Charged under other legislation. E.g. murder, grievous bodily harm, firearms, explosives offences, fraud, false documents, etc.
4	Handed over to Immigration Authorities
1	On Police Bail awaiting charging decisions
0	Cautioned
0	Dealt with under youth offending procedures
0	Dealt with under Mental Health legislation
1	Transferred to PSNI custody
94	Released without charge
0	Remanded in Custody under US Extradition warrant
0	Result of Investigation awaits
185	**Total**

4	Terrorism Act convictions to date.
8	Convicted under other legislation. E.g. murder, grievous bodily harm, firearms, explosives offences, fraud, false documents, etc
0	Died while awaiting trial (natural causes)
55	At or awaiting trial for terrorism related offences
4	At or awaiting trial for non-terrorism related offences only
0	Awaiting sentence

ANNEX D: CORDONS ESTABLISHED UNDER THE TERRORISM ACT IN 2006

City of London

Date	Location	Duration
30 April 2006	Bishopsgate, City of London	17 minutes
8 June 2006	Houndsditch, City of London	28 minutes
10 June 2006	Lloyds Avenue, City of London	19 minutes
14 August 2006	Fleet Street, City of London	22 minutes
29 September 2006	Millennium Bridge, City of London	29 minutes
4 October 2006	Distaff Lane, City of London	49 minutes
3 December 2006	Paternoster Square, City of London	30 minutes
24 December 2006	Aldgate, City of London	43 minutes

Greater Manchester Police

Date	Location	Duration
24 May 2006	Moss Side	1 day 10 hours 15 minutes
24 May 2006	Old Trafford	10 hours 50 minutes
29 May 2006	Old Trafford	13 hours 5 minutes
23 August 2006	Cheetham Hill	4 days 22 hours 40 minutes
2 September 2006	Cheetham Hill	5 days 12 hours
2 September 2006	Cheetham Hill	4 days 4 hours 55 minutes
2 September 2006	Cheetham Hill	4 days 3 hours 35 minutes
19 September 2006	Bury	3 days

Metropolitan Police (Separate figures unavailable for Marylebone)

Date	Location	Duration
26 April 2006	Hammersmith and Fulham	4 hours
30 April 2006	West End Central	28 minutes
6 May 2006	Lambeth	1 hour 5 minutes
16 June 2006	Lambeth	1 hour 10 minutes
30 June 2006	Redbridge	34 minutes
2 August 2006	Redbridge	42 minutes
6 August 2006	Kensington and Chelsea	50 minutes
12 August 2006	Redbridge	38 minutes
13 August 2006	West End Central	44 minutes
14 August 2006	Tower Hamlets	30 minutes
9 September 2006	Kensington and Chelsea	30 minutes
4 October 2006	Redbridge	1 hour 14 minutes
17 October 2006	Redbridge	2 hours 6 minutes

ANNEX E

PROSCRIBED ORGANISATIONS[52]

(As described on the Home Office website)

- 44 international terrorist organisations are proscribed under the Terrorism Act 2000
- Of these, two organisations are proscribed under powers introduced in the Terrorism Act 2006, as glorifying terrorism
- 14 organisations in Northern Ireland are proscribed under previous legislation

List of proscribed terrorist groups
The information about the groups' aims was given to parliament when they were proscribed.

17 November Revolutionary Organisation (N17):
Aims to highlight and protest at what it deems to be imperialist and corrupt actions, using violence. Formed in 1974 to oppose the Greek military Junta, its stance was initially anti-Junta and anti-US, which it blamed for supporting the Junta.

Abu Nidal Organisation (ANO):
ANO's principal aim is the destruction of the state of Israel. It is also hostile to 'reactionary' Arab regimes and states supporting Israel.

Abu Sayyaf Group (ASG):
The precise aims of the ASG are unclear, but its objectives appear to include the establishment of an autonomous Islamic state in the Southern Philippine island of Mindanao.

Al-Gama'at al-Islamiya (GI):
The main aim of GI is through all means, including the use of violence, to overthrow the Egyptian Government and replace it with an Islamic state. Some members also want the removal of Western influence from the Arab world.

Al Gurabaa:
Al Gurabaa is a splinter group of Al-Muajiroon and diseminates materials that glorify acts of terrorism.

Al Ittihad Al Islamia (AIAI):
The main aims of AIAI are to establish a radical Sunni Islamic state in Somalia, and to regain the Ogaden region of Ethopia as Somali territory via an insurgent campaign. Militant elements within AIAI are suspected of having aligned themselves with the 'global jihad' ideology of Al Qaida, and to have operated in support of Al Qaida in the East Africa region.

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[52] http://www.homeoffice.gov.uk/security/terrorism-and-the-law/terrorism-act/proscribed-groups?version=1

Al Qaida:
Inspired and led by Osama Bin Laden, its aims are the expulsion of Western forces from Saudi Arabia , the destruction of Israel and the end of Western influence in the Muslim world.

Ansar Al Islam (AI):
AI is a radical Sunni Salafi group from northeast Iraq around Halabja. The group is anti-Western, and opposes the influence of the US in Iraqi Kurdistan and the relationship of the KDP and PUK to Washington. AI has been involved in operations against Multi-National Forces-Itaq (MNF-I).

Ansar Al Sunna (AS):
AS is a fundamentalist Sunni Islamist extremist group based in Central Iraq and what was the Kurdish Autonomous Zone (KAZ) of Northern Iraq. The group aims to expel all foreign influences from Iraq and create a fundamentalist Islamic state.

Armed Islamic Group (Groupe Islamique Armée) (GIA):
The aim of the GIA is to create an Islamic state in Algeria using all necessary means, including violence.

Asbat Al-Ansar ('League of Parisans' or 'Band of Helpers'):
Sometimes going by the aliases of 'The Abu Muhjin' group/faction or the 'Jama'at Nour', this group aims to enforce its extremist interpretation of Islamic law within Lebanon, and increasingly further afield.

Babbar Khalsa (BK):
BK is a Sikh movement that aims to establish an independent Khalistan within the Punjab region of India .

Basque Homeland and Liberty (Euskadi ta Askatasuna) (ETA):
ETA seeks the creation of an independent state comprising the Basque regions of both Spain and France.

Baluchistan Liberation Army (BLA):
BLA are comprised of tribal groups based in the Baluchistan area of Eastern Pakistan, which aims to establish an idependant nation encompassing the Baluch dominated areas of Pakistan, Afghanistan and Iran.

Egyptian Islamic Jihad (EIJ):
The main aim of the EIJ is to overthrow the Egyptian Government and replace it with an Islamic state. However, since September 1998, the leadership of the group has also allied itself to the 'global Jihad' ideology expounded by Osama Bin Laden and has threatened Western interests.

Groupe Islamique Combattant Marocain (GICM):
The traditional primary objective of the GICM has been the installation of a governing system of the caliphate to replace the governing Moroccan monarchy. The group also has an Al Qaida-inspired global extremist agenda.

Hamas Izz al-Din al-Qassem Brigades:
Hamas aims to end Israeli occupation in Palestine and establish an Islamic state.

Harakat-Ul-Jihad-Ul-Islami (HUJI):
The aim of HUJI is to achieve though violent means accession of Kashmir to Pakistan, and to spread terror throughout India. HUJI has targetted Indian security positions in Kashmir and conducted operations in India proper.

Harakat-Ul-Jihad-Ul-Islami (Bangladesh) (Huji-B):
The main aim of HUJI-B is the creation of an Islamic regime in Bangladesh modelled on the former Taleban regime in Afghanistan.

Harakat-Ul-Mujahideen/Alami (HuM/A) and Jundallah:
The aim of both HuM/A and Jundallah is the rejection of democracy of even the most Islamic-oriented style, and to establish a caliphate based on Sharia law, in addition to achieving accession of all Kashmir to Pakistan. HuM/A has a broad anti-Western and anti-President Musharraf agenda.

Harakat Mujahideen (HM):
HM, previously known as Harakat Ul Ansar (HuA), seeks independence for Indian-administered Kashmir. The HM leadership was also a signatory to Osama Bin Laden's 1998 fatwa, which called for worldwide attacks against US and Western interests.

Hizballah External Security Organisation:
Hizballah is committed to armed resistance to the state of Israel itself and aims to liberate all Palestinian territories and Jerusalem from Israeli occupation. It maintains a terrorist wing, the External Security Organisation (ESO), to help it achieve this.

Hezb-E Islami Gulbuddin (HIG):
Led by Gulbuddin Hekmatyar who is in particular very anti-American, HIG desires the creation of a fundamentalist Islamic State in Afghanistan and is anti-Western.

International Sikh Youth Federation (ISYF):
ISYF is an organisation committed to the creation of an independent state of Khalistan for Sikhs within India.

Islamic Army of Aden (IAA):
The IAA's aims are the overthrow of the current Yemeni government and the establishment of an Islamic State following Sharia Law.

Islamic Jihad Union (IJU):
The primary strategic goal of the IJU is the elimination of the current Uzbek regime. The IJU would expect that following the removal of President Karimov, elections would occur in which Islamic-democratic political candidates would pursue goals shared by the IJU leadership.

Islamic Movement of Uzbekistan (IMU):
The primary aim of IMU is to establish an Islamic state in the model of the Taleban in Uzbekistan. However, the IMU is reported to also seek to establish a broader state over the entire Turkestan area.

Jaish e Mohammed (JeM):
JeM seeks the 'liberation' of Kashmir from Indian control as well as the 'destruction' of America and India. JeM has a stated objective of unifying the various Kashmiri militant groups.

Jeemah Islamiyah (JI):
JI's aim is the creation of a unified Islamic state in Singapore, Malaysia, Indonesia and the Southern Philippines.

Khuddam Ul-Islam (Kul) and splinter group Jamaat Ul-Furquan (JuF):
The aim of both KUI and JuF are to unite Indian administered Kashmir with Pakistan; to establish a radical Islamist state in Pakistan; the 'destruction' of India and the USA; to recruit new jihadis; and the release of imprisoned Kashmiri militants.

Kongra Gele Kurdistan (PKK):
PKK/KADEK/KG is primarily a separatist movement that seeks an independent Kurdish state in southeast Turkey. The PKK changed its name to KADEK and then to Kongra Gele Kurdistan, although the PKK acronym is still used by parts of the movement.

Lashkar e Tayyaba (LT):
LT seeks independence for Kashmir and the creation of an Islamic state using violent means.

Liberation Tigers of Tamil Eelam (LTTE):
The LTTE is a terrorist group fighting for a separate Tamil state in the North and East of Sri Lanka.

Mujaheddin e Khalq (MeK):
The MeK is an Iranian dissident organisation based in Iraq. It claims to be seeking the establishment of a democratic, socialist, Islamic republic in Iran.

Palestinian Islamic Jihad – Shaqaqi (PIJ):
PIJ is a Shi'a group which aims to end the Israeli occupation of Palestine and create an Islamic state similar to that in Iran. It opposes the existence of the state of Israel, the Middle East Peace Process and the Palestinian Authority.

Revolutionary Peoples' Liberation Party – Front (Devrimci Halk Kurtulus Partisi – Cephesi) (DHKP-C):
DHKP-C aims to establish a Marxist Leninist regime in Turkey by means of armed revolutionary struggle.

Teyre Azadiye Kurdistan (TAK):
TAK Kurdish terrorist group currently opperating in Turkey.

Salafist Group for Call and Combat (Groupe Salafiste pour la Predication et le Combat) (GSPC):
Its aim is to create an Islamic state in Algeria using all necessary means, including violence.

Saved Sect or Saviour Sect:
The Saved Sect is a splinter group of Al-Muajiroon and diseminates materials that glorify acts of terrorism.

Sipah-E Sahaba Pakistan (SSP) (Aka Millat-E Islami Pakistan (MIP) – SSP was renamed MIP in April 2003 but is still referred to as SSP) and splinter group Lashkar-E Jhangvi (LeJ):
The aim of both SSP and LeJ is to transform Pakistan by violent means into a Sunni state under the total control of Sharia law. Another objective is to have all Shia declared Kafirs and to participate in the destruction of other religions, notably Judasim, Christianity and Hinduism.

Note: Kafirs means non-believers: literally, one who refused to see the truth. LeJ does not consider members of the Shia sect to be Muslim, hence they can be considered a 'legitimate' target.

Libyan Islamic Fighting Group (LIFG):
The LIFG seeks to replace the current Libyan regime with a hard-line Islamic state.The group is also part of the wider global Islamist extremist movement, as inspired by Al Qaida.The group has mounted several operations inside Libya, including a 1996 attempt to assassinate Mu'ammar Qadhafi.

Proscribed Irish groups

- Continuity Army Council
- Cumann na mBan
- Fianna na hEireann
- Irish National Liberation Army
- Irish People's Liberation Organisation
- Irish Republican Army
- Loyalist Volunteer Force
- Orange Volunteers
- Red Hand Commando
- Red Hand Defenders
- Saor Eire
- Ulster Defence Association
- Ulster Freedom Fighters
- Ulster Volunteer Force

NB: All quarterly statistics may be subject to minor revision

NIO/A

Number of instances in Northern Ireland for which offences are certified out of the scheduled mode of trial by the Attorney General (Section 65, Schedule 9).

Year	Total number of offences for which applications made[1]	Number of persons involved	Number of offences for which applications	
			1. Granted	2. Refused
2002				
Jan-Mar	221	141	207	14
Apr-Jun	299	200	267	32
Jul-Sept	361	277	323	38
Oct-Dec	484	315	419	65
2002 Total	**1,365**	**933**	**1,216**	**149**
2003				
Jan-Mar	525	314	403	325
Apr-Jun	314	229	272	219
Jul-Sept	418	282	348	283
Oct-Dec	107	32	55	42
2003 Total	**1,567**	**1,034**	**1,331**	**236**
2004				
Jan-Mar	228	251	159	102
Apr-Jun	160	188	122	88
Jul-Sept	195	214	126	94
Oct-Dec	33	37	33	8
2004 Total	**740**	**558**	**629**	**111**
2005				
Jan-Mar	189	346	195	129
Apr-Jun	130	185	131	82
Jul-Sept	145	273	192	118
Oct-Dec	44	73	3	11
2005 Total	**859**	**528**	**728**	**131**
2006				
Jan-Mar	180	173	163	120
Apr-Jun	135	126	89	65
Jul-Sept	129	148	98	101
Oct-Dec	51	25	65	19
2006 Total	**636**	**415**	**476**	**160**

Note: 1. An application may relate to one person charged with one offence, or one person charged with a number of offences, or a number of persons with the same offence.

Source: The Public Prosecution Service for Northern Ireland

NIO/B

Limitation of Power to grant bail: High Court bail applications in Northern Ireland in respect of persons charged with scheduled offences (Section 67)[1].

Year	Number of applications	Number granted	% granted[2]	Number refused	% refused[2]	Other outcomes[3]	other outcomes[2]
2002							
Jan-Mar	317	194	61	55	17	68	21
Apr-Jun	321	176	55	62	19	83	26
Jul-Sept	408	187	46	102	25	119	29
Oct-Dec	448	217	48	107	24	124	28
2002 Total	**1,494**	**774**	**52**	**326**	**22**	**394**	**26**
2003							
Jan-Mar	416	188	45	97	23	131	31
Apr-Jun	429	203	47	96	22	130	30
Jul-Sept	455	242	53	79	17	134	29
Oct-Dec	475	228	48	108	23	139	29
2003 Total	**1,775**	**861**	**49**	**380**	**21**	**534**	**30**
2004							
Jan-Mar	401	171	43	90	22	140	35
Apr-Jun	434	187	43	81	19	166	38
Jul-Sept	429	225	52	85	20	119	28
Oct-Dec	505	273	54	90	18	142	28
2004 Total	**1,769**	**856**	**48**	**346**	**20**	**567**	**32**
2005							
Jan-Mar	271	139	51	52	19	80	30
Apr-Jun	394	208	53	67	17	119	30
Jul-Sept	529	266	50	120	23	143	27
Oct-Dec	647	343	53	156	24	148	23
2005 Total	**1,841**	**956**	**52**	**395**	**21**	**490**	**27**
2006							
Jan-Mar	365	193	53	61	17	111	30
Apr-Jun	533	265	50	101	19	167	31
Jul-Sept	548	266	49	120	22	162	30
Oct-Dec	436	277	64	108	25	51	12
2006 Total	**1,882**	**1,001**	**53**	**390**	**21**	**491**	**26**

Notes: 1. Figures exclude applications for compassionate home leave, variation of bail conditions, surety discharges and revocation of bail.

2. Percentages may not add to 100 due to rounding.

3. Figures under 'Other outcomes' include applications withdrawn, dismissed and adjourned.

4. Scheduled offences are those offences defined by Schedule 9 to the Terrorism Act 2000.

Source: Northern Ireland Court Service.

NIO/C

Limitation of power to grant bail: Percentage of persons on bail at time of trial in Northern Ireland (Section 67).

Year	Persons charged with	
	Scheduled offences (%)	Non-scheduled offences (%)
2002		
Jan-Mar	33	78
Apr-Jun	63	74
Jul-Sept	48	77
Oct-Dec	68	71
2002 Total	**58**	**73**
2003		
Jan-Mar	65	77
Apr-Jun	82	75
Jul-Sept	71	69
Oct-Dec	86	73
2003 Total	**78**	**74**
2004		
Jan-Mar	65	73
Apr-Jun	46	73
Jul-Sept	71	61
Oct-Dec	78	74
2004 Total	**67**	**71**
2005		
Jan-Mar	77	74
Apr-Jun	75	71
Jul-Sept	71	73
Oct-Dec	60	76
2005 Total	**71**	**73**
2006		
Jan-Mar	50	74
Apr-Jun	84	69
Jul-Sept	78	77
Oct-Dec	58	70
2006 Total	**68**	**72**

Source: Northern Ireland Court Service.

NIO/D

Time limits for preliminary proceedings: Average processing times in Northern Ireland for scheduled defendants remanded in custody and dealt with by the Crown Court (Section 72).

Year	Average processing time – weeks					
	Remand to Committal		Committal to Arraignment		Arraignment to Hearing	
	Average processing time	Number of defendants	Averge processing time	Number of defendants	Averge processing time	Number of defendants
2002						
Jan-Mar	35.1	17	4.9	13	6.7	12
Apr-Jun	43.8	29	3.0	11	13.6	11
Jul-Sept	41.8	18	12.4	10	4.1	10
Oct-Dec	44.5	25	9.0	11	11.8	11
2002 Total	**42.3**	**94**	**7.0**	**47**	**8.7**	**46**
2003						
Jan-Mar	41.0	18	8.5	8	12.3	8
Apr-Jun	47.5	38	5.3	10	46.0	9
Jul-Sept	45.3	6	8.4	2	17.1	2
Oct-Dec	36.2	11	8.0	5	3.1	5
2003 Total	**44.1**	**73**	**7.1**	**25**	**23.4**	**24**
2004						
Jan-Mar	34.6	14	4.6	10	12.0	9
Apr-Jun	55.6	7	6.8	6	38.1	6
Jul-Sept	41.1	13	4.7	5	31.7	5
Oct-Dec	46.5	10	10.1	6	7.4	4
2004 Total	**41.9**	**50**	**6.5**	**28**	**23.1**	**25**
2005						
Jan-Mar	45.3	9	11.0	3	5.1	3
Apr-Jun	46.4	18	6.7	8	28.2	7
Jul-Sept	32.7	21	5.6	7	25.9	7
Oct-Dec	51.9	17	6.6	8	16.4	8
2005 Total	**43.3**	**65**	**6.9**	**26**	**21.0**	**25**
2006						
Jan-Mar	28.1	6	5.5	5	15	3
Apr-Jun	75.1	19	5.6	4	10.6	4
Jul-Sept	35.4	5	7.1	2	49.1	2
Oct-Dec	25.2	29	7.4	16	28.6	14
2006 Total	**42.4**	**59**	**6.8**	**27**	**25.5**	**23**

Notes: The table is based on defendants disposed of within the time period. It includes only those in custody in each separate remand stage and where a waiting time has been recorded. (Not all defendants experience a waiting time between arraignment (plea entry and hearing). Figures include defendants with bench warrants and court recesses.

The three periods are treated separately and cannot be totalled as some defendants may change status (custody to bail and vice-versa) between stages.

Hearing: 1st day of trial (i.e. commencement of trial at court).

Quarterly components (i.e. number of defendants) may not sum to annual total due to ongoing revisions of administrative systems.

Source: Northern Ireland Court Service.

NIO/E

Section 80 – Scheduled Convictions during Remission

Year	Number of persons sentenced for scheduled offences	Number convicted while on remission from prison or young offenders centre
2004		
Jan-Mar	N/A	N/A
Apr-Jun	N/A	N/A
Jul-Sept	N/A	N/A
Oct-Dec	13	0
2004 Total[1]	**13**	**0**
2005		
Jan-Mar	13	0
Apr-Jun	16	0
Jul-Sept	23	0
Oct-Dec	14	1
2005 Total	**66**	**1**
2006		
Jan-Mar	6	0
Apr-Jun	28	0
Jul-Sept	7	0
Oct-Dec	29	0
2006 Total	**70**	**0**

Note: 1. Data prior to October 2004 not available. 2004 total includes October–December only.

2. Figures are sourced to administrative databases and may be subject to revision due to late returns.

3. Includes persons with mixed outcomes. Figures are based on persons disposed of at court during the time period.

Source: Northern Ireland Court Service; Northern Ireland Office

NIO/F

Section 81 – Arrest of suspected terrorists (Power of entry).

Year	Number of premises entered	Number convicted while or young offenders centre
2002		
Jan-Mar	9	0
Apr-Jun	0	0
Jul-Sept	14	N/A
Oct-Dec	11	N/A
2002 Total	**34**	**N/A**
2003		
Jan-Mar	4	N/A
Apr-Jun	12	10
Jul-Sept	32	29
Oct-Dec	15	15
2003 Total	**63**	**54**
2004		
Jan-Mar	8	8
Apr-Jun	15	14
Jul-Sept	2	1
Oct-Dec	6	6
2004 Total	**31**	**29**
2005		
Jan-Mar	3	3
Apr-Jun	6	6
Jul-Sept	3	2
Oct-Dec	12	12
2005 Total	**24**	**23**
2006		
Jan-Mar	12	12
Apr-Jun	5	5
Jul-Sept	1	1
Oct-Dec	1	1
2006 Total	**19**	**19**

Note: 1. Information from July 2002 to March 2003 not available

Source: Police Service of Northern Ireland.

NIO/G

Persons arrested in Northern Ireland by members of the PSNI and Her Majesty's forces under Sections 82 and 83 respectively.

Year	Section 82		Section 83
	Persons arrested by Police	Persons subsequently charged[1]	Persons arrested by Her Majesty's forces
2002			
Jan-Mar	2	N/A	4
Apr-Jun	7	N/A	4
Jul-Sept	12	N/A	8
Oct-Dec	10	N/A	7
2002 Total	**31**	**N/A**	**23**
2003			
Jan-Mar	6	N/A	4
Apr-Jun	12	1	0
Jul-Sept	9	4	1
Oct-Dec	12	5	0
2003 Total	**39**	**10**	**5**
2004			
Jan-Mar	1	0	1
Apr-Jun	5	2	3
Jul-Sept	0	0	1
Oct-Dec	1	0	1
2004 Total	**7**	**2**	**6**
2005			
Jan-Mar	12	4	5
Apr-Jun	20	0	0
Jul-Sept	0	0	1
Oct-Dec	6	0	0
2005 Total	**38**	**4**	**6**
2006			
Jan-Mar	0	0	1
Apr-Jun	5	2	0
Jul-Sept	1	0	0
Oct-Dec	0	0	0
2006 Total	**6**	**2**	**1**

Note: 1. Information not available prior to April 2003.

NIO/H

Numbers of occasions in which premises in Northern Ireland were searched by police and Her Majesty's forces under Sections 82 and 83 respectively.

Year	PSNI Searches forces[1]	Searches by Her Majesty's
2002		
Jan-Mar	7	6
Apr-Jun	2	26
Jul-Sept	5	33
Oct-Dec	11	41
2002 Total	**25**	**106**
2003		
Jan-Mar	7	7
Apr-Jun	0	38
Jul-Sept	8	9
Oct-Dec	9	18
2003 Total	**24**	**72**
2004		
Jan-Mar	0	16
Apr-Jun	15	2
Jul-Sept	0	4
Oct-Dec	1	0
2004 Total	**16**	**22**
2005		
Jan-Mar	2	0
Apr-Jun	4	0
Jul-Sept	21	0
Oct-Dec	0	0
2005 Total	**27**	**0**
2006		
Jan-Mar	0	0
Apr-Jun	7	0
Jul-Sept	0	0
Oct-Dec	0	0
2006 Total	**7**	**0**

Note: 1. All searches conducted by Her Majesty's forces are in conjunction with the Police Service of Northern Ireland.

NIO/I

Section 84 – Premises searches (Munitions and Transmitters)

Year	Number of Premises searched by Police			Number of Premises searched by Her Majesty's forces[1]
	Dwellings	Other	Total	Total
2002				
Jan-Mar	91	22	113	32
Apr-Jun	90	27	117	61
Jul-Sept	100	34	134	92
Oct-Dec	188	39	227	98
2002 Total	**469**	**122**	**591**	**283**
2003				
Jan-Mar	171	34	205	385
Apr-Jun	125	21	146	415
Jul-Sept	96	10	106	489
Oct-Dec	94	14	108	397
2003 Total	**486**	**79**	**565**	**1,686**
2004				
Jan-Mar	44	7	51	142
Apr-Jun	109	19	128	50
Jul-Sept	61	6	67	86
Oct-Dec	64	12	76	83
2004 Total	**278**	**44**	**322**	**361**
2005				
Jan-Mar	44	8	52	62
Apr-Jun	63	7	70	50
Jul-Sept	137	36	173	76
Oct-Dec	82	11	93	51
2005 Total	**326**	**62**	**388**	**239**
2006				
Jan-Mar	55	2	57	25
Apr-Jun	33	10	43	39
Jul-Sept	54	11	65	27
Oct-Dec	59	8	67	13
2006 Total	**201**	**31**	**232**	**104**

Note: 1. Searches conducted by Her Majesty's forces are in conjunction with the Police Service of Northern Ireland. Figures represent the aggregate of all Route, Area, Vehicle, Railway and Venue searches conducted by Her Majesty's forces

Source: Police Service of Northern Ireland
Her Majesty's forces Headquarters Northern Ireland

NIO/J

Section 87 – Examination of Documents

Year	Number of Occasions documents examined	Number of Occasions documents removed
2002		
Jan-Mar	4	4
Apr-Jun	16	16
Jul-Sept	16	9
Oct-Dec	15	14
2002 Total	**51**	**43**
2003		
Jan-Mar	28	22
Apr-Jun	23	23
Jul-Sept	28	28
Oct-Dec	25	24
2003 Total	**104**	**97**
2004		
Jan-Mar	17	17
Apr-Jun	36	30
Jul-Sept	12	11
Oct-Dec	18	15
2004 Total	**83**	**73**
2005		
Jan-Mar	25	15
Apr-Jun	12	5
Jul-Sept	33	18
Oct-Dec	36	21
2005 Total	**106**	**59**
2006		
Jan-Mar	11	11
Apr-Jun	15	14
Jul-Sept	4	3
Oct-Dec	6	5
2006 Total	**36**	**33**

Source: Police Service of Northern Ireland.

NIO/K

Section 89 – Stop and Question

Year	Police Service for Northern Ireland		Her Majesty's forces
	Number of persons stopped	Number of persons failing to stop or answer questions	Number of persons stopped and questioned
2002			
Jan-Mar	63	0	2,286
Apr-Jun	307	0	2,251
Jul-Sept	1,471	0	3,561
Oct-Dec	607	0	1,775
2002 Total	**2,448**	**0**	**9,873**
2003			
Jan-Mar	282	1	2,952
Apr-Jun	294	0	1,736
Jul-Sept	360	0	3,366
Oct-Dec	432	0	2,840
2003 Total	**1,368**	**1**	**10,921**
2004			
Jan-Mar	252	0	2,279
Apr-Jun	352	0	966
Jul-Sept	739	1	1,040
Oct-Dec	619	1	871
2004 Total	**1,962**	**2**	**5,156**
2005			
Jan-Mar	974	0	753
Apr-Jun	438	0	1,165
Jul-Sept	597	0	1,086
Oct-Dec	464	0	97
2005 Total	**2,473**	**0**	**3,101**
2006			
Jan-Mar	407	0	24
Apr-Jun	283	0	0
Jul-Sept	269	0	0
Oct-Dec	145	0	0
2006 Total	**1,104**	**0**	**24**

Source: Police Service of Northern Ireland
Her Majesty's forces Headquarters Northern Ireland.

NIO/L

Section 91 – Taking Possession of land – numbers of requisition and de-requisition orders

Year	Number of Requisition Orders	Number of De-requisition Orders
2002		
Jan-Mar	0	1
Apr-Jun	14	0
Jul-Sept	0	14
Oct-Dec	0	0
2002 Total	**14**	**15**
2003		
Jan-Mar	0	0
Apr-Jun	13	0
Jul-Sept	1	20
Oct-Dec	0	2
2003 Total	**14**	**22**
2004		
Jan-Mar	0	0
Apr-Jun	14	0
Jul-Sept	0	14
Oct-Dec	0	0
2004 Total	**14**	**14**
2005		
Jan-Mar	0	0
Apr-Jun	0	0
Jul-Sept	13	13
Oct-Dec	2	3
2005 Total	**15**	**16**
2006		
Jan-Mar	0	0
Apr-Jun	2	0
Jul-Sept	0	2
Oct-Dec	0	0
2006 Total	**2**	**2**

Source: Northern Ireland Office.

NIO/M

Compensation (Northern Ireland) (Section 102, Schedule 12)[1]

Year	Amount £		
	Compensation Payments[2]	Agency Payments[3]	Total
2002			
Jan-Mar	1,087,298	150,638	1,237,936
Apr-Jun	597,716	141,352	739,068
Jul-Sept	1,192,755	124,643	1,317,398
Oct-Dec	1,149,152	126,007	1,275,159
2002 Total	**4,026,921**	**542,640**	**4,569,561**
2003			
Jan-Mar	496,186	116,587	612,773
Apr-Jun	802,268	85,391	887,659
Jul-Sept	322,498	76,904	399,402
Oct-Dec	264,745	34,727	299,472
2003 Total	**1,885,697**	**313,609**	**2,199,306**
2004			
Jan-Mar	175,802	20,553	196,355
Apr-Jun	165,239	13,138	178,377
Jul-Sept	52,577	9,899	62,476
Oct-Dec	31,930	4,653	36,583
2004 Total	**425,548**	**48,243**	**473,791**
2005			
Jan-Mar	47,880	6,444	54,324
Apr-Jun	42,623	5,152	47,775
Jul-Sept	29,211	4,061	33,272
Oct-Dec	44,504	3,293	47,797
2005 Total	**164,218**	**18,950**	**183,168**
2006			
Jan-Mar	41,683	1,708	43,391
Apr-Jun	107,729	1,011	108,740
Jul-Sept	30,290	3,343	33,633
Oct-Dec	14,652	2,285	16,937
2006 Total	**194,354**	**8,347**	**202,701**

Notes: 1. Figures relate solely to claims paid during the relevant period.
2. Includes solicitors' and loss assessors' fees.
3. Comprises loss adjusters' fees (employed by the Compensation Agency).

Source: The Compensation Agency.

NIO/N

Private Security Services: Applications for licence to provide security for reward (Northern Ireland) (Section 106, Schedule 13).

Year	Number of applications for licence	Number of licences issued	Number issued with conditions	Number of appeals against conditions	Number of licences refused	Number of refusals appealed
2002						
Jan-Mar	32	32	0	0	0	0
Apr-Jun	26	26	0	0	0	0
Jul-Sept	22	22	0	0	0	0
Oct-Dec	19	19	0	0	0	0
2002 Total	**99**	**99**	**0**	**0**	**0**	**0**
2003						
Jan-Mar	33	33	0	0	0	0
Apr-Jun	30	30	0	0	0	0
Jul-Sept	22	21	1	0	0	0
Oct-Dec	22	21	1	0	0	0
2003 Total	**107**	**105**	**2**	**0**	**0**	**0**
2004						
Jan-Mar	29	29	0	0	0	0
Apr-Jun	29	29	0	0	0	0
Jul-Sept	24	24	0	0	0	0
Oct-Dec	16	15	1	0	0	0
2004 Total	**98**	**97**	**1**	**0**	**0**	**0**
2005						
Jan-Mar	27	27	0	0	0	0
Apr-Jun	30	30	0	0	0	0
Jul-Sept	26	26	0	0	0	0
Oct-Dec	20	20	0	0	0	0
2005 Total	**103**	**103**	**0**	**0**	**0**	**0**
2006						
Jan-Mar	15	15	0	0	0	0
Apr-Jun	32	20	0	0	0	0
Jul-Sept	18	18	0	0	0	0
Oct-Dec	28	40	7	0	0	0
2006 Total	**93**	**93**	**7**	**0**	**0**	**0**

Note: 1. Includes application for renewal of existing licences and applications for new licences.