

**REPORT OF THE INDEPENDENT REVIEWER**

**JUSTICE AND SECURITY (NORTHERN IRELAND)  
ACT 2007**

**EIGHTH REPORT: 1 AUGUST 2014 – 31 JULY 2015**

**David Seymour CB**

**February 2016**



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Presented to Parliament pursuant to Section 40 of the Justice and  
Security (Northern Ireland) Act 2007



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The Rt Hon Theresa Villiers MP  
Secretary of State for Northern Ireland

**Independent Reviewer of the Justice and Security (Northern Ireland) Act 2007**

In your letter to me of 11 November 2013 you appointed me as Independent Reviewer for the 3 year period from 1<sup>st</sup> February 2014 to 31<sup>st</sup> January 2017 under section 40 of the Justice and Security (Northern Ireland) Act 2007.

My Terms of Reference were set out in the letter as follows:


*“The functions of the Independent Reviewer of the Justice and Security (Northern Ireland) Act 2007 will be to review the operation of sections 21 to 32 of the Act and those who use or are affected by those sections; to review the procedures adopted by the Military in Northern Ireland for receiving, investigating and responding to complaints; and to report annually to the Secretary of State.*

*The Reviewer will act in accordance with any request by the Secretary of State to include matters over and above those outlined in Sections 21 to 32 of the Act.”*

The Seventh Report which I prepared covering the period 1 August 2013 to 31 July 2014 together with the first six Reports for 2008 to 2013 prepared by my predecessor are available on the Parliamentary website:  
[www.gov.uk/government/publications](http://www.gov.uk/government/publications).

I now have pleasure in submitting to you my second Report, which is the eighth annual Report, covering the period 1 August 2014 to 31 July 2015.

**The executive summary which sets out my conclusions and recommendations is at page 2.**



**DAVID SEYMOUR CB**

January 2016

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## INTRODUCTION

- 1.1 On 11 November 2013 I was appointed by the Secretary of State for Northern Ireland to the post of Independent Reviewer of the Justice and Security (Northern Ireland) Act 2007 (referred to throughout the rest of this Report as the JSA). My appointment is for a 3 year period and started on 1<sup>st</sup> February 2014. The functions of the Reviewer are to review the operation of sections 21 to 32 of the JSA and the procedures adopted by the military for receiving, investigating and responding to complaints. The provisions of sections 21 to 32 are summarised in Part 1 of **Annex C** to this Report. Broadly speaking, they confer powers to stop and question, to stop and search, to enter premises and to search for munitions etc, to stop and search vehicles, to take possession of land and to close roads. They are designed to address the specific security situation which exists in Northern Ireland. In announcing the appointment the Secretary of State said that:

*“the role of the Independent Reviewer is vital in securing confidence in the use of the powers....as well as the procedures adopted by the military in Northern Ireland for investigating complaints”.*

- 1.2 David Anderson QC, the Independent Reviewer of Terrorism Legislation in the United Kingdom, has said that the value of the Reviewer lies in the fact that he is independent, has access to secret and sensitive national security information, is able to engage with a wide cross section of the community and produces a prompt report which informs the public and political debate. That is the purpose of this Review and I am grateful to all the organisations and individuals who engaged in this process. I am also grateful to officials in the Northern Ireland Office (NIO) who facilitated these discussions and arranged my visits to Northern Ireland.
- 1.3 The previous 7 Reports covering the years 2008 to 2014 can be found on the Parliamentary website [www.gov.uk/government/publications](http://www.gov.uk/government/publications).

## 2. EXECUTIVE SUMMARY

- 2.1 The **methodology and approach** adopted for the review including details of visits, briefings, attendance at parades, attendance at PSNI training and meetings are set out together with an explanation of the format for this review. It was not necessary in this Report to revisit two issues – namely the PSNI's response to outstanding recommendations and the safeguards underpinning the use of JSA powers. These were dealt with in my last report. I have added 3 new chapters dealing with repeat stops and searches, record keeping and communications and transparency for the reasons set out in paragraph 3.9. The reporting period for the review remains 1<sup>st</sup> August to 31<sup>st</sup> July and this should be changed to one based on the calendar year (paragraphs 3.1 to 3.11).
- 2.2 The **security situation** remains as set out in the Secretary of State's Statements to Parliament of 26<sup>th</sup> February 2015 and 15<sup>th</sup> December 2015 and remains at SEVERE ie an attack is highly likely. The key point is that there are a number of small, disparate but dangerous groupings of DRs who continue to try to undermine Northern Ireland's democratic institutions through the use of violence (paragraphs 4.2 to 4.6). The **public order situation** continues to place great strain on PSNI resources. There were violent incidents arising from both the 12<sup>th</sup> July parade in Belfast and the Apprentice Boys parade in Derry but, on the whole, those 2 parades, together with the vast majority of parades throughout Northern Ireland, passed off peacefully. The situation at Twadell in North Belfast remains but the police presence there has been reduced during the reporting period (paragraphs 4.7 to 4.13).
- 2.3 There was only one **legal challenge** in the courts to the JSA regime. The case of **Ramsey** was heard by the Court of Appeal on 28<sup>th</sup> April 2015. The Court directed that the applicant file an amended and more detailed application for judicial review and the case was scheduled to be heard in the High Court on 23<sup>rd</sup> and 24<sup>th</sup> November 2015. In the event the case was not heard in November and is now scheduled for the 18<sup>th</sup> and 19<sup>th</sup> May 2016. The judgment will not therefore be handed down before this report is published. The appellant claims that, for a number of reasons, the power to stop and search under section 24/Schedule 3 is incompatible with the ECHR (paragraphs 5.1 to 5.5).
- 2.4 An analysis of the **operation of the powers in practice** indicates some interesting trends. In particular, the overall number of stops and searches under **all** legislation has fallen again (although, within that, the use of some powers has increased). The most striking statistic was that the use of the power to stop and search without reasonable suspicion under section 24/Schedule 3 fell by 14% following a fall of 34% in the previous reporting period. The PSNI will be addressing this issue in its training (paragraphs 6.2 to 6.6). Other issues covered are low arrest rates following the use of JSA powers (which is widely misunderstood) (paragraphs 6.7 and 6.8) ; whether



the police use of the powers is "heavy handed" (paragraphs 6.9 to 6.12); and the use of body worn cameras by the police (paragraphs 6.13 to 6.16).

- 2.5 The issue of **repeat stops and searches** was raised this year and is an issue in the case of **Ramsey**. A small number of residents were stopped on numerous occasions. Some analysis was done in the PSNI nearly 2 years ago which showed that 8 individuals were stopped and searched in excess of 40 times a year and on average those subject to multiple stops and search were searched 8 times a year. The concerns are concentrated in particular areas eg North Belfast and parts of Derry. The concerns of residents are set out together with the PSNI response. The legal position is set out. This issue generates strong feelings, misunderstandings and mistrust. A full explanation by the PSNI of why these powers are necessary and how they are exercised would be helpful (paragraphs 7.1 to 7.12).
- 2.6 **Record keeping** has become an issue following the High Court judgment in **Emmet McAreavy** in May 2014. As a result of that case the Secretary of State was required to re-consult on the issue of how records of the use of JSA powers should be made. The outcome of the consultation was published on 29<sup>th</sup> October 2015 and the Secretary of State has decided that the records should continue to be made by the police electronically using BlackBerrys (as the Code of Practice currently provides) rather than the previous method of issuing a paper record. This is also one of the issues raised in the case of **Ramsey**. There are many advantages in making these records electronically. However, there is one disadvantage - the person stopped or searched cannot obtain a copy of the record without visiting a police station and, although there are as yet no figures available, some have expressed a concern that the only a small percentage of those subject to these powers will visit a police station to collect the record (paragraphs 8.1 to 8.7).
- 2.7 The PSNI are taking forward a pilot scheme for the **community monitoring** of the use of JSA powers in response to requests from a number of bodies. It is called the Equality Monitoring Stop and Search Project (EMSS) and it began in Derry and Strabane on 1<sup>st</sup> December 2015 and will run for 3 months. This project and its evaluation will be reviewed in the next Report (paragraphs 9.1 to 9.5).
- 2.8 The powers in the JSA are very intrusive and the policing of a divided community is a highly sensitive issue. It is therefore important that **communication and transparency** are a priority. A number of people (including some within the PSNI) have said that communication and transparency could be improved (paragraphs 10.1 to 10.9).
- 2.9 The **authorisations** process under Section 24/Schedule 3 (which permits the use of JSA powers without reasonable suspicion) is criticised on 4 grounds (a) they are rolling fortnightly authorisations (b) they cover the whole of Northern Ireland (c) it is a "rubber stamp" exercise and (d) there is no independent element in the decision making process. These objections are not, in my view, justified. On the contrary, I think that the provisions in the JSA which govern

authorisations should be amended to reflect more accurately the ongoing security situation in Northern Ireland which is likely to continue for the foreseeable future. In particular authorisations should be for at least 3 months provided existing safeguards are retained (paragraphs 11.1 to 11.10).

- 2.10 The **armed forces** in Northern Ireland act in support of the PSNI in certain circumstances but they have no role in public order situations. Nevertheless they have powers under the JSA, in certain circumstances, to stop and question, stop and search, arrest and enter premises. The armed forces have not needed to exercise these powers during this reporting period despite the large number of occasions when they have been called upon to dispose of explosive ordnance. These powers should nevertheless be retained (paragraphs 12.1 and 12.2). The level of EOD activity in support of the PSNI has fallen in this reporting period. The army were called out on 267 occasions (compared to 347 in the previous reporting period) (paragraph 12.3). The EOD activity in Derry on 28<sup>th</sup>/29<sup>th</sup> July 2015 caused considerable concern. It was a legitimate deployment but misunderstood in the local community. There should have been a better factual account of this incident offered by the PSNI (paragraphs 10.5 to 10.7 and 12.4 to 12.11). There were 7 complaints about low flying military aircraft and trespass to private property 2 of which were not handled as promptly or as well as they could have been (paragraphs 12.12 to 12.22).
- 2.11 There are some **miscellaneous** matters covered in this report namely how the PSNI have responded to outstanding recommendations (paragraph 13.1); the impact of PSNI restructuring on the exercise of JSA powers (none but the opportunity should be taken to use the new structures to monitor and co-ordinate the more effective use of those powers) (paragraphs 13.2 to 13.4); and recent developments in relation to road closures and land requisition (paragraphs 13.5 to 13.11).
- 2.12 In my letter of appointment the Secretary of State asked me not only to review the use of the JSA powers but also to review the impact on those affected by their use. The **views of consultees** (if not covered in the main report) are summarised in paragraphs 14.1 to 14.12). They do not all directly relate to the use of JSA powers but they help to set this review in context. They relate to some limited reaction to my last report (paragraphs 14.2 to 14.4); the fall in the level of community policing (paragraph 14.5); whether or not stop and search still remains an issue (paragraph 14.6); the impact of cuts in PSNI resources (paragraph 14.7); public order (paragraph 14.8); frustration with the criminal justice system (paragraph 14.9); PSNI “bias” (paragraph 14.10); whether the security threat is exaggerated (paragraph 14.11); and concern about what the future held for young people (paragraph 14.12).
- 2.13 A number of **recommendations** are made concerning the reporting period for this Review; the duration of authorisations; the retention of existing police and Army powers under the JSA; the publication by the PSNI of certain information; the use of body worn cameras; a review by the PSNI of its

“repeat” use of JSA powers; and the maintenance of complaint files by the Army (paragraphs 15.2 to 15.8).

### **3. METHODOLOGY AND APPROACH**

- 3.1 This is not an inspection, inquiry or investigation but a review of the exercise by the police and military of the use of powers in the JSA. It is concerned with how these exceptional powers are being exercised generally. It is not concerned with individual conduct or complaints which are a matter for the relevant authorities ie the Ombudsman, PSNI disciplinary procedures and the courts. I have no powers to compel people to give evidence or to co-operate. The report depends for its effectiveness on the willingness of many people in Northern Ireland to contribute to the process by talking openly and honestly about the powers, how they are exercised and the impact on their communities. I have not attributed views to any particular individual or organisation unless those views are already in the public domain. I am grateful to all of them who spoke openly to me about their experiences of the JSA. This report is based on what they told me. All references in this report to sections etc are references to sections in the JSA unless otherwise stated.
- 3.2 I visited Northern Ireland 11 times between June and October 2015 and I visited Dublin in May 2015 on one occasion. These visits varied in length between one and four days.
- 3.3 I attended many briefing sessions (both formal and informal) with the PSNI and the armed forces and received briefings from MI5. I visited HQ 38 (Irish Brigade) at Thiepval Barracks at Lisburn and the army base at Aldergrove and received briefings on the role which the armed forces play in support of the PSNI. Again, I was very impressed by the dedication, bravery and professionalism of the military and, in particular, those whose role it is to defuse and dispose of IEDs the use of which remains a constant threat in Northern Ireland.
- 3.4 I have discussed policing issues and, in particular, the use of the JSA powers with PSNI officers of all ranks and benefitted from briefings and contributions from them on many occasions. I have also had discussions with PSNI lawyers, statisticians and analysts. I have attended a PSNI training session at Garnerville and visited the Centre for Information on Firearms and Explosives (CIFEX). I attended a meeting of the PSNI’s Terrorism and Security Powers (TASP) Group and received a briefing from the TSG. I visited and spoke to police officers in Lurgan, Craigavon, Banbridge, Newtownhamilton, Crossmaglen, Newtownbutler, Omagh, Enniskillen, Kesh and Linaskea as well as many officers based in Derry and Belfast. They have all responded unfailingly to requests for information. Once again, I have been impressed by their enthusiasm to provide information and to engage with me in an open and constructive manner. Last year they were prepared to be more forthcoming and transparent and showed a willingness to place more material in the public

domain than in the past and this trend has continued during the current reporting period. This is to be welcomed because the more the general public understand what the police are trying to do and the reasons for doing it the greater their support will grow and confidence levels will rise. The purpose of the JSA powers is to protect people from harm caused by the use of munitions. In this context, it is important to record that their commitment to delivering their overriding objective of keeping the people of Northern Ireland safe remains undiminished despite huge pressure on their resources.

- 3.5 The 12<sup>th</sup> July parades were held on 13<sup>th</sup> July in 2015 because the 12<sup>th</sup> July fell on a Sunday. On 13<sup>th</sup> July I attended parades on the street in the villages of Newtownbutler and Kesh in County Fermanagh and the Orange Order parade in Belfast. I watched the latter stages of the parade in Belfast on screens at PSNI HQ together with the Chief Constable, the MoJ, the Parliamentary under Secretary of State and a number of senior officials. I also attended the Apprentice Boys Parade on 8<sup>th</sup> August in Derry. On both occasions I had detailed discussions with senior PSNI officers about the policing of these events and other issues relating to security and public order.
- 3.6 I have had discussions with a wide variety of people in Northern Ireland including representatives of all the political parties, members of the legal profession, church and community leaders, NGOs, charitable bodies, the CJINI, the Ombudsman, organisations representing police officers, former paramilitaries and ex-prisoners and other members of the public. I have received a number of briefings from the NIO including from their Security and Protection Group (SPG), Legacy Group and Engagement Group.
- 3.7 The powers in the JSA address the unique security situation which exists in Northern Ireland. They are not replicated elsewhere in the UK. There are similar (but not identical) powers of stop and search in TACT 2000 which apply throughout the UK. David Anderson QC is the Independent Reviewer of Terrorism Legislation in the UK but he and my predecessor agreed that the exercise of the TACT 2000 powers in Northern Ireland should be reviewed by the JSA Reviewer. With the agreement of Mr Anderson this arrangement has continued. Those TACT 2000 powers are summarised in Part 2 of **Annex C**.
- 3.8 In my last Report I devoted a chapter to the many outstanding recommendations which the PSNI responded to in a positive way. Consequently, there is no need for a Chapter on the PSNI's response to recommendations. I also looked at the safeguards governing the JSA regime which underpin its compatibility with the ECHR. These have not changed so that chapter is not repeated.
- 3.9 However, I have added 3 new chapters dealing with repeat stops and searches (Chapter 7), record keeping (Chapter 8) and communications and transparency (Chapter 10). I have concentrated on repeat stops and searches for 3 reasons

(a) a number of people have raised it with me as an area of concern;

- (b) I am specifically required by the Secretary of State to consider the impact of the exercise of these powers on those affected by them;
- (c) a significant proportion of the stops and searches fall into this category.

I have concentrated on record keeping because

- (a) the PSNI have in recent years moved to a system of electronic recording and this has raised some concerns and is an issue currently before the courts in a case which challenges the compatibility of the JSA with the ECHR; and
- (b) the issue of record keeping has been the subject of a public consultation by the Secretary of State following a judgment of the High Court in **Emmet McAreavy** in 2014.

The chapter on communications and transparency has also been added because of concerns expressed (and to some extent shared in the PSNI) about the need to explain to the wider public in greater detail how the JSA system operates.

- 3.10 In my last Report I reported my concerns about the reporting cycle under the JSA. The reporting period runs from 1<sup>st</sup> August to 31<sup>st</sup> July and straddles the marching season with the 12<sup>th</sup> July parade falling in one period and the Apprentice Boys parade in Derry a month later falling in the next reporting period. It would be helpful if, in due course, the reporting period were to change to the calendar year instead.
- 3.11 Under section 40(3) the Secretary of State can require me to include in the Report specified matters which need not relate to the use of the operation of the powers in the JSA and the procedures adopted by the armed forces for dealing with complaints but I have not received any such request.

#### **4. SECURITY AND PUBLIC ORDER**

- 4.1 The use of the powers in the JSA has to be assessed against the background of the security and public order situation.

##### **Security**

- 4.2 On 26<sup>th</sup> February 2015 (at approximately the mid-point in this reporting period) the Secretary of State for Northern Ireland made a Written Statement to Parliament. It was the 7<sup>th</sup> bi-annual update to Parliament on the security situation in Northern Ireland and her 5<sup>th</sup> such statement as Secretary of State. On 15<sup>th</sup> December (after the end of this reporting period) the Secretary of State made a further Statement to Parliament – the 8<sup>th</sup> bi-annual update and her 6<sup>th</sup> as Secretary of State. Both those Statements are at **Annex D** to this report.

- 4.3 The key point in her 5th statement was that *“a number of small, disparate but dangerous groupings of dissident republican terrorists continue with their attempts to undermine Northern Ireland’s democratic institutions through the use of violence”*. The threat level in Northern Ireland from Northern Ireland related terrorism remained “SEVERE” (an attack is highly likely) while the threat from such terrorism in Great Britain is “MODERATE” (an attack is possible but not likely). There had been 22 national security attacks in 2014 (ie attacks by DRs on the State or its representatives). In her most recent Statement the Secretary of State reported that there had been 16 national security attacks in 2015 and she described them as *“callous and reckless”*. The principal targets remain members of the PSNI, prison service and armed forces *“and the threat to life persists”*. The most serious incidents involved the use of army piercing weaponry in attacks on PSNI vehicles in Londonderry and Belfast. Two further attempts to murder PSNI officers involved booby trapped explosive devices in Strabane and Londonderry. An explosive device was sent to the Chief Constable at PSNI HQ. In her latest Statement the Secretary of State noted that whereas there had been 40 national security attacks in 2010 there were just 22 in 2014 but she added that *“the need for total vigilance in the face of the continuing threat remains”*.
- 4.4 David Anderson QC has also visited Northern Ireland during this reporting period and his assessment of the security position is summarised in paragraphs 2.15 to 2.18 of his report entitled “The Terrorism Acts in 2014” which was presented to Parliament in September 2015. He quoted Europol in its annual review of terrorism in the EU that the 109 shooting and bombing incidents in Northern Ireland were the only terrorist attacks in the UK in 2014 and *“represent more than half of the total number of terrorist incidents in the EU for the reporting period”*.
- 4.5 I have received security briefings on two occasions in June and September from the PSNI and MI5. In particular I was briefed about the strength, capability and methods of the New IRA, ONH and Continuity IRA. It is clear that technology relating to IEDs is being developed and DRs continue to use a range of IEDs in their attacks against the PSNI. The PSNI use the following abbreviations
- IED – improvised explosive device
  - IPG – improvised projectile grenade
  - RCIED – radio controlled improvised explosive device
  - CWIED – command wire improvised explosive device
  - UVIED – under vehicle improvised explosive device
  - VOIED – victim operated improvised explosive device (ie booby trap)
  - EFP – explosively formed projectile
  - VBIED – vehicle borne improvised explosive device.

I received briefing from the PSNI at their CIFEX HQ and saw, in particular, the serious harm and damage that can be caused by modern IEDs and in particular EFPs.

- 4.6 I was given very detailed briefing about the attempted murder in Eglington, Co Londonderry on 18<sup>th</sup> June 2015 of a PSNI officer using a UVIED involving a quantity of Semtex. I was shown a video of an attack on the PSNI at the Ardoyne shop front using an IPG. On 4<sup>th</sup> May 2015 two partially exploded bombs were discovered at an army reserve base in Derry. These are just a few examples. The worrying new trends are the increasing sophistication of IEDs and the reckless selection of targets where there is a real risk of harm to the public, for example, the use of a device disguised in the advertising hoarding of a betting shop in the Ardoyne and attacks on two hotels that were hosting PSNI events. Police officers, prison officers and the armed forces remain as prime targets though the methods used are indiscriminate and civilian lives are also put at risk by such tactics. It is clear that the security situation throughout the reporting period remained as described by the Secretary of State in her February 2015 statement and her December 2015 statement. Indeed it is unlikely that the situation will change for the foreseeable future. In David Anderson QC's report he concluded that "*I have no doubt that the good work of the police and security services continues to save many lives*". I agree with this assessment and, so long as the security situation remains as "SEVERE" I consider that the powers set out in the JSA should remain in place.

### **Public Order**

- 4.7 Public order policing is relevant to the operation of the JSA regime because-
- (a) the powers in the JSA are sometimes used in public order situations;
  - (b) the heavy cost of policing, for example, the Twaddell camp and the 12<sup>th</sup> July parades, means that resources are diverted from other activities of policing including operations under the JSA;
  - (c) the heavy, predictable – and, in the case of the Twaddell camp, permanent - concentration of PSNI officers in one area exposes the police as targets for violent DRs (as is illustrated by the attack with an IPG on the police on 16<sup>th</sup> November 2014 at the Ardoyne shop front);
  - (d) contentious marches, on both sides, reflect and reinforce the divisions in Northern Ireland which feed sectarianism and sadly, in some cases, acts of violence which generate the need for the JSA powers.
- 4.8 Once again public order challenges have placed great strain on PSNI resources. Approximately 4,500 parades took place in this reporting period. In addition there were a number of parades that were not notified to the Commission. Of these the vast majority passed off peacefully without major

incident and only a handful are contentious. Indeed, one commentator said that marching is only a contentious issue in North Belfast. I observed on the street the Orange Order march on 13th July in the almost exclusively CRN border village of Newtownbutler in Co Fermanagh. The streets were almost deserted and there appeared to be an air of indifference in the local community which clearly fell short of acceptance or tolerance. The march was completed without incident. By contrast the main parade in Kesh in Co Fermanagh was attended by thousands of people and there was a carnival atmosphere on the street throughout with families present and children participating either as spectators or marchers. On 8<sup>th</sup> August I attended the Apprentice Boys parade in Derry. It passed off without major incident. This has been the case for several years now and it is the result of hard work by the PSNI, local political leaders and community workers. It was noticeable that, although there was a clear police presence particularly at the Diamond in the centre of the City, the atmosphere was relaxed and PSNI officers were seen sitting in local cafes during the parade – a situation which would not have been possible a few years ago. There was a “white line” republican protest near the Diamond which passed off peacefully. A white line protest is one where the protesters take up a position in the centre of a roadway but not obstructing the flow of traffic. However, the day was marred by an incident in Dungiven Co Londonderry later on in the day. A bus carrying residents of Belfast back from the Apprentice Boys parade came under attack and a woman suffered bad facial injuries. I witnessed the aftermath on my return by car to Belfast on the A6. The Derry Journal of 8<sup>th</sup> August reported that the attack was widely condemned. SF Councillor Tony McCaul was reported as saying that the attack was *“absolutely disgusting and shouldn’t happen.. People should respect other people’s cultures. I utterly condemn it”*. Parish priest Fr Aidan Mullan said the attack was *“evil”* and *“was not representative of the good people of Dungiven”*. DUP Councillor Alan Robinson said these *“attacks need to stop...Is people’s hatred so deep for one another that they want to injure someone in this manner?”*. The Deputy First Minister tweeted *“The stoning and injuries to passengers on a bus in Dungiven returning from the Apprentice Boys Parade in Derry was shameful. I strongly condemn it”*.

- 4.9 The main public order challenges for the PSNI remain the policing of the Twaddell Camp in North Belfast and associated security operations including the policing of the 12<sup>th</sup> July parade in Belfast. The total costs up to 9<sup>th</sup> November 2015 are estimated at £18.5m. This includes £12.8m additional costs (mainly police overtime and employer’s national insurance contributions) and £5.7m opportunity costs (duty time). The average total cost per day of policing the protest camp at Twaddell is £23,984. This figure includes additional costs (mainly police overtime and employer’s national insurance contributions) of £16,588 and opportunity costs (duty time) of £7,396.
- 4.10 The 12<sup>th</sup> July parade in Belfast (which took place on 13<sup>th</sup> July as 12<sup>th</sup> July fell on a Sunday) passed off without major incident (with the exception of some minor breaches of Parades Commission conditions) until later in the day when



at the end of the permitted parade a man driving his car ran over a young woman. PSNI officers moved quickly to lift the vehicle and the young woman was taken to hospital by ambulance. Local community leaders moved quickly to calm the crowd. The driver was taken away by the police and has been charged with attempted murder. The incident was reported widely in the media throughout the UK. Localised disorder continued in North Belfast at Woodvale and Twaddell throughout the evening. A number of arrests were made. Some petrol bombs were thrown but did not ignite and a water cannon needed to be deployed by the PSNI in Twaddell Avenue.

4.11 It was a sad end to an otherwise peaceful day. The Belfast Telegraph reported the next day that “*PSNI hold the line*”; that there were “*ugly scenes at flashpoint*”; and that 11 officers were injured by bricks and bottles as they tried to control the incident. Community and political leaders on both sides have said that the barriers should have remained in place for longer to allow the crowds to disperse. The PSNI said that-

(a) they were concerned to return the Crumlin Road to free flowing and open thoroughfare as soon as possible – this in itself helps to disperse the crowd, maintains a “natural divide” and increases the sense of normality;

(b) the Crumlin Road was at no point “closed” – it was always open to vehicular traffic;

(c) in these situations if the “line is hardened” then crowds get frustrated and tensions rise.

This incident illustrates the very hard job the PSNI have when making instant judgments in fast moving public order situations. My only observation is that I was very impressed with the response of local leaders in calming the crowd and the prompt response of the police both on the ground and of senior officers who witnessed the incident on screen. It was a situation which could have deteriorated but did not.

4.12 The editorial in the Belfast Telegraph of 14<sup>th</sup> July 2015 observed –

*“The end result is that the police are once again left to hold the line at a time when their resources are under immense pressure through cuts in manpower and finance. The Chief Constable, unlike politicians, does not have the luxury of blaming others when violence erupts. He and his brave officers have to face a barrage of missiles, putting their lives on the line to prevent chaos ensuing....”*

*Politicians have continued to kick the contentious issues of parades down the road always putting them on the long finger. There are examples, most notably in Londonderry, when common sense has prevailed and where all sides have reached a mature accommodation which allows the loyal orders to celebrate their culture in a fitting manner without either offence being given or taken.*

*No one has lost face in this accommodation, yet it is a lesson which others seem incapable of learning. All sides can and do point at the obstinacy of others but that is simply avoiding grasping the issue.*

*We need all sides to the dispute, the Orange Order, resident groups, politicians of all hues, the PSNI and the Parades Commission to begin sincere negotiations on the way ahead for a peaceful solution to this interminable dispute. Anyone who opts out can then clearly be seen as part of the problem”.*

- 4.13. The situation at Twaddell has not changed in any substantial respect since last year. Some have suggested that the police presence there is “over the top” and is itself a provocation encouraging disorder. The PSNI say that the police presence has been reduced to the minimum necessary to address both the risk of public disorder and the threat from violent DRs.

## **5. LEGAL CHALLENGES**

- 5.1 There is only one current challenge in the High Court to the JSA regime.
- 5.2 On 8<sup>th</sup> May 2014 Mr Justice Treacy handed down judgment **In the Matter of an Application by Steven Ramsey for Judicial Review**. This was a challenge to the lawfulness of the stop and search provisions of section 24/Schedule 3. Mr Ramsey claimed that he had been repeatedly stopped under these powers. He based his claim on the 5 occasions he had been stopped and searched since the introduction of the Code of Practice. The challenge was made on the basis that section 24/Schedule 3 was incompatible with Article 8 of the ECHR which provides that “everyone has the right to respect for his private life, his home and his correspondence”. Mr Ramsey claimed that these provisions in the JSA failed the “quality of law” test in that there were insufficient safeguards against arbitrariness to render the provisions compatible with the ECHR. The detailed basis of his claim is set out in paragraphs 6.4 and 6.5 of my last Report. However, the judge decided that “*the impugned power, underscored by the Code of Practice and within the framework of the authorisation regime, does not fall within the category of arbitrariness*”. Consequently, he dismissed the application for judicial review.
- 5.3 The case went to the Court of Appeal on 28<sup>th</sup> April 2015. The Court expressed concern at the hearing about the disconnect between the appellant’s case and the judgment of the High Court against which the appeal was made. The Court also expressed concern about the lack of particulars in the “Order 53 Statement” which is the document which sets out the relief sought and the grounds on which it is sought. The Court invited the appellant to specify the basis of their challenge. The appellant’s Counsel then presented them to the Court as follows –

- (a) the test for the authority under section 24 (see 11.5 below) is insufficiently robust;
- (b) the breadth of the discretion available to a police officer when exercising the power is too broad (see paragraphs 7.6 to 7.10 below) ;
- (c) the absence of any requirement for the PSNI to monitor the community background of the person stopped (see Chapter 9 below);
- (d) the supervision of the individual police officer's conduct was inadequate (see chapter 8 below);
- (e) the basis for the stop and search is not being recorded at the time of the stop and search (see chapter 8 below);
- (f) in all the circumstances the stop and search regime under this power is in breach of Article 8 of the ECHR (right to private life).

5.4 The Court of Appeal then indicated that, in its present form, the appellant's case was not acceptable as an incompatibility challenge under the ECHR. It directed the appellant to file an amended and more detailed Order 53 Statement. This has been done and the case was due to be re-heard by the Court of Appeal on 23<sup>rd</sup> and 24<sup>th</sup> November 2015. However, that hearing did not take place in November. The judgment of the Court of Appeal will not therefore be handed down until after this report is published.

5.5 This is an important case. If the appellant's claim that the power to stop and search under section 24/Schedule 3 is incompatible (either in whole or in part) with the ECHR then, depending on the terms of the judgment, the JSA may need to be amended together with the Code of Practice. It might be necessary to suspend the operation of the power (in practice to refrain from exercising it) pending fresh legislation and a revised Code. Given the importance that the PSNI attach to this power in protecting people from death and injury from the use of munitions this would be a serious development.

## **6. OPERATION OF THE POWERS IN PRACTICE**

6.1 This Chapter deals with how the JSA and TACT powers are used in practice. It does not deal with the issue of "repeat" stops/searches – this is dealt with separately in Chapter 7.

The key issues are-

- (a) How frequently are the powers used?
- (b) What do these statistics tell us?
- (c) Why is the arrest rate so low?
- (d) Is the use of these powers "heavy handed"?
- (e) Progress on the issue of body worn cameras.

## How frequently are the powers used?

6.2 Detailed statistics relating to the use of the powers in the JSA and TACT 2000 are at **Annex E**.

6.3 The number of occasions on which the powers were exercised by the PSNI between August 1<sup>st</sup> 2014 and 31<sup>st</sup> July 2015 (together with comparisons with the previous year) rounded to the nearest whole number are as follows-

### JSA

- (a) Section 21, stop and question – **2,127** (up from 1,832 – a **16% increase**);
- (b) Section 23, power to enter premises – **27** (up from 25 – an **8% increase**);
- (c) Section 24/Schedule 3, stop and search for munitions and transmitters – **4,202** (down from 4,863 – a **14% decrease**);
- (d) Section 24/Schedule 3, paragraph 2, power to enter premises pursuant to Section 24 – **109** (down from 194 – a **44% decrease**);
- (e) Section 24, vehicles stopped and searched under section 24 - **11, 756** (up from 9,355 – a **26% increase**).

### TACT 2000

- (a) Section 43, stop and search of persons reasonably believed to be a terrorist – **153** (up from 96 – a **59% increase**);
- (b) Section 43A, stop and search of vehicle reasonably believed to be used for terrorism – **63** (up from 25 – a **152% increase**);
- (c) Section 47A, stop and search where senior police officer reasonably suspects an act of terrorism will take place – **NIL** (the **same as last year**).

6.4 The statistics need to be seen in a wider context. There are a number of stop and search powers in Northern Ireland – see paragraph 7.5 of my last report. The **overall** use of stop and search under all these powers (including under

JSA and TACT) is **28,969** – down from 30,948 (a **6% decrease**). The majority of stops/searches (77%) were under PACE, the Misuse of Drugs Act 1971 and the Firearms (NI) Order 1981.

### **What do these statistics tell us?**

6.5 These statistics invite the following observations-

(a) there is an overall drop of 6% in stops/searches under **all** legislation in Northern Ireland following a 6% drop in the previous reporting period – does this reflect falling crime rates, failure to prioritise drugs and anti-social behaviour involving minor criminality or just the manpower pressures on the PSNI?

(b) the 16% increase in stop and question under section 21 (following a fall of 31% in the previous reporting period) may not be indicative of a reversal of the downward trend – the heightened activity over Christmas 2014 more than accounts for this increase;

(c) the 59% increase in the use of the power to stop and search a person reasonably believed to be a terrorist (section 43 of TACT 2000) and the 152% increase in the use of the power to stop and search a vehicle reasonably believed to be used for terrorism (section 43A of TACT 2000) does indicate a significant increase in the use of reasonable suspicion powers to combat terrorism in Northern Ireland;

(d) the power in section 47A of TACT 2000 to stop and search where a senior police officer authorises it because he suspects an act of terrorism will take place (which falls away after 48 hours without confirmation by the Secretary of State) has again not been used at all. The explanation is that section 24/Schedule 3 addresses the general security threat in Northern Ireland. However, it is significant that the TACT 2000 power has never been exercised at all in the UK outside Northern Ireland since it became law on 31<sup>st</sup> October 2013 despite the increasing threat from international terrorism throughout the UK. This illustrates what I and my predecessor have stressed in previous reports about the different tests and purposes of the JSA and TACT 2000 (see paragraph 9.1 to 9.6 of my last Report);

(e) the busiest month in terms of the use of these powers was December 2014 with 521 stopped and questioned under section 21, 658 stopped and searched for munitions under section 24/Schedule 3 and 3,174 vehicles searched under section 26. This was due to the operation announced by the PSNI in the run up to Christmas;

(f) otherwise the powers were used fairly consistently throughout the year with the exception of June 2015 when the power to stop and question was used 206 times, the power to stop and search for munitions was used 556 times and the power to search vehicles was

used 1,652 times. June 2015 was a busy month because of a heightened terrorist threat assessment based in part on recent attacks;

(g) of the 2,127 persons stopped and questioned under section 21 in the reporting period, 859 were stopped in Belfast, 425 were stopped in the Lisburn and Castlereagh City District and 205 were stopped in Derry City and Strabane District. The monthly average across Northern Ireland was 177 stops.

(h) of the 4,202 people stopped and searched for munitions under section 24/Schedule 3 1,417 were stopped in Belfast City District and 1042 were stopped in Derry City and Strabane District. The monthly average across Northern Ireland for was 350.

- 6.6 However, the most striking statistic was that the use of the power to stop and search for munitions under section 24/Schedule 3 fell by 14% following a fall of 34% in the previous reporting period. Only 5 years ago during the financial year 2009 to 2010 the number of such stops under JSA and TACT 2000 was 29,391. That is approximately one seventh of the use 5 years ago. Some might say that the power was possibly over used in the past. Nevertheless the PSNI are concerned, given the ongoing security situation, that the power was now being used too infrequently. I attended the PSNI's Terrorism and Security Powers Delivery Group meeting in June where this issue was discussed. There was a consensus within the PSNI that this continuing fall in the use of the power needed to be analysed and addressed. There were a number of possible explanations but the PSNI has concluded that there were 3 main factors in play – officer confidence in the use of powers, complacency and concern that support might not be forthcoming if the exercise of the power resulted in a complaint being made. These issues would be addressed through training. Arrangements would also be put in place to ensure that the new 11 districts co-ordinated their activities to exercise the power more effectively where munitions are being transported through a number of districts.

### **Why is the arrest rate so low?**

- 6.7 Many have asked why, if the exercise of the powers in the JSA is intelligence led (see paragraphs 7.7 and 7.8 of my last report), the arrest rate is so low. Both my predecessor and I have tried to address this (see paragraphs 7.15 to 7.19 of my last report) but the issue persists. In the financial year 2014/15 the arrest rate following a stop and question under section 21 was just under 2%; following a stop and search for munitions under section 24/Schedule 3 it was just under 2%; and following a stop and search based on reasonable suspicion under section 43 of TACT 2000 the arrest rate was 9%. Items were seized in 17% of the searches of premises under section 24/Schedule 3. However, the purpose of the power is not necessarily to trigger arrest and prosecution. It is primarily a preventative power. Many members of the public were stopped and searched or had their vehicles searched in December 2014 in the run up to Christmas because the PSNI were concerned that a car bomb

might be placed in the City centre as had happened the previous year. So the stop/search levels for that month will be very high and the arrest rate will be very low. So this type of operation skews the arrest rate figures. The point was illustrated by Girvan LJ in the Court of Appeal in **Canning, Fox and McNulty [2013] NICA 19-**

*“To take but one simple example, if intelligence indicated to the police that terrorists were transporting a bomb travelling in the direction of a given town centre in a red Ford vehicle, the stopping of red Ford vehicles in the vicinity of the town, even in the absence of individual suspicions in relation to an individual driver, could properly be considered as justifiable and as a necessary and proportionate response to the risk of mass death and destruction. No reasonably law abiding and humane citizen could properly object to a relatively minor invasion of his privacy to help prevent a potential atrocity which could result in death and destruction...”*

An operation may be intelligence led and the powers exercised legitimately even if there is no intelligence relating to the individuals who are stopped and searched all of whom (unless the plot is uncovered) will be innocent and therefore not arrested. It is important to look at the purpose of the power (in this case the prevention of death and injury through the use of munitions) rather than regarding any police intervention as unjustified if it does not lead to an arrest.

- 6.8 This not unique to the JSA. For example, there is a power in the Misuse of Drugs Act 1971 to stop and search on the basis of reasonable suspicion. The arrest rate is only 6%. However, the purpose of the Act is, as its title implies, to prevent the misuse of drugs. This can be done in a number of ways short of arresting an individual. A summons to appear before the magistrate can be sent in the post without arrest; a Cannabis Warning could be given; or a Penalty Notice for Disorder could be given. An arrest should only be made in the most serious cases – it does after all take the police officer off the streets for a considerable period of time and therefore reduces police presence and the capacity to prevent and detect other crimes. As one government official observed an arrest *“can be a good statistic but a bad outcome”*. It is important to look at the purpose of the Act before assessing the use of the powers by reference to arrest rates.

### **Is police use of the powers “heavy handed”?**

- 6.9 Once again I heard from representatives from both the PUL and CNR communities that the exercise of JSA powers, in particular by the TSG, could be heavy handed. The TSG were an *“absolute law unto themselves”*; they were *“more paramilitary than the paramilitaries”*; *“when we see them coming all hope has gone”*; their approach was *“quite aggravating”*; and they used *“12 jeeps to arrest one person”*.
- 6.10 It is not possible in this report to adjudicate on such claims. There is a Code of Practice which governs all PSNI activity. If there is a breach of the Code then

a complaint can be made to the Ombudsman. This option is dismissed in some quarters as “a confetti response” but the Ombudsman has the role and the resources to investigate such complaints and has in the past made robust decisions across a whole range of police activity in Northern Ireland. In fact very few of the complaints made to the Ombudsman concern the use of JSA powers by the TSG. This may be because there are few occasions when a complaint could be justified or it may be that there is, for whatever reason, a reluctance to go to the Ombudsman.

- 6.11 The TSG have what they describe as “an accountable engagement strategy” involving the use of social media and engagement with the 16-24 age groups in marginalised PUL and CNR communities. Each TSG officer must undertake 3 engagement opportunities each year. These could be school visits or visits with the Dog Section. There are 13 TSGs in Northern Ireland – 5 in Belfast, 4 in the North Area and 4 in the South Area. Each TSG consists of one inspector, 4 Sergeants and 23 constables. In total there are 364 TSG officers in Northern Ireland. TSGs do not operate on a defined geographical basis but are deployed each day throughout Northern Ireland according to threat risk or potential harm to the community. Local police formally bid for TSG resources and this process is audited and monitored. Bids are prioritised centrally on a strategic basis. There are on average 3,500 bids for TSG services each year within the PSNI. TSGs have specialist skills in relation to public order, searching of premises and counter terrorism but are also involved in road safety operations. I have spoken to a Chief Inspector in the TSG and put these concerns to him. He said that the TSG were deployed in the most difficult and hostile situations and their role is to restore order. The TSG was a popular posting in the PSNI and was heavily over subscribed. Robust policing was needed to deal with widespread disorder where the police themselves are the targets of violence. They were “*visibly involved in the conflict*”. The kit they use is essential in dealing with the situations they are tasked to attend. The distinctive blue suits are and need to be flame retardant. They are at risk when searching premises. Some say that the TSG should be accountable to the local community police officer. This is not feasible. They need, on efficiency grounds, to be tasked centrally because of their specialist skills. It is a costly and scarce resource. They do not “by pass” local commanders – they would always be briefed on any TSG operation and local police should be present at all times. They do not “seal off streets”. That is only done when munitions need to be disposed and control of the surrounding streets remains the responsibility of local police.
- 6.12 Given all the circumstances and tensions, it is not surprising that the TSG have this reputation in parts of the community. They perform the PSNI’s most difficult and dangerous role in hostile situations. Regrettably, that work has to be done sometimes if the PSNI are to discharge their role of keeping people safe. It is a different role from that of the community police officer. However, the reputation of the TSG (whether deserved or not) does play a major part in how the PSNI are generally perceived in some communities in Northern



Ireland. I was told of one meeting between a TSG commander and community leaders in North Belfast which did not go well. If the PSNI consider that the reputation of the TSG is unfair then some further work needs to be done, in everyone's interests, to put the record straight.

### **Has there been progress on the use of body worn cameras?**

6.13 There is a unanimous view (which is to be welcomed) that the use of body worn cameras would benefit both the police and the public in Northern Ireland (see paragraphs 7.26 to 7.29 of my last report). The 6 month pilot project in Derry in 2014 was a success. There are substantial benefits to be gained. They would be available not only when JSA powers were being used but also in public order and domestic violence situations.

6.14 The pilot study was conducted in the Foyle area, Strabane, Limavady and Magherafelt between June 2014 and March 2015. The study used 46 cameras. Officers carried a camera for half of their shifts during the evaluation period and were without a camera for the other shifts. Comparisons could therefore be made. At the end of the shift the officer would have collected a number of clips of film which would be marked 'evidential' or 'non-evidential'. Non evidential material was deleted after 31 days. The battery life of the camera meant that it could last for a full shift. On completion of the study the study data was submitted to Cambridge University for evaluation. A proposal for a roll out has been submitted to the DoJ and, if approved, the first phase of the roll out would begin in early 2016. £2m has already been budgeted for this roll out.

6.15 The advantages of using body worn cameras were spelt out in the August/September 2015 edition of "CallSign" the Official Staff Newsletter of the PSNI-

*"Increased quality and reliability of evidence gathered leading to an increase in early guilty pleas. This will also reduce officer time spent in court.*

*Increase in domestic violence and domestic abuse prosecutions.*

*Reduce complaints against officers and facilitate faster resolution of complaints, as recorded material will exist which can be presented in relation to any allegation.*

*Reduce the amount of time preparing prosecution files.*

*Increase officer self-awareness during interactions, thereby potentially:*

*1. Reducing assaults on officers*

*2. Reducing the use of force by officers.*

*Ensure compliance with Criminal Justice oversight body recommendations.*

*Contribute to increased public confidence."*

- 6.16 Last year I viewed some video material produced during the pilot involving a stop and search of an individual in Limavady. It was of good quality. This is a project that has widespread support in all parts of the community in Northern Ireland. I recommend that the use of these cameras is rolled out as soon as possible, if finances permit, and the PSNI should publish an assessment at the end of the first full year of use.

## 7. REPEAT STOPS AND SEARCHES

### The issue

- 7.1 The issue of repeat stops and searches under the JSA was raised as an area of concern this year. Some residents in Northern Ireland are repeatedly stopped and searched - sometimes 50 times a year or more. A small number of residents were stopped on numerous occasions. Some analysis was done nearly 2 years ago by the PSNI which showed that 8 individuals were stopped in excess of 40 times a year and on average those subject to multiple searches were stopped and searched 8 times a year. For example the applicant in the case of **Ramsey** (see Chapter 5 above) (who claims the stop and search power under section 24/Schedule 3 is contrary to Article 8 of the ECHR) was repeatedly stopped. In his judgment in that case Mr Justice Treacy said-

*“The applicant’s first affidavit notes that he was searched on 35 occasions in 2009, 37 occasions in 2010, 23 occasions in 2011 and 31 occasions in 2012. The position in relation to the number of searches of the applicant from 1<sup>st</sup> January is agreed between the parties. He was stopped on 26 occasions between 1<sup>st</sup> January and 21<sup>st</sup> June pursuant to section 24/Schedule 3. It was agreed that he was stopped on 4 further occasions between that date and 3<sup>rd</sup> August 2013”.*

### Concerns about repeat stops and searches

- 7.2 This is a concern mainly in Derry/Strabane and North Belfast. I visited the Rathmore Retail and Business Centre in Creggan, Derry and heard about some of the complaints concerning the repeat use of the stop and search power. In general terms the concerns related to individuals being stopped and searched many times a year; sometimes 2 or 3 times a day; children under 16 were being stopped and searched; people were being stopped and searched near schools in front of children; people were being stopped and searched because of their association with DRs; people were being stopped and searched when going about their daily business; inappropriate remarks were made by the police during a stop and search; some houses had been repeatedly searched over a period of time; seized property, including computers and laptops, was not being returned promptly; and munitions were never found following a stop and search. In short, the concern was that the powers under the JSA were being abused; no redress was available; and the local community was being punished.

7.3 Inevitably some of these complaints find their way into the local media. For example-

(a) the Irish Republican News of 28<sup>th</sup> June 2013 under the headline “O’Cuiv talks lead to PSNI raid” reported that the home of a Derry community worker had been raided by the PSNI less than 24 hours after the resident had met with Galway TD Eamon O’Cuiv and a number of items had been taken away including a computer;

(b) on 27<sup>th</sup> March 2015 it was reported in “Derry Now” that a complaint had been made to the Ombudsman by a resident in Creggan. Over a dozen police officers searched the house for three and a half hours. A mobile phone, iPad, camcorder and laptop were taken. It was alleged that the operation involved 7 PSNI landrovers and a helicopter and damage was done to the property;

(c) in September 2015 the Greater Ardoyne Residents Collective in North Belfast published a response under the Freedom of Information Act to the question “How many stops and searches were carried out under Terrorism Act 2000 and the Justice and Security Act 2007 between January 2009 and January 2015?”. The answer was 4,590 stops with 262 searches of homes and business premises. There were 144 arrests but this led to only 2 convictions.

7.4 It is not the role of this report to adjudicate on these allegations (paragraphs 1.2 and 3.2 above) but there are two observations which should be made-

(a) any allegation of police misconduct should be made to the Ombudsman. Some say that this is a waste of time; the Ombudsman has no local office in Derry; and is part of the “establishment”. However, it is the only independent body that can thoroughly investigate such allegations and claims of harassment and misconduct would carry more weight if there was a finding from the Ombudsman to support them. I checked with the Ombudsman’s office who told me that in the past year they have received 3,367 complaints of which 28 related to the use of JSA powers. Of those 28, 10 complaints were from residents in the Foyle area (which covers Derry and Strabane) 4 of which resulted in the Ombudsman recommending that an officer should be disciplined. It is a facility that should be used by any person who complains about police misconduct.

(b) the concerns of the residents are shared, to some extent, by some members of the legal community and also by some political leaders, at least one NGO and a representative of the business community who did not support dissident activity. The general thrust of their observations was that it was wrong to stop children and family members who were not the prime object of concern; residents should not be stopped near schools; some residents are being turned into heroes; and the harassment radicalises young people. Consequently, it

was harder for elected politicians committed to the peace process to retain the trust and support of their local community.

### **The PSNI response**

7.5 The PSNI understand that the use of these powers has the potential to alienate communities and therefore make their job more difficult. However, they have a legal obligation to keep people safe and they focus the use of these powers, based on intelligence, on known DRs who are constantly planning attacks involving the use of munitions. PSNI officers are trained to conduct searches in accordance with the law and the Code of Practice. It can take up to a year to analyse the contents of computers and laptops seized in the course of a search. There was no harassment of communities. To place this in context the PSNI point out that, during the 2013/14 reporting period (there are no equivalent statistics for the current reporting period) only a tiny fraction ie 0.03% of Northern Ireland's population of 1.8m were stopped more than once. On average, across Northern Ireland, fewer than 6 people per day were stopped and questioned under section 21; fewer than 12 people a day were stopped and searched under section 24/Schedule; and only 109 premises were searched under section 24 ie less than one per day. That is not excessive given that the security threat is at SEVERE. The powers are used carefully and target those individuals who are known to be capable of causing death and injury through the use of munitions. They are not always stopped and searched whenever they are seen. Paragraph 8.61 of the Code of Practice provides that where the power in section 24/Schedule 3 is used "*there must be a basis for that person being searched*". It goes on to provide that

*"The basis could include but is not limited to-*

*-that something in the behaviour of a person or the way a vehicle is being driven has given cause for concern;*

*-the terms of a briefing provided;*

*-the answers made to questions about the person's behaviour or presence that give cause for concern".*

The PSNI have recently done some work on the use of JSA powers to satisfy themselves that they are being used in a targeted and proportionate way. I have been briefed on the results of that work and reviewed the statistics provided to me by the PSNI. I am satisfied that DRs are not stopped and searched on every occasion when they are seen by the police. There are many occasions when DRs are sighted but no action is taken under the JSA. Some leading DRs were not stopped and searched at all during the reporting period.

### **The legal position**

7.6 The selection of an individual for a stop and search is a matter for the police officer's discretion, operating within the guidance set down in the Code of

Practice. Each search under the JSA must be for the statutory purpose of searching for unlawful munitions or wireless apparatus.

7.7 The Code of Practice provides that these powers should only be used by officers who have been briefed about the powers and that briefing should make officers aware of relevant current information and intelligence including current threats so that they understand the nature and justification of the operation. Officers should use the information provided in their briefing to influence their decision to stop and search an individual. The Code of Practice also provides that there must be a basis for the person being searched (see paragraph 7.5 above). So the selection of persons for search should reflect an assessment of the nature of the threat and the individuals likely to be associated with that threat. If, on repeated occasions, that is the same individuals, on the basis of ongoing intelligence, circumstances or behaviours for example, then the fact that such individuals have been stopped before should not preclude an officer from searching them again.

7.8 In this context it is worth noting what Lord Bingham said in the House of Lords in **Gillan** in relation to the regime in section 44 of TACT (before it was amended by the POFA 2012) –

*“It is true that [an officer] need have no suspicion before stopping and searching a member of the public. This cannot, realistically, be interpreted as a warrant to stop and search people who are obviously not terrorist suspects which would be futile and time wasting.*

*I cannot accept that, thus used, [the powers] can be impugned either as inherently arbitrary or as inherently systematically discriminatory..simply because they are used selectively to target those regarded by the police as most likely to be carrying a terrorist connected article, even if this leads, as usually it will, to the deployment of this power against a higher proportion of people from one ethnic group than another. I conclude rather that not merely is such selective use of the power legitimate; it is its only legitimate use. To stop and search those regarded as presenting no conceivable threat whatever (particularly when that leaves officers unable to stop those about whom they feel an instinctive unease) would itself constitute an abuse of power. Then indeed would the power be exercised arbitrarily”.*

7.9 So the power should not be exercised wholly at random but on the basis of intelligence or other factors that might indicate the presence of munitions or wireless apparatus. The powers should be targeted at the threat based on informed considerations (which can include the officer’s training, briefing and experience). If the power is properly exercised therefore it will be used against known DRs and others otherwise involved in munitions.

7.10 However-

(a) the power to stop and search without reasonable suspicion under section 24/Schedule 3 does not give the police an unfettered discretion to stop a known DR at any time or place. There needs to be a basis for

the use of the power and the purpose must always be to search for munitions or wireless apparatus – so where there is no basis a person cannot be stopped and searched simply because of his known DR profile;

(b) the purpose of the search can never be to put pressure on an individual, to remind him that the police are monitoring him, to disrupt his activities or to gain intelligence – the sole statutory purpose is to search for munitions etc. If as a result of a legitimate search these collateral benefits accrue then that does not render the use of power unlawful;

(c) if the circumstances are such that the police officer has a reasonable suspicion that the individual is carrying munitions then the officer should exercise the JSA powers which require reasonable suspicion.

### What next?

7.11 Clearly, this issue is just a symptom of the unresolved wider conflict in Northern Ireland. However, this is fertile ground for mistrust, misunderstanding and, what one senior republican called, “*constant exploitation of the issues*”. It also requires individual police officers to make difficult judgments. The police may say that, given their intelligence, they will always have a basis for stopping and searching some individuals for munitions – but if munitions are not found this will inevitably be perceived as harassment and an illegitimate search. The PSNI do not publish figures showing how often stops and searches of individuals (rather than premises) result in munitions being found. They say that is not the correct test – the test is how many lives have been saved by the use of the powers. However, the statutory test specifies the purpose of the search as a search for munitions. Again, the more successful the PSNI are in saving lives the stronger, some say, is the argument that the security situation is exaggerated (see paragraph 15.11 below). The main target for the DRs is said to be the police – so in saving lives they are saving their own and this gives rise to the impression that, where the police are well known to certain individuals in a small community, it “gets personal”. Some of the misunderstandings appear purely factual. For example, it is alleged that stops and searches take place when parents are taking their children to school but the police say they do not do this. It is also alleged that the police sometimes seal off whole streets when JSA powers are exercised. The police say they only seal off whole streets when they are disposing of munitions. Critical stories are published in local media about police without rebuttal. There is a system for investigating misconduct by the police but, in these cases, it is used infrequently. So there is mistrust, misunderstanding and “*constant exploitation of the issues*”.

7.12 It may be that this situation will continue for the foreseeable future. The PSNI narrative is that-

- (a) they have powers under the JSA;
- (b) the powers are ECHR compliant;
- (c) the powers are used on the basis of intelligence;
- (d) the powers are used sparingly against specific individuals; and
- (e) their use is down to officer discretion subject to the Code of Practice.

The PSNI recently reviewed their approach to the use of stop and search power under the JSA in response to the decline in the use of that power. There would also be merit in carrying out a similar high level review into the impact of repeated use of the power. This would be timely. The Home Secretary is requiring police forces in England and Wales to review their use of stop and search powers (albeit in a different context). The restructuring of the PSNI provides an opportunity for closer monitoring of the impact of repeated use of the powers in specific communities. The PSNI have recently issued internal guidance on the more effective use of sightings in their operations against DRs. The PSNI should take this opportunity to clarify misunderstandings about the use of stops and searches near schools and the sealing off of roads. They should publish statistics about how often munitions are found following a stop and search in a public place and explain why it is necessary to stop and search children. The PSNI need to explain to the wider public what it is doing and why they believe they have got the balance right.

## **8. RECORD KEEPING**

- 8.1 PSNI record keeping in relation to the exercise of JSA powers has become an issue in recent years.
- 8.2 When the Code of Practice was originally issued for consultation in 2012 paragraph 8.78 was drafted as follows-

*“When an officer makes a record of the stop electronically and if the officer is able to provide a copy of the record at the time of the stop and search, he or she must do so. This means that if the officer has or has access to the portable printer for use with the electronic recording equipment, then a copy of the record must be provided. Otherwise a unique reference number and guidance on how to obtain a full copy of the record should be provided to the person searched”.*

When the Code of Practice came into force a change had been made to this paragraph which stated that

*“A record of the stop will be made electronically by the officer. A unique reference number and guidance on how to obtain a fully copy of the record must be provided to the person searched. If for any reason an electronic*

*record cannot be made or a unique reference number cannot be provided at the time, guidance must still be given to the person searched”.*

In other words the officer was no longer required to give a record to the person who had been stopped. That person would be given a URN and was told how he could get a copy of the report – in practice this would require him to visit the local police station to collect it. The reason for this change was that the NIO became aware during the consultation period that the PSNI did not have routine access to portable printers and were unlikely to do so for the foreseeable future. Unfortunately, no there was no public consultation about this change.

- 8.3 In the case of **Emmet McAreavy** on 9<sup>th</sup> May 2014 the High Court held that the failure of the Secretary of State to re-consult on that change was unlawful on the basis that the change was fundamental. Treacy J said in his judgment that-

*“...the provision of on the spot written evidence went to the level of the safeguards attending the various powers and was therefore fundamental. Truncating the nature and extent of the safeguards in the Code was clearly a fundamental change and one which in the interests of fairness needed to be consulted upon”.*

In response to that judgment the Secretary of State carried out a consultation between 11<sup>th</sup> November 2014 and 22<sup>nd</sup> December 2014. There were just 5 responses. The MoJ, Lord Carlile (the Independent Reviewer of Security Arrangements in Northern Ireland) and the Chief Constable of the PSNI supported the revised wording and SF and the CAJ opposed it. The Secretary of State published her report on the consultation on 29<sup>th</sup> October 2015 and it concluded that the revised Code with its requirement of electronic recording was the better option. The Chief Constable of the PSNI’s objection to a paper record was summarised in paragraph 8.4 of this report as follows –

*“In short, a portable printing solution would be too expensive to purchase with initial costs estimated in the region of £772k (1,200 printers at £600 each; paper costs of £18k per year; ink costs of £9k per year and upgrade of our mobile data application estimated at £25k). Beyond costs, the logistics of deploying and distributing such devices would also be complex. Some of the key hurdles that prevent such an item being used in the wider service include the fact that printers are ruggedized and would therefore require a bespoke case to be designed and manufactured (further driving up the costs). As printers would also need to be connected via Bluetooth to a mobile data device, this introduces a security risk requiring assessment and approval from the PSNI accreditor and most likely the National Accreditor”.*

In other words, a lot of expense and technical challenges.

- 8.4 Stops under the JSA have been recorded electronically on BlackBerrys since 1<sup>st</sup> February 2012 and this method has a number of advantages-



- (a) it is clearly cost effective and makes best use of available technology;
- (b) it guarantees a standard form and quality of reporting – the drop down menu (see **Annex H**) ensures that all issues are addressed (including the JSA power being relied on); it is not possible to complete the record without all boxes being completed;
- (c) the individual receives the same record as the one which is recorded on the PSNI PUMA system;
- (d) it enables senior PSNI officers to discharge their duty under paragraphs 5.9 to 5.13 of the Code of Practice to supervise and monitor the exercise of JSA powers because the records are stored centrally and can be accessed by senior officers;
- (e) electronic recording is quick - manual records take longer to complete, would occasionally go missing and were not always completed with all the required information.

8.5 However, there is one disadvantage with this system. It requires the person stopped to visit the police station with his or her URN to collect a copy of the record. Some police stations in rural areas have closed. Many have heavy security and are intimidating places to visit. At the Shankhill Women’s Centre I spoke to several women who were intimidated by the thought of visiting a police station in Belfast. One said it made her feel like a criminal. I heard the same comment repeated on other occasions. The PSNI do not know – and neither can its PUMA system record – how many of those who are subject to the exercise of JSA powers go to a police station to collect their copy of the police record. In the words of the CAJ in its response to the NIO’s consultation document in December 2014 –

*“Whilst filling in a paper stop and search/question record does not appear to be a particularly complex or time consuming task, this may lie behind the switch to electronic recording. The change does however make receiving a record less accessible as a significant number of persons are likely to be unable or unwilling to attend police stations to collect records, particularly when they have difficult relations with the PSNI. Among the potential chill factor are perceptions that attendance at police stations could result in attempts to recruit persons as informers. All in all it appears much more likely that records will no longer be collected by affected persons and hence less likely that challenges to misuse of powers will be successfully pursued. In addition, the absence of a carbon copy paper form may make persons less amenable to filling in self-defined monitoring data”.*

8.6 The use of BlackBerrys is to be welcomed and the PUMA system is a step in the right direction but it is not a perfect tool –

- (a) it is not possible to use the system to get information about the circumstances in which the JSA power has been exercised eg whether

in a public order context, during an operation or a normal street encounter;

(b) it cannot immediately determine how many individuals have been repeatedly stopped/searched; this could only be done by going through thousands records (although some internal PSNI research in 2013 indicated that only about 8 individuals had been stopped 40 times or more);

(c) the system cannot record how many individuals go to a police station with their URN to collect their copy of the record – anecdotally the PSNI say that it is a very small percentage;

(d) it cannot instantly bring up information about what percentage of stops/searches of individuals (as opposed to premises) result in the discovery of munitions. The only way that figure can be obtained would be for somebody to go through all the records individually. The PSNI say that this would not be a true test of whether the power is exercised properly – this can only be judged by the death and injury that is prevented by the use of the powers. That may be right but, given that the power is stated expressly in the JSA to be for the purpose of searching for munitions etc, the relevant statistics should be published.

8.7 My concerns about record keeping and developments since the **McAreavy** in May 2014 judgment are as follows-

(a) given the importance of this issue it took 7 months from the time of that judgment for the NIO to produce a consultation document and a further 8 months to produce a considered response to that consultation. This contrasts with the speed with which an entire Code of Practice was produced in the aftermath of the **Canning** judgment in 2013;

(b) although the PUMA system allows senior PSNI officers to supervise and monitor the use of JSA powers by individual officers it is not yet clear how consistently this facility is used throughout the PSNI and this is work in progress. The system is used in the preparation of material for the ACC's authorisations under section 24/Sch3, to produce quarterly statistics for senior PSNI officers and as a point of reference for an individual officer's annual performance appraisal;

(c) a number of people said that there would be a widespread reluctance to go to a police station to collect a record of a stop and search. The reasons for this are varied – some find it intimidating and some suspect that, if seen visiting a police station, various conclusions will be drawn which may not be accurate. In these circumstances it is important that the PSNI monitor the number of people who visit police stations to collect their record of the stop and search. It does seem odd in this digital age that the record cannot be sent electronically to the

person concerned without the need for a personal visit to a police station;

(d) I saw copies of some records of JSA stops where there was no entry under the heading “objects found” – the record should always record what, if anything, was found after a search. The PSNI have informed me that, following a recommendation from the Ombudsman, this issue was addressed and the records which had no entry for “objects found” pre-date the acceptance of that recommendation.

## 9. COMMUNITY MONITORING

9.1 The PSNI have been under pressure for a number of years to record and publish details of the community background of those stopped and searched under the JSA. This pressure has come from a variety of sources –

(a) the CJINI – in its paper in May 2009 “*The Impact of Section 75 of the Northern Ireland Act 1998 on the criminal justice system in Northern Ireland*”;

(b) the CAJ – in its report in November 2012 “*Still Part of Life Here – A report on the use and misuse of stop/search and question powers in Northern Ireland*”;

(c) the NIPB – in its “*Human Rights Thematic Review*” in October 2013;

(d) the UN Human Rights Committee in its concluding observations in its 7<sup>th</sup> Periodic Report;

(e) local politicians and NGOs including in particular SF.

9.2 In Chapter 8 of my last Report I said that there were strong arguments in favour of community monitoring. However, there were serious issues which needed to be considered – in particular how this information was to be obtained. I was also concerned that this requirement was only to apply to stops/searches under the JSA and TACT 2000 and not to the majority of stops/searches in Northern Ireland which take place under other powers (see paragraph 6.4 above). It is well known that the JSA and TACT 2000 are designed to prevent harm being caused by the use of munitions or acts of terrorism so the powers will inevitably show a bias towards the DR community. If the purpose of this form of monitoring is to indicate any sort of inherent bias in how the PSNI operates then the real measurement should be of all stops/searches in everyday situations and not the minority of stops/searches designed to prevent acts of terrorism.

9.3 On 1<sup>st</sup> June 2015 I attended the PSNI’s Terrorism and Security Powers Delivery Group which was chaired at Assistant Chief Constable level. At that meeting the details of the PSNI’s proposed pilot scheme for community monitoring were discussed. It was acknowledged that the current absence of any form of such monitoring was one of the current grounds of challenge in

the case of **Ramsey** (see paragraph 5.3 above) but it was agreed, quite rightly, that the pilot should proceed nevertheless.

- 9.4 The project is called the Equality Monitoring Stop and Search Project (EMSS Project). It is to run for 3 months starting in December 2015 in Derry and Strabane. The paper presented at that meeting stated that-

*“Officers engaging in JSA and TACT stop and search in H district will, at the end of the encounter, provide the subject with an equality monitoring card for the individual to choose to complete at their convenience and return to the PSNI by post. Officers will mark the card with the reference number or date and time of the search to allow some level of reconciliation with the STOPS database for evaluation of the trial.*

*H district officers will be briefed about the pilot during TASP training that is being delivered on November 15. Briefing will emphasise why it is useful to gather this data, that it is separate and independent from any demographic data that is gathered as part of the recording of the stop, and will encourage officers to explain to members of the public why we are conducting this pilot if challenged. Once relevant officers are briefed the project will enter the live phase for a period of three months.*

*The cards will self-seal and be pre-printed with FreepostKEEPINGPEOPLESFAE to maintain privacy, minimise cost and minimise inconvenience to the person completing.*

*Post addressed to FreepostKEEPINGPEOPLESFAE will be delivered to PwC Branch, Lisnasharragh. Results will be collated during the term of the trial. Two weeks after the close of trial will be the close date for new data. Returns received after this time will not be included in the evaluation”.*

- 9.5 The project will then be evaluated in terms of cost, impact on the interaction with the person stopped/searched and analysis of the responses. Clearly, participation in this project is wholly voluntary and if a significant number of people who are stopped/searched decline to return the form or deliberately fill it in incorrectly then the pilot will not be a success. Some have commented that this is a very tentative response by the PSNI. Others have said that the better and more reliable way of achieving this objective is on the basis of a combination of officer perception and postcode of the person detained. Many senior members of the PSNI continue to express reservations about any form of community monitoring because the ethos of the PSNI is to use the powers without regard to the background of the individual. They regard it as a step backwards. The results of this pilot will be available in the early part of 2016 and the results will be covered in my next report. The form to be completed by those participating in this project is at **Annex G**.

## **10. COMMUNICATION AND TRANSPARENCY**

10.1 The powers in the JSA are intrusive and are used in a divided society where policing is a highly sensitive issue and myths and rumours can spread quickly and become ingrained in the collective memory. This can be to the detriment of the PSNI's reputation and its relationship with the public. Good communication, timely explanations and "putting the record straight" are therefore key if the PSNI are to retain public confidence in relation to the use of, in particular, stop and search powers under the JSA. This problem is not unique to Northern Ireland but it is particularly acute here.

10.2 The HMIC Report on Stop and Search in England and Wales in 2013 stated that-

*"The Code of Practice directs that, in order to promote public confidence in the use of stop and search powers, forces must, in consultation with police authorities, make arrangements for the records to be scrutinised by representatives of the community and to explain the use of the powers at community level....Some forces told the public of the impact that the use of stop and search powers had had in specific crime operations; but this tended to involve only the number of stops and searches carried out, and the arrests that followed. **We found that only a few forces had informed the public of their intentions ahead of specific operations or explained what they were doing and the reasons for it. This is a missed opportunity as police legitimacy is improved when local communities understand why officers are doing what they are doing in their areas**".*

10.3. The PSNI recognise the importance of good communication. They engage with 300,000 people on Twitter (one sixth of Northern Ireland's population) and more information was placed in the public domain in last year's report than in previous years. There are examples of effective communication around significant events. In the run up to Christmas 2014 the PSNI responded to a heightened terrorist threat to Belfast City Centre which had been subject to an IED attack at the same time in the previous year. They explained that there would be heightened use of JSA powers and the PSNI spoke to the local business community and the Chamber of Commerce about their planned operation. Consequently, the public understood the reason for the unusually large number of stops under the JSA in Belfast before Christmas. In December 2014 there were 521 people stopped and questioned under section 21 of the JSA (around 3 times the monthly average for Northern Ireland as a whole) and there were 658 people stopped and searched for munitions in the same period (almost twice the monthly average for Northern Ireland as a whole). Another example concerned the Anti Internment League parade which was planned to take place in Belfast City Centre 10<sup>th</sup> August 2015. The League stated in advance that they were not going to comply with the Parades Commission determination that the parade should leave the City Centre by 1.30pm. The PSNI made several attempts to engage with the League in the run up to 10<sup>th</sup> August but to no avail. On the day of the parade the PSNI announced its intention to enforce the Commission's determination. The parade did not start until 2pm. The PSNI

had made clear their intention and the parade was halted at the Oldpark Road where organisers addressed the crowd before the procession dispersed. Rioters began throwing petrol bombs, stones and bottles at police lines and the police had to deploy a water cannon at the junction of Oldpark Road and Rosapenna Street to disperse the rioters.

- 10.4 However, some senior police officers, some senior members of the community and some government officials have told me that the PSNI's communication with the public could be better. They recognise that a lot of good work is being done to explain the use of JSA powers (and police activity generally) but they feel that, given the Northern Ireland context, more could and should be done to explain to the public what they are doing and to rebut false and misleading reports in the media.
- 10.5 A good example is the incident in Galliagh in Derry on 28<sup>th</sup> July 2015. A full account of this incident is given at paragraphs 12.4 to 12.10 below. The PSNI searches, involving the Army, on that day were perfectly legitimate. However, the media coverage and the reaction of local leaders gave the impression that something unusual had happened and that the Army had been deployed in a way which threatened the peace process. It was alleged that soldiers had now returned to the streets for the first time since 2007 and the police had behaved in an aggressive and hostile manner which "*flies in the face of the peace process*".
- 10.6 The use of the Army on this occasion was not a new departure. It is standard practice for specialist army personnel to be deployed to search for live explosive ordnance (as opposed to dispose of it) because only they have the training and the equipment to do it. The PSNI led the operation – not the Army – and they were present throughout and are accountable for it in the normal way. The Army themselves had not exercised any powers; and there had been no departure from the principles of the peace process or Operation Helvetic.
- 10.7 Nevertheless, concerns about this incident rumbled on. I was asked about it 6 weeks later when I met the NIPB Performance Committee. The PSNI were reported at the time as saying that military personnel were engineers routinely deployed to search for live ordnance which presents a risk to bomb disposal teams and PSNI officers. But a full explanation was not forthcoming. However, it was an event which called for greater explanation than was actually given and for a firm and detailed rebuttal.
- 10.8 Some concern was also expressed about other aspects of communication. Some felt that there was insufficient information and consultation about the restructuring of the PSNI and, in particular, its impact on community policing. It was said that popular community police officers were removed without any prior warning and without consultation with local community leaders. One example, given to me by an NGO, was of two community police officers who were removed from a police station without warning. Rumour spread that, as a result of the PSNI budget cuts, there would be no more community policing

in that area. In fact this was not the case but nobody had been informed that the officers would be replaced. Others expressed concern that there was a failure to explain to the local community the reasons for the increased number of CCTV cameras in the Ardoyne. An improved narrative would also be beneficial to explain the use of repeat stops under the JSA (see Chapter 7 above).

- 10.9 The PSNI should conduct a short review of its media strategy in relation to its use of JSA and TACT 2000 powers concentrating on why these powers are needed; how they are used and how they assist the PSNI to discharge its main function of keeping people safe. It may, in any event, be needed when the results of the community monitoring project (see Chapter 8 above) are known and, even more so, if that becomes a permanent aspect of the stop and search regime.

## 11. AUTHORISATIONS

- 11.1 The power to stop and search without reasonable suspicion under section 24/Schedule 3 is triggered by an authorisation made by a senior police officer. Such an authorisation lapses after 48 hours unless it is confirmed by the Secretary of State and then it can remain valid for a period of up to 14 days from the date on which it was originally made.
- 11.2 I dealt with this in some detail in my last Report and the form used for the authorisation was annexed to that report. This was the first time that the form itself had been placed in the public domain. The form sets out the process, the detailed scrutiny and other information required before an authorisation can be made. The test that has to be satisfied under the JSA is that a senior police officer (in practice an ACC) must reasonably suspect that the safety of persons might be endangered by the use of munitions or wireless telegraphy and must reasonably consider that the authorisation is necessary to prevent that danger. The authorisation has to be for the minimum necessary area and duration.
- 11.3 There have been 4 main areas of concern about this process. First, since the POFA 2012 came into force authorisations under the JSA had been in place continually (except for a brief period of 5 days from 9<sup>th</sup> May to 14<sup>th</sup> May 2013 following the **Canning** judgment when the use of the JSA authorisations was suspended). This state of affairs has continued throughout this reporting period during which there have been continuous separate authorisations – all made by a senior police officer and confirmed by the Secretary of State or junior Minister. This has led some to suggest that this is a “rolling system” of authorisations routinely renewed without proper consideration being given to whether they are justified. The authorisation form (at **Annex F**) when populated with the required detailed information and intelligence is a substantial and highly classified document. I have sampled about 20 of the authorisations made during this period and I am satisfied that the process has

been thorough and that there was sufficient material before the senior police officer and the Secretary of State to take their decisions. Sadly, there remains a constant threat from the use of munitions and wireless telegraphy apparatus which shows no signs of abating – see paragraph 4.2 above and the Statements made to Parliament by the Secretary of State in February 2015 and December 2015 (at **Annex D**). I have looked closely at these authorisations since the restructuring of the PSNI into 3 areas and 11 districts in April 2015 and I am satisfied that the same level of scrutiny has been maintained since that restructuring (see paragraphs 13.2 to 13.4 below).

11.4 Secondly, concern has been expressed that the authorisation applies throughout Northern Ireland. It is said that this is unnecessary and it should be confined to those areas where the risk is greatest – ie Belfast City, Derry City and Strabane and Armagh, Banbridge and Craigavon policing Districts. In the past, there have been times when there has been no or no serious incident in a particular area for a few weeks or months and that has given rise to particular scrutiny within the PSNI and NIO. However -

(a) a map of Northern Ireland prepared by the PSNI marking the location of national security attacks and other areas of significant DR activity in the past year shows that such events have taken place throughout Northern Ireland and is at **Annex J**;

(b) the authorisation decision is based on intelligence relating to what might happen. It is forward looking and the fact that an area has been quiet for a while might simply mean that the exercise of JSA powers in that area has been effective or that potentially dangerous activity has not been detected. For example, as was mentioned in my last report, police seized a huge quantity of munitions in the village of Kinawley in the quiet rural area of Co Fermanagh on 13<sup>th</sup> October 2014 – 500g of fertiliser, a number of packs of homemade explosives, timer units, detonators, fuses, six pipe bombs and component parts for other devices, a suspected firearm and about 100 rounds of ammunition together with forensic suits and gloves;

(c) the boundaries between police districts and areas are porous as is the border with the Republic of Ireland. In a small rural jurisdiction munitions can be transported quickly across the whole of Northern Ireland and to and from the Republic of Ireland. At a PSNI training session senior police officers were invited to co-ordinate their operations and intelligence to meet this threat using the new PSNI structures. At a meeting with the NIPB Performance Committee in September 2015 I commended the PSNI for announcing in advance that there would be heightened use of JSA activity in Belfast in the run up to Christmas 2014. It was put to me that this would put DRs on notice that they would transfer their activity to another part of Northern Ireland where there was no heightened activity. This just illustrates the point that if the authorisation were to be limited to a particular area–



and this would need to be made public because it affects individual liberty – then DRs would inevitably (and quite easily) concentrate their efforts in areas where there was less risk of being stopped and searched.

11.5 Thirdly, it has been said that the fortnightly authorisation process is a rubber stamp exercise. A number of senior people in both the PSNI and NIO scrutinize the papers which go before the ACC and Secretary of State all of whom are acutely aware of the risk of legal challenge if this process is not carried out properly. I have looked at internal NIO correspondence and the level of challenge is high. For example, there has been considerable email exchanges involving policy makers and senior lawyers about –

(a) the impact of the PSNI reorganisation (to 11 Districts and 3 Areas – see paragraphs 13.2 to 13.4 below) on the authorisation process;

(b) the relevance of some of the material relied on to justify the authorisation (eg hoaxes and “ordinary” gun crime); and

(c) whether intelligence reports should be included in their entirety (they may contain information which is irrelevant to the authorisation decision) or whether they should be edited to remove extraneous material.

On 30<sup>th</sup> April 2015 the PSNI met the NIO to review the authorisation process. The meeting was attended by 10 senior officials and PSNI officers. It was agreed that another review meeting should take place later in the year.

11.6 Fourthly, there was concern that the decision to make an authorisation was taken by the PSNI and confirmed by the Secretary of State on the basis of MI5 intelligence and PSNI and NIO briefing, without any independent input. It has been suggested that there should be an independent element in the decision making process. I do not accept this. The responsibility to keep the people safe rests with the PSNI and responsibility for the JSA regime lies with the Secretary of State. There needs to be independent scrutiny – but this should be done after the event by the Reviewer appointed under the JSA. There is also the possibility of legal challenge. There is currently a challenge in the High Court in Belfast (see Chapter 5 above). This is not a fanciful option. There was a successful challenge to a without suspicion stop and search power in **Gillan and Quinton v UK** in 2010 which resulted in the amendments to TACT 2000 and the JSA. In that case the ECtHR held that the stop and search regime in TACT 2000 was not sufficiently robust; it risked arbitrariness and prevented effective legal challenge; and that the unfettered power was not “in accordance with the law”. In the past the ECtHR has examined the UK’s derogation under Article 15 from its obligations under the ECHR and looked at the merits of the UK’s decision that there was, in the words of Article 15 “a public emergency threatening the life of the nation”. That was clearly considered to be a justiciable issue. If the authorisation process was contrary to the ECHR or not being carried out properly there are

therefore ways in which that could be challenged. It is the function of the Independent Reviewer under section 40 of the JSA to examine the process with access to all the papers and to report on whether authorisations have been made properly. It is my view and that of my predecessor that this has been the case since the authorisation process started.

11.7 However, I remain concerned about certain provisions in the JSA relating to the authorisation process (see paragraphs 9.14 and 9.15 of my last report). In summary-

(a) Although the JSA is specifically framed to address the security position in Northern Ireland (with its emphasis on the threat from the use of munitions etc) the making of a fresh authorisation on a fortnightly basis does not reflect the reality of the situation in Northern Ireland. The threat is constant and has remained at SEVERE since February 2009 and is likely to remain so for the foreseeable future. It does not ebb and flow on a fortnightly basis. Porous boundaries make the analysis of risk in individual parts of Northern Ireland unrealistic.

(b) The resulting process is very labour intensive for senior PSNI officers, NIO officials and the Secretary of State (or junior minister).

(c) The frequency of the process gives the (false) impression that the assessment of the threat is routine when the opposite is the case.

(d) The requirement in the JSA that the authorisation should be for a period and for an area which is no more than necessary has generated expectations that cannot be met.

11.8 These requirements were inserted into the JSA by POFA 2012. Up to that point paragraph 4(1) of Schedule 3 to the JSA allowed a police officer to stop and search for munitions without reasonable suspicion. There was (a) no need for an authorisation and (b) no Code of Practice under section 34 in place. In the light of the ECtHR's judgment in **Gillan and Quinton** the UK government decided to amend the TACT 2000. It would appear that there was an assumption that the amendments to TACT 2000 (which was addressing a threat from an individual act of terrorism of any kind throughout the whole of the UK) should simply be transferred to the JSA. There may have been a number of reasons for this-

(a) it may have looked odd to have had different safeguards in TACT 2000 and the JSA ;

(b) a decision was taken for what was needed in TACT 2000 and then any amendment to the JSA was just treated as a "Northern Ireland consequential";

(c) the overriding consideration at the time was to legislate to ensure compliance with ECtHR's judgment given the embarrassment of that judgment for the UK government;

(d) there may have been a view at the time that the “normalisation” process in Northern Ireland would at some point reach a stage when the availability of temporary and geographically limited stop and search powers were sufficient to meet the security need. Sadly that stage has not been reached.

11.9 In these circumstances I recommend that in due course consideration is given to amending the JSA

(a) to allow an authorisation to be in place for a period of up to at least 3 months;

(b) to require an independent person (whether the Reviewer under the section 40 of the JSA or some other judicial figure) to review the authorisation as soon as possible after it is made and, if necessary, to make recommendations to the Secretary of State.

11.10 In my view such an amendment would be compatible with the ECHR provided the existing safeguards in the JSA are retained. It is relevant to note that the Supreme Court in London has recently held in **Roberts v Metropolitan Police Commissioner** (The Times Law Report 4<sup>th</sup> January 2016) that the no suspicion stop and search power which the police have under section 60 of the Criminal Justice and Public Order Act 1994 is compatible with Article 8 of the ECHR. The trend in recent case law both in the UK courts and the ECtHR suggest that such a change would be compatible with the ECHR. In all these cases, the courts have looked at the specific power, its purpose and whether the safeguards are appropriate in all the circumstances. It is not necessary, from an ECHR compliance perspective, to restrict the duration of an authorisation to 14 days if there are other sufficient safeguards in place.

## 12. THE ARMED FORCES

### Role of the Armed forces in Northern Ireland

12.1 My predecessor in his 6<sup>th</sup> Report stated in paragraphs 705 and 706-

*“...The Government established in 2007 that the armed forces should act in a limited capacity in Northern Ireland, and always in support of the police. The conditions underpinning support were laid down under Operation Helvetic and have been maintained since then.*

*...In particular there is no role for the armed forces in public order situations, nor has it been suggested to me by anyone in recent years that they should have such a role”.*

12.2 These are the arrangements which are still in place today. However, the Army retain specific powers in the JSA which pre-suppose a wider role. These are powers, in tightly prescribed circumstances, to stop and search, to arrest, to enter premises and vehicles, to examine documents and to close roads. The Army have never used these powers – or, more accurately, have never

needed to use these powers – since the JSA was passed in 2007. The Army are keen, given the dangerous and pivotal role they play in disposing of explosive ordnance, to retain these powers and I can see no harm in these powers remaining in the JSA for the time being. When the JSA comes to be replaced it will be for Parliament to decide whether the process of normalisation in Northern Ireland has progressed to the point where these powers can be safely removed.

### **Explosive Ordnance Disposal (EOD) activity**

12.3 The level of EOD activity in support of the PSNI is illustrated by the statistics in table 4 of **Annex E**. The military were called out during this reporting period on 267 occasions – down from 347 in the previous reporting period. These figures are broken down as follows (with the corresponding figures for the previous reporting period in brackets)-

- On 52 (67) occasions to deal with an IED – typically an active device such as a pipe bomb
- On 12 (22) occasions to deal with an explosion
- On 49 (74) occasions to deal with a hoax – where an object is deliberately made to look like an IED on occasions accompanied by a telephone warning confirmed by the police the purpose of which could potentially be the prelude to a “come on” attack
- On one occasion (2) to deal with an incendiary device ie a device which is programmed to ignite and cause buildings to burn
- On 112 (123) occasions the call out, very often acting on intelligence, was to deal with the discovery of munitions or component parts
- On 41 (59) occasions the call out was false – that is to say a member of the public may genuinely have reported a suspect object giving rise to genuine concern but where there has been no telephone call or attribution.

It is clear from these figures that the number of call outs has fallen and the figures are down in each of these categories. This is interesting given the assessment that the security threat has not diminished. It is perhaps significant that it is in the category “finds” that the numbers have fallen by the smallest margin. There was not a month when there were no finds – with the lowest number of finds in May 2015 (4) and the highest number in October 2014 (17). It may be that not too much comfort can be taken from these figures – particularly in the light of the increasing sophistication and capability of some munitions and, in particular, EFPs. Indeed, the number of such call outs is not necessarily an accurate indicator of the threat because that number does not reflect the number of attacks which are disrupted before they come to fruition by security force action or which fail for a range of other reasons (eg equipment or operative failure).

### **Incidents in Derry City and Strabane District Council Area 28<sup>th</sup>/ 29<sup>th</sup> July 2015**

- 12.4 The role of the armed forces came under close scrutiny during incidents in Derry on the night of 29<sup>th</sup> July and Strabane on 4<sup>th</sup> August 2015. The PSNI, following recent security alerts and relying on intelligence, conducted searches of premises. The purpose of operation was to search for munitions.
- 12.5 The searches were in –
- (a) Galliagh, Derry on 29<sup>th</sup> July; and
  - (b) the Ballycolman Estate in Strabane, Co Tyrone on 4<sup>th</sup> August.
- 12.6 If a suspected IED is discovered in Northern Ireland the normal procedure is for the PSNI to request the assistance of an ATO who will be a bomb disposal expert. In these circumstances the Army deploy an Explosive Ordnance Disposal Vehicle (EODV). This is a large commercial style vehicle with distinctive livery, painted white with a single high visibility stripe down each side. They are equipped with blue bar lights and two tone sirens and can be clearly identified. The presence of such vehicles is accepted in CNR communities. Normally, in these situations, the area would be cordoned off during the search and evacuated where necessary. The residents in the vicinity would be made aware of what was going on, normally through community representatives, and why the PSNI had called the Army in to assist.
- 12.7 On these two occasions the PSNI Terrorism Investigation Unit, suspecting the presence of munitions, initiated search operations through the local police in Derry and Strabane who requested the deployment of a trained military search team in order to carry out the required searches. The key point here is that it is not the role of an ATO to conduct such a search. This is done by trained search personnel. The ATO's role is to dispose of the explosive ordnance once it has been located and found. The military search team arrived at these two locations in two Army snatch vehicles without an attendant ATO or EODV. These snatch vehicles are routinely used by these Army personnel to transport all the equipment needed to enable a search to be carried out. These vehicles are simply Landrovers, painted white with the high visibility stripe down each side. The livery is similar livery to that of an EODV. However, the local residents thought the Army were conducting house searches on their own. In fact Army personnel do not deploy to a task unless they are accompanied by the police. Standard procedure is that search activity is carried out under the guidance and supervision of the police who will always deploy with military search teams. Tensions in the community nevertheless ran high. On these two occasions the situation did not require the immediate deployment of an ATO or wide scale evacuation of the community. However, the presence of military personnel arriving in clearly identified vehicles should have been sufficient to suggest that the police required support in order to complete their task. It is important that the public understand that the military have, as a consequence of previous adverse commentary regarding their presence, made significant efforts to lower their profile whilst maintaining visible support to the PSNI. It is equally important to

recognise that they do not, nor should they, try to look like police officers in order to provide this support. For that reason their uniform and livery is distinctively different to that of the PSNI.

- 12.8 Following the searches a number of items were taken away for forensic examination.
- 12.9 The PSNI have to discuss their requirements for support with various agencies including the military when they require specialist assistance – in this case to locate and dispose of explosive ordnance. It is for those agencies to assist the PSNI by assessing the requirement based upon the available information and provide the optimum support to achieve resolution as quickly as possible. Following these events, the PSNI have amended their practice and no searches involving the use of military assets will take place in Derry or Strabane without the authority of the District Commander and a local bronze commander will be tasked to conduct a community impact assessment and manage the deployment of all resources to minimize the impact on local communities.
- 12.10 The press coverage and PSNI response is addressed in Chapter 10 above. A few days later the Strabane Chronicle reported on 7<sup>th</sup> August under the headline “*British soldiers back on the streets*” that “*British soldiers have returned to Strabane’s streets following two security alerts in four days*”. This was, in fact, a routine PSNI search for munitions under the JSA with military support. However, that was not the perception in some parts of the local community or the impression given by some parts of the media.
- 12.11 It has been suggested that the PSNI should take over the role of searching for and disposing of explosive ordnance from the Army whenever powers under the JSA are exercised. I do not think this is a practical solution or indeed necessary for the following reasons –
- (a) it would be far too expensive for the PSNI to undertake this work particularly at the current time;
  - (b) this is not police work and the current arrangements for the deployment of EOD assets in Northern Ireland are the same as those in the rest of the UK;
  - (c) it is only a tiny minority who object to the Army carrying out this work.

### **Processing and handling of complaints**

- 12.12 Under section 40(1)(b) the Independent Reviewer must review the procedures adopted by the Brigadier for receiving, investigating and responding to complaints about the Armed forces. Section 40(6) provides that the Reviewer shall receive and investigate any representations about these procedures; may investigate the operation of those procedures in relation to a particular complaint or class of complaints; may require the Brigadier to review a particular case or class of complaint in which the Reviewer considers that any

of the procedures have operated inadequately; and may make representations to the Brigadier about inadequacies in those procedures.

- 12.13 Section 40(7) provides that the Brigadier must provide such information, disclose such documents and provide such assistance as the Reviewer may reasonably require.
- 12.14 I can confirm that I have not received any representations about these procedures. I have not had to require the Brigadier to review any case or class of complaint. I can confirm that I have investigated the operation of these procedures and have been provided with all the case files relating to complaints.
- 12.15 There were 7 complaints in this reporting period. Two on 31<sup>st</sup> July 2014 and 14<sup>th</sup> July 2014 were dealt with in paragraph 12.11 of my last report. The remaining 5 are dealt with below and concern trespass and damage to property and distress and inconvenience caused by low flying aircraft. It is worth noting that in 2009 there were 110 complaints against the Armed forces in Northern Ireland but by 2013 this number had fallen to 18. In the last reporting period there were 5 and in this reporting period there were 7. The reason for this trend is that there are far fewer military flights than in previous years. The handling of these complaints is dealt with in the following paragraphs.
- 12.16 On 27<sup>th</sup> September 2015 a local resident in Limavady Co Londonderry called at the entrance to the Magilligan Training Area and complained that he had been woken by soldiers in his farmyard at 06.00 hours. At 08.00 hours soldiers were seen running across his fields. There had been damage to fences. The incident had caused distress to his family. The complainant was told that he would be contacted and later that day he was visited by an MoD representative who apologised for the incident. The presence of British soldiers in Northern Ireland is highly sensitive and the complaint needed to be taken seriously. There had been a training exercise between 26<sup>th</sup> and 28<sup>th</sup> September. All exercise support staff had been briefed as to the sensitivities of the area and reminded of the action they should take if any personnel encroached into an area where they should not be. A post exercise report on the file dated 15<sup>th</sup> October under "key lessons" states that the farmer's complaint to be "opportunistic and the damage to the fence historic". It further states that the incident was dealt with amicably and the complainant was presented with nominal compensation. It also states that action was taken immediately to alter drop off points for patrols on the exercise to "provide further distance between their likely patrol route and this farmer's land".
- 12.17 The second complaint arose from the same incident on 27<sup>th</sup> September and was made by a neighbour and relative of the first complainant. Again the complaint concerned trespass and damage to fencing. This complainant had seen soldiers running across his fields at 0800 hours. He confronted the soldiers who he said were polite and well mannered. While the MoD representative was visiting the first complainant on the day of the incident he

met the second complainant at the same time. On leaving the premises the MoD representative saw a truck full of soldiers at the end of the first complainant's lane. He told them to get back into the truck and move on. The Civilian Representative visited the second complainant on 7<sup>th</sup> November and advised him to make a claim to the MoD claims unit in London. In a letter dated 12<sup>th</sup> November he informed the second complainant that there would be a formal inquiry into the incident. The investigation was not completed until 2015 the gist of which was that soldiers had been dropped off at the wrong location and had to exit via private farmland damaging fences in the process.

12.18 Having spent some time looking at these two (quite substantial) complaint files I have the following observations-

(a) the exercise, though deemed a success, did involve soldiers being dropped off at the wrong place and having to cross private land contrary to the exercise plan;

(b) although the MoD representative saw the two complainants later that day, the complaint was not recorded as it should have been;

(c) the process was slow – the official report was not completed until March 2015 and the identity of the patrol which trespassed and caused the damage was never identified. It is not clear why that patrol was not identified at the close of the exercise by asking those involved who was responsible;

(d) the file does not contain a copy of the Brigadier's letter signing of the Army's response or any indication as yet of the amount of compensation paid;

(e) although these files have been made available to me in their entirety it would be helpful, particularly in cases where the complaint has not been handled well, if the Army could provide a chronology, summary and explanation of what went wrong with some indication of action taken to prevent a recurrence.

12.19 The third complaint concerned low flying aircraft. On 7<sup>th</sup> April 2015 a C-130 Hercules 4 engine turbo prop military transport aircraft went on a training exercise over Ballymena, the Antrim coast, Enniskillen, and the Mourne Mountains before returning to base. A complaint was received from a member of the public in Strabane and there were several other complaints over the next 24 hours. The performance of the aircraft was reported by local BBC news. The aircraft was seen over Ballycastle, Newry, Warren Point, over the Mourne Mountains and over a dual carriageway between Portrush and Ballymena. The BBC reported that "*not all eye witnesses were impressed by the impromptu aerobatic display*". One eyewitness reported that the aircraft was "*....dipping, twisting, making sharp turns – it wasn't normal flying behaviour. It then came into line with the carriageway and it looked like it was going to crash land – it was really frightening. It was that low we could actually see the pilot and cars were slowing down. It was flying at the height of a small*



tree". The following day the PSNI wrote on their Twitter account that the "mystery" had been solved– a military aircraft was conducting low level navigation training adding "No need to go to any air shows now!". However, there were reports that some distress had been caused and children had come running and screaming into houses. There was an internal inquiry which was completed that day which did not mention that anything untoward had occurred commenting only that it "is often encouraged for crews to challenge themselves in training and use the aircraft as much as possible". On 21<sup>st</sup> April 38(Irish) Brigade wrote to the original complainant with an apology and with the following explanation –

*"..essential flying training will continue in Northern Ireland in order to maintain the skills of the aircrew. Northern Ireland is a designated Low Flying Area and serves as a fundamental component of our ability to train our pilots for world-wide operations. All low flying activity throughout the United Kingdom (including Northern Ireland) is monitored and regulated to ensure that there is as little disruption as possible. Unfortunately, it is not possible to completely remove the disruption to all members of the public".*

It would appear that this apology and the prompt explanation from the PSNI on Twitter sufficiently addressed the complaints. There is a note on the MoD file reminding colleagues of the sensitivity of low flying aircraft in Northern Ireland. It would appear that this exercise had been conducted with some exuberance and the pilot's commanding officer was invited to make the pilot "aware of the wake left by his flight".

12.20 The fourth complaint was more serious. On 16<sup>th</sup> April 2015 a Tornado jet flew low and very close to a farm in Dungannon, Co Tyrone. There were 10,000 free range laying hens on the farm, some of whom had been smothered and killed as a result of this incident. The farmer complained that egg production fell by 1,000 per day. A month later egg production was still down by 300 per day. Livestock had been frightened and one cow tried to jump over a barbed wire fence. The incident had caused serious distress to the farmer. On 27<sup>th</sup> April 38(Irish)Brigade wrote to the complainant informing him that the complaint had been passed to the Common Law Claims and Policy Unit in the MoD in London. The Civil Representative visited the complainant and concluded that he had suffered economic loss as a result of this incident. Unfortunately, the file does not yet contain any information about the progress of the claim after 31<sup>st</sup> July and neither does it give any information about whether the claim has been settled. It is important, in the interests of good local relations, that the Army are informed in due course of the final outcome of any claim and that this is recorded on the file.

12.21 Finally, a complaint was made on 15<sup>th</sup> March 2015 by a resident in Rathfriland, Co Down about a low flying helicopter. On 17<sup>th</sup> March 38(Irish)Brigade wrote to the complainant informing him that military flight records had been checked and the low flying aircraft was not a military helicopter. It was pointed out that the helicopter could have been a corporate

or privately owned aircraft in which case the complainant should direct his complaint to the CAA or PSNI. No further action was taken or required.

12.22 The Army has a good record of processing complaints promptly and correctly. However, I recommend that in future-

(a) where the complaint has not been handled well there should be a note on the file sets out the chronology; the reasons why the complaint has not been dealt with properly; and what steps have been taken to prevent a recurrence;

(b) in cases where the complaint has been referred to the Common Law Claims and Policy Unit in London for settlement of any claim 38(Irish)Brigade should be informed of the outcome and that should be recorded on the file.

### **13. MISCELLANEOUS**

#### **Outstanding recommendations**

13.1 In my last report I devoted a chapter to the way in which the PSNI had responded to a large number of recommendations which had been made before and during the last reporting period. There were no outstanding recommendations this year other than the longstanding recommendation about community monitoring (see Chapter 9 above). In paragraph 11.8 of my last report I referred to the CJINI's recommendation that the PSNI "*should conduct a more rigorous and comprehensive threat and risk assessment for public order which should include the wider strategic contexts*". I reported that in response to this the PSNI developed a Public Order Strategic Threat and Risk Assessment. The PSNI have conducted a service level public order debrief identifying best practice and areas for improvement which are being taken forward by the PSNI Public Order Strategic Board. The CJINI informed me this year that they were satisfied with the PSNI response.

#### **Impact of PSNI restructuring**

13.2 On 1<sup>st</sup> April 2015 Northern Ireland's 26 local councils were consolidated into 11 "super" councils. The PSNI has been restructured to reflect these changes. Consequently, as from 1<sup>st</sup> April 2015, there are now 11 police districts (previously there were 7) and these districts are divided into 3 areas as follows (district letters in brackets)-

- Belfast Area (covering Belfast District (A));
- South Area (covering Lisburn and Castlereagh City(B), Ards and North Down (C), Newry, Mourne and Down (D), Armagh City, Banbridge and Craigavon (E), Mid Ulster (F) and Fermanagh and Omagh (G));
- North Area (covering Derry City and Strabane (H), Causeway Coast and Glens (J), Mid and East Antrim (K) and Antrim and Newtownabbey (L)).

- 13.3 This restructuring took place at a time when the PSNI were facing a £38m cut in its annual budget. This is a new model of policing for the PSNI. It has created a leaner command structure. The PSNI told the BBC that neighbourhood policing will remain “*firmly at the core*” of the PSNI service. Neighbourhood policing teams were to replace response teams and would be “*more flexible, more agile*”. The number of neighbourhood policing teams were cut back but new local policing teams will be created and have a similar ethos. ACC Stephen Martin was quoted as saying –

*“There will be a mixture of 25 local policing teams and over 30 neighbourhood policing teams across Northern Ireland as well as local detectives in each district.*

*We recognise that this represents a reduction to the current number of neighbourhood policing teams across Northern Ireland, however local policing teams are an exciting development”*

ACC Martin said that local policing teams would employ “*more policing with the community style than the previous response teams*”. He stressed that the neighbourhood policing teams which remained would be concentrated in areas that have higher levels of crime and deprivation.

- 13.4 Concerns were expressed about the impact of this restructuring. In particular some commentators were worried about what they perceived as the decline in neighbourhood policing; the closure of rural police stations and the fact that there was only one police station in Belfast City which was open 24 hours a day. There is also a challenge for the PSNI in ensuring that the procedure for making authorisations under the JSA (see Chapter 11 above) is sufficiently robust to ensure that the area specified in the authorisation is, in geographical terms, “no greater than is necessary”. In paragraph 9.8 of my last Report I said that

*“...I am satisfied that this process is undertaken properly and thoroughly. The statutory tests were met; intelligence was refreshed on each occasion **and was based on input from all 8 District Commanders who are best placed to assess the intelligence and advise the ACC**”.*

Since the restructuring the intelligence is co-ordinated in each of the 3 Areas by an Area Co-ordinator setting out the case for the authorisation to cover that area. In practice, for the reasons given in Chapter 11 above, I am satisfied that this has not had any impact on the level of detailed scrutiny which precedes each authorisation but I recommend that the PSNI establish consistent practices within each Area to ensure that the level of scrutiny remains as thorough as it has been up to now and that, despite its artificiality (see paragraph 11.4 above), consideration is given to considering, as required by the JSA, the need for the authorisation to apply in each of the 11 Districts. This will be reviewed again in the next Report.

## **Road closures and land requisition**

- 13.5 Chapter 10 of my last report sets out the 3 powers in the JSA to close roads and requisition land and details of the agency agreement in 2011 between the Secretary of State and the MoJ which allows certain road closure powers to be exercised by the devolved administration on behalf of the Secretary of State.
- 13.6 The use of these powers is an unwelcome reminder of continuing problems. They are mainly used in 3 distinct situations – attacks on public buildings (eg law courts and police stations), public disorder (often connected with the parading season) and the harassment of communities of different affinity. It is a sad fact that alleyways and footpaths are used to harass residents in neighbouring communities and the restrictions imposed on free movement are, for the most part, largely welcomed by local residents.
- 13.7 There has not been much change on this front during the current reporting period.
- 13.8 The Shore Road in Ballykinler was closed at the request of the PSNI based on risk of a VBIED being left close to the perimeter fence of the Ballykinler Army base. This road closure is due to be reviewed by the end of 2015. Lower Chichester Street adjoining the Law Courts in Belfast has been closed since 2010 and remains closed. Its closure has been subject to regular review but it has been assessed that the threat to the Law Courts complex remains and that the road closure is proportionate and necessary. Again a full review is due to take place at the end of 2015. The road closures at Thiepval Barracks in Lisburn and at Aldergrove are due to be reviewed but are likely to remain in place.
- 13.9 The following land requisitions under section 29 were carried out by the MoJ during the reporting period under the agency arrangements –
- (a) at 0800hrs on 25<sup>th</sup> March 2015 a narrow rectangular strip of land crossing the garden of a property at 369 Springfield Road, Belfast was requisitioned to enable the fence line of a new gate at Workman Avenue to continue to the wall of the property;
  - (b) between 1200hrs on 26<sup>th</sup> June and 2359 on 28<sup>th</sup> June 2015 Forthriver Business Park on the Springfield Road in Belfast was requisitioned to enable effective policing ahead of and immediately after the annual Whiterock Parade. The Orange Order complied with a Parades Commission restriction on the number of people who could walk on to the mainly nationalist Springfield Road at the junction with Workman Avenue. About 50 residents from the Springfield Road Residents Action Group held a silent protest. More than 100 officers were present. PSNI Chief Superintendent Nigel Grimshaw was quoted as saying that he was “*encouraged by the calm and peaceful way in which the parade and associated protests were conducted*”;
  - (c) between 1800hrs on 10<sup>th</sup> July to 2359hrs on 15<sup>th</sup> July 2015 a section of land at the apex of Crumlin Road and Woodvale Road was

requisitioned to enable an effective policing operation around the Twelfth July parades. This parade passed off peacefully but for the incidents at the very close of the parade (see paragraphs 4.10 to 4.12 above).

13.10 The following road closures were made by the MoJ under section 32 under the agency arrangements-

(a) from 2359hrs on January 29<sup>th</sup> 2015, two pathways between planters in front of houses on Albertbridge Road in Belfast were closed off to deny access to houses which were a potential target for attack. This move was supported by local residents, the local community association, the PSNI and the Northern Ireland Housing Executive;

(b) from 0001 hrs on 28<sup>th</sup> May 2015 an alleyway running behind Edgar Street in Belfast was closed at both ends to all vehicles and pedestrian traffic. The purpose of this closure was to allow the installation of alleygates. This order will come to an end once Belfast City Council puts in place its gating order.

13.11 These measures taken under sections 29 and 30 are not controversial and indeed are welcomed, on the whole, by local residents. The agency arrangements under which the MoJ exercises these powers on behalf of the Secretary of State were reviewed in February 2015 and both the MoJ and Secretary of State agreed that the arrangements are working well. Legislation to give the MoJ these powers directly will be brought forward subject to there being an appropriate legislative vehicle.

## **14. VIEWS OF CONSULTEES**

14.1 My remit from the Secretary of State stated that I should review the operation of the JSA from the perspective not only of those who exercise these powers but also from that of those who are affected by them. In the course of my many discussions I heard many (often conflicting) views. Many of the comments I heard are incorporated in the text of the previous chapters which deal with specific aspects of the JSA. The remaining views of those I spoke to are summarised in this Chapter under the following headings.

### **Responses to my last report**

14.2 There were two main responses to my last report.

14.3 The Belfast Telegraph of 28<sup>th</sup> January 2015 gave a factual account and highlighted what the report said about the response of the PUL community to the PSNI handling of the Flags protest, the rise in confidence in the PSNI to 67.1%, the contrast between the role of the TSG and community police officers and my recommendations about increased transparency concerning the use of the JSA powers, the introduction of body worn cameras and improved relations with young people. BBC News Northern Ireland

concentrated on the report's mention that Army bomb teams were called out 347 times during the last reporting period.

14.4 One commentator made a number of points in a formal submission to me for which I was very grateful. In particular, he suggested that, in the light of the continuous threat from DRs across Northern Ireland and the fact that PSNI resources are limited, the use of stop and search powers (being time limited, location limited and confined mainly to public places) puts a heavy burden on the police. It was argued that the most direct response in anti-terrorism laws to deal with an individual who is considered a risk would be a TPIM. It was striking that TPIMs had not been used in Northern Ireland. Moreover, there might be alternatives outside anti-terrorism laws such as Serious Crime Prevention Orders under the Serious Crime Act 2007 which could be used. The use of such powers as an alternative – or perhaps as an addition – to the current use of JSA powers goes beyond the remit of this report. All I would add is that

(a) TPIMs – and their predecessor control orders – are very labour intensive and require 24/7 monitoring to secure effective compliance and that is one of the reasons why they have been used sparingly in the rest of the UK;

(b) community impact is a major consideration in the use of such powers in Northern Ireland to a much greater extent than in the rest of the UK;

(c) the nature of the terrorist threat in Northern Ireland is different from the Islamist threat in the UK. Northern Ireland is a small jurisdiction with a negligible transient population; those who are a threat are known to the authorities and the preferred modus operandi of DRs is well understood. That is why the JSA is framed in the way that it is concentrating on the threat from munitions. In these circumstances a stop and search power applying to all potential terrorists is a more effective and cost effective measure than a TPIM imposed on a select few. It was also suggested that the time has come to look again at whether the Army need all the powers set out in sections 21 to 30 of the JSA as they have never been exercised (see paragraph 12.2 above). This is an issue which can no doubt be reviewed at the next legislative opportunity but so long as the security level remains "SEVERE" I would not recommend that those powers be removed.

### **Community policing**

14.5 The greatest concern expressed in all quarters – the political parties, NGOs, community groups etc - concerned the loss of community police officers – described by one senior PSNI officer as "the heart and soul" of policing in Northern Ireland. It was widely accepted that this was a direct consequence of the financial constraints imposed on the PSNI. Well respected community police officers unsuccessfully re-applied for their jobs. Some said that there

had been insufficient consultation with the local community itself. Concern was expressed that levels of crime (eg drug taking and anti-social behaviour) would rise. Some community police officers had been replaced but others had not. There are now 10 local policing teams in Belfast and they are responsible for response policing (as a priority) and neighbourhood policing. Each local team reflects an electoral area. Some neighbourhood police officers have remained. In North Belfast there used to be 5 teams of community police officers but this had been reduced to 3. One observer commented that as soon as a community police officer is lost “you go back to Square 1”. However, where the need is greatest those teams have remained. Some observed that this diminution in community police levels had taken place at a time when an expensive police presence was being maintained at Twaddell. This is an unfortunate but inevitable contrast. The PSNI have had to make cuts across the board. The situation at Twaddell is reviewed every 6 weeks and is now at “an absolute minimum” according to the PSNI. There have been 4 attacks on the police at Twaddell in the past 2 years.

### **Does stop and search remain an issue?**

14.6 Some commentators, surprisingly, said that stop and search under JSA and TACT 2000 was no longer an issue in Northern Ireland. There are 3 possible reasons for such an unexpected conclusion -

(a) the levels of stop and search have fallen dramatically in recent years (see paragraphs 6.3 to 6.6 above);

(b) the number of complaints to the Ombudsman about stop and search is very low;

(c) stop and search does not affect the vast majority of the population – there were only 5,359 stops/search in Northern Ireland in a population of 1.8m (and that figure of 5,359 includes a number of people who have been stopped on multiple occasions).

However, in some locations, namely parts of Derry and North Belfast it remains a serious issue which alienates individuals and their communities and reinforces tensions with the police. In those communities stop and search remains a tangible reminder of the past. The use of the powers is intelligence led and inevitably the focus is on known individuals living in particular communities. The fact that the issue does not affect the vast majority of the population does not mean that it is not a serious issue.

### **Impact of cuts in PSNI resources**

14.7 There was a general concern expressed by all sections of the community that the PSNI lack the resources they need. Too many police stations were closing. Musgrave Police Station remains as the only 24 hour police station in Belfast City. “*The PSNI have done away with police stations in rural areas*” was one comment. There were concerns about police response rates in sexual assault, drugs and anti-social behaviour cases. Concern was also

expressed that the 101 Call Centre was no longer staffed by police officers. Some were concerned that, if this trend continued, paramilitaries would return to the streets in an enforcement role – particularly where the use of drugs and anti-social behaviour were issues. There was a risk in the long term that this might contribute to undermining the peace process. These are understandable fears. PSNI funding is outside the remit of this report but it is relevant to the issue of priorities and how the JSA powers can, in straightened times, be used to best effect. Since the end of this reporting period, in her Statement to Parliament on 15<sup>th</sup> December 2015 (**Annex D**), the Secretary of State reported that the Chancellor confirmed in the Spending Review and Autumn Statement that the UK Government is making available £160m in Additional Security Funding to the PSNI over the next 5 years to assist their efforts to tackle terrorism.

## Public order

- 14.8 Policing public order events remains a challenge for the PSNI and absorbs a large amount of its resources. Many agreed that parading was not an issue outside Belfast and even then the problem is focussed largely on the 12<sup>th</sup> July and the right of the Orange Order march to progress up the Crumlin Road in the evening on their return. Professor Jonny Byrne has commented in an article entitled “Marching in Circles” that-

*“It is these local disputes which come to epitomise the issues of parades and protests in Northern Ireland. In the age of ‘big government’ we still allow micro disagreements to dominate the political landscape – for an Executive that promotes the lessons of its peace process this is a poor indictment of its progress to date”.*

A number of concerns were expressed – that it was the paramilitaries who determine whether a parade passes off peacefully; that the Orange Order Lodge in Belfast had been infiltrated by “outsiders”; that DRs come in to Belfast for the parade; and that country lodges were in dispute with the Belfast Lodge. Many people said that the organisers of 12<sup>th</sup> July need to engage with community leaders in the CNR community in North Belfast to find a solution. One suggestion was that the parade should, on its return, have a symbolic small parade back up the Crumlin Road in the evening. The dilemma created by this issue was described by Professor Byrne –

*“Looking forward, it is difficult to see a meaningful and long term solution to the parading crisis. While community representatives, parade organisers and participants, protestors and political representatives continue to have the safety of the Parades Commission and the Secretary of State to blame, the odds are stacked against us. These “third parties” mean that those closest to the issues do not have to answer the challenging questions such as, what do we have to sacrifice to ensure that parades and protests do not derail the process of normalization? What does celebrating culture in a shared society look like? What does acceptance of different cultures look like? And most*



*importantly how do we all own the public holiday known as the Twelfth of July?”.*

### **Frustration with the criminal justice system**

14.9 Some individuals expressed concern about the inability of the criminal justice system to provide quick solutions to criminal activity which had blighted their area. In particular there was concern about the high level of drug use. Some contrasted the speed with which this issue was addressed in the past when the local community itself took matters into their own hands. In the words of one member of the CNR community *“when we had no law we had order and now that we have law we have no order”*. There was a particular concern about the level of sentencing for serious crime in Northern Ireland. One community worker, an ex PIRA prisoner, said that lack of confidence in the criminal justice system, together with low economic prospects, an under resourced police force and lack of progress on welfare reform, meant that *“there are a lot of angry people out there who do not see the benefits of the peace process”*. These concerns were expressed across the community divide.

### **PSNI “bias”**

14.10 Perhaps inevitably, there were many comments that the PSNI favoured the CNR community or, alternatively, the PUL community. This just reflects the fact that the PSNI have to police a community where in the words of one church leader *“the war is over but the struggle is alive and well”*. It was disappointing to hear that whilst almost everybody recognised that the PSNI had a difficult job and were “caught in the middle” some were still quick to see bias in the way in which the PSNI operated when the impact was felt in their area. Indeed this preconditioned mindset meant that no time was lost waiting for the facts to unfold or an explanation to be given before offence was taken. Moreover, it would only take one incident to convince some people that there was an institutional bias. There is an unwillingness in some quarters to recognise that the police have fine judgments to make. A particular challenge for the police in any situation which is volatile and where emotions run high is how best to intervene when competing rights and obligations are in play. Sometimes they need time to prepare for an effective intervention. That can often be seen as failure to act and showing bias to one particular side. There are some in the PUL community who see the PSNI’s enforcement of Parade Commission conditions as criminalising their culture. Some in the PUL community said that the PSNI try to *“ingratiate themselves”* with SF and the CNR community. It was said that the police took no action against those who fired shots at an INLA funeral in Derry in July 2015. In fact the police have taken action in respect of that incident – 13 houses and one vehicle have been searched and 7 suspects have been arrested (all released unconditionally on bail). The investigation is ongoing. On the other hand many in the CNR community interpret the fact that stop and search powers are used (for the most part) against the DRs in CNR areas as evidence of PSNI bias

against their community. This ignores the fact that the PSNI have a duty under Article 2 of the ECHR to protect life and the fact is that the major threat from munitions comes from DRs. These are just two examples. It is sad that impartial professional policing in a divided community will always lead to allegations of bias because it feeds the political narrative that needs to be maintained.

### **Is the security threat exaggerated?**

14.11 It was suggested to me that the security situation is exaggerated in Northern Ireland. *“Most security services have to find an enemy to justify their existence”*. It was also said that both the PSNI and Army share a vested interest in “hyping” the security situation because it justifies numbers, presence and budget. I do not accept that assessment. It is true that life has returned to normal in many respects during the peace process. It is also true that the main threat is from DRs who target the police, prison officers and military personnel and not the general public. It is also true that very few attacks in recent years have resulted in fatalities. However, the PSNI would admit that, despite the work of the security forces, it is only as a result of good fortune that some serious attacks and deaths have been prevented. Some of the foiled attacks have been reckless with the potential to cause civilian casualties. Moreover, the threat is resilient and will not change for the foreseeable future.

### **Young people**

14.12 There was widespread concern about young people. This was based on lack of job prospects and under achievement in schools. However, there were two other particular concerns. First, the extent of drug abuse. Drugs are used and sold in public parks. Community workers had challenged these youths and been disregarded and laughed at. Drug use blights some parts of Belfast City. The police appear to some sections of the community to be unresponsive and, even when some action is taken, the criminal justice system grinds slowly and the punishment does not always meet the crime. Secondly, there was a real anxiety that some young people are being radicalised and *“teaming up with former PIRA members”*. One former IRA prisoner told me that young people in his community *“wanted to have a go just like we did”*. Many young people thought that

(a) throwing stones and missiles at police vehicles was a continuation of the struggle;

(b) the peace process was not delivering any benefits for them;

(c) police activity, if seen to be heavy handed, was reinforcing this trend.

There was a perception in some quarters that no part of government or any other body was taking responsibility for ensuring that the next generation did not abandon the peace process.

## 15. RECOMMENDATIONS

- 15.1 I am satisfied that the regime established under sections 21 to 32 is operating effectively in Northern Ireland. However, I have the following recommendations.
- 15.2 At the next available opportunity the JSA should be amended to-
- (a) change the reporting cycle for this report to one based on the calendar year (paragraph 3.10);
  - (b) allow the authorisation to remain in place for up to at least 3 months instead of 14 days provided the security situation in North Ireland remains as it is and sufficient safeguards remain in place (paragraph 11.9).
- 15.3 All the powers which the police and armed forces have under the JSA should be retained so long as the current security situation continues (paragraphs 4.6 and 12.2).
- 15.4 The PSNI should place in the public domain as much information as possible about the use of the JSA powers and in particular -
- (a) an explanation of why the arrest rates following a JSA search and TACT 2000 search are so low (paragraph 6.7);
  - (b) an explanation of the TSG's role and how it operates (paragraph 6.12);
  - (c) statistics about the number of occasions munitions are found following searches of individuals under the JSA and TACT 2000 (paragraph 7.12);
  - (d) an explanation of how and how frequently individual officers' use of the JSA powers is monitored using the PUMA system and the outcome of such monitoring (paragraph 8.7);
  - (e) in order to prevent further misunderstanding an explanation of how the armed forces will be used in support of the PSNI when searching for or disposing of live ordnance and the procedure to be followed (paragraphs 12.4 to 12.10 above);
  - (f) an analysis of the Equality Monitoring Stop and Search project (paragraph 9.4).
- 15.5 The use of body worn cameras should be rolled out as soon as possible, as finances permit, and the PSNI should publish on an annual basis an assessment of the impact and benefits (paragraphs 6.13 to 6.16 above).
- 15.6 The PSNI should review its "repeat" use of JSA powers and publish an explanation of how these powers will be used and how their use will be monitored so the public will be better informed (paragraph 7.12).

- 15.7 The PSNI should publish statistics about how many individuals stopped and searched under JSA and TACT 2000 collect a copy of the stop/search record at their local police station (paragraph 8.7).
- 15.8 When the Army fails to consider a complaint in a timely or proper way they should place a record on the file explaining the chronology, what went wrong and what remedial action, if any, is taken and when compensation is paid to a complainant by the MoD in London 38(Irish) Brigade should be notified of the outcome and record of it placed on the file (paragraph 12.22).

## **ANNEX A – ACRONYMS AND GLOSSARY**

ACC – Assistant Chief Constable

CAA – Civil Aviation Authority

CAJ – Committee for the Administration of Justice

CJINI – Criminal Justice Inspectorate Northern Ireland

CNR – Catholic/Republican/Nationalist

Code of Practice – Code of Practice issued under section 34 of the JSA

CWIED – command wire improvised explosive device

DoJ – Department of Justice

DR – Dissident Republican

EOD – explosive ordnance disposal

ECHR – European Convention on Human Rights

EFP – explosively formed projectile

EODV – explosive ordnance disposal vehicle

HMIC – Her Majesty’s Inspectorate of Constabulary

IED – improvised explosive device

IPG – improvised projectile grenade

JSA – Justice and Security (Northern Ireland) Act 2007

MI5 – Security Service

MLA – Member of the Legislative Assembly

MoJ – Minister of Justice

NGO – Non Governmental Organisation

NIO – Northern Ireland Office

NIPB – Northern Ireland Policing Board

Ombudsman – Police Ombudsman for Northern Ireland

ONH – Oglagh na hEirreann

PACE – Police and Criminal Evidence (Northern Ireland) Order 1989

POFA 2012 – Protection of Freedoms Act 2012

PSNI – Police Service of Northern Ireland

PUL – Protestant/Unionist/Loyalist

PUMA – providing users mobile access

RCIED – radio controlled improvised explosive device

SF – Sinn Fein

TACT 2000 – Terrorism Act 2000

TASP – terrorism and security powers

TPIM – terrorism prevention and investigation measure under the Terrorism Prevention and Investigation Measures Act 2011

TSG – Tactical Support Group

URN – Unique Reference Number

UVIED – under vehicle improvised explosive device

VBIED – vehicle borne improvised explosive device

VOIED – victim operated improvised explosive device

## **ANNEX B – ORGANISATIONS AND INDIVIDUALS CONSULTED OR SUBMITTING EVIDENCE**

Alliance Party

Aly Kilpatrick Human Rights Adviser to NIPB

British Irish Intergovernmental Secretariat

Crumlin Ardoyne Residents Association (CARA)

Charter NI

Church Leaders

Coiste na n-Iarchimi

Committee for the Administration of Justice

Creggan Enterprises (Derry)

Creggan Estate residents representative

Criminal Justice Inspectorate Northern Ireland

David Anderson QC (Independent Reviewer of Terrorism Legislation)

David Ford MLA (Minister of Justice)

Department of Justice officials

Democratic Unionist Party

Dominick Chilcott CMG (British Ambassador Dublin)

Eamon O’Cuiv TD

HQ (38) Irish Brigade

Jim Roddy community representative (Derry)

KRW Law – LLP (Solicitors)

Madden and Finucane (Solicitors)

MI5

Parliamentary Under Secretary of State Northern Ireland Office

Northern Ireland Human Rights Commission

Northern Ireland Office officials

Northern Ireland Policing Board Performance Committee

Orange Order Belfast

Parades Commission Northern Ireland

Police Federation for Northern Ireland  
Police Ombudsman Northern Ireland  
Police Service of Northern Ireland  
Police Superintendents Association of Northern Ireland  
Professor Jonny Byrne, University of Jordanstown  
Progressive Unionist Party  
Shankhill Road Women's Centre  
Social Democratic and Labour Party  
Sinn Fein  
Ulster Political Research Group (South and West Belfast)  
Ulster Unionist Party



## ANNEX C – SUMMARY OF POWERS

### Part 1

This summary sets out the powers in the **Justice and Security (Northern Ireland) Act 2007 (2007 Act)** which are used by the PSNI and which are covered in the Code of Practice. For a full description of the powers reference should be made to the relevant section of the 2007 Act. More details on how the powers should be exercised are set out at the relevant sections of the Code.

Section	Power	Overview	Records
21	21(1) A constable may stop a person for so long as is necessary to question him to ascertain his identity and movements.	<p>This power allows a police officer to stop and question a member of the public to establish their identity and movements.</p> <p>People stopped and questioned may be asked for their name, date of birth, and address. They may also be asked for identification. They may be asked to give details of their recent movements.</p> <p>A person commits an offence and may be prosecuted if they fail to stop when required to do so, if they refuse to answer a question addressed to them under this section or if they fail to answer to the best of his ability a question put to him.</p>	<p>A record of each stop and question must be made.</p> <p>The record will include details of the person's name, when they were stopped and questioned, and the officer number of the police officer who conducted the stop and question.</p> <p>Officers should inform those who have been stopped and questioned how they can obtain a copy of the record if required.</p>
23	23(1) A constable may enter any premises if he considers it necessary in the course of operations for the preservation of peace and the maintenance of order.	<p>This power allows a police officer to enter premises to keep the peace or maintain order.</p> <p>If the premises is a building (a structure with four walls and a roof), the police officer generally requires prior authorisation, either oral (from an Inspector or above) or written (from a Superintendent or above).</p> <p>However in circumstances where it is not reasonably practicable to obtain an authorisation (for example, where there is an urgent need to enter a building to preserve peace or maintain order) officers can enter a building without prior authorisation.</p>	<p>A record of each entry into a building must be made. Records are not required for any premises other than buildings.</p> <p>Records must be provided as soon as reasonably practicable to the owner or occupier of the building.</p> <p>Otherwise the officer should inform the owner or occupier how to obtain a copy of the record.</p> <p>The record will include the address of the building (if known), its location, the date and time of entry, the purpose of entry, the police number of each officer entering and the rank of the authorising officer (if any).</p>

Section	Power	Overview	Records
24/Schedule 3	<p>Paragraph 2: An officer may enter and search any premises for the purpose of ascertaining whether there are any munitions unlawfully on the premises, or whether there is any wireless apparatus on the premises.</p>	<p>This power allows officers to enter and search any premises for munitions or wireless apparatus.</p> <p>For an officer to enter a dwelling, two conditions must be met: (i) he must reasonably suspect that munitions or wireless apparatus are in the dwelling (ii) he must have authorisation from an officer at least the rank of Inspector.</p> <p>Officers may be accompanied by other persons during the course of a search.</p> <p>During the course of a search, officers may make requirements of anyone the premises or anyone who enters the premises to remain on the premises. For example, movement within the premises may be restricted, or entry into the premises not permitted. A person commits an offence and may be prosecuted if they fail to submit to a requirement or wilfully obstruct or seek to frustrate a search of premises.</p> <p>A requirement may last up to four hours, unless extended for a further four hours if an officer at least the rank of Superintendent considers it necessary.</p>	<p>A written record for each search of premises must be made, unless it is not reasonably practicable to do so. A copy of this record will be given to the person who appears to the officer to be the occupier of the premises.</p> <p>The record will include the address of the premises searched, the date and time of the search, any damage caused during the course of the search and anything seized during the search. The record will also include the name of any person on the premises who appears to the officer to be the occupier of the premises. The record will provide the officer's police number.</p>
24/Schedule 3	<p>Paragraph 4: A constable may search a person (whether or not that person is in a public place) whom the constable reasonably suspects to have munitions unlawfully with him or to have wireless apparatus with him.</p>	<p>This power allows officers to search people who they reasonably suspect to have munitions or wireless apparatus. Searches can take place whether or not someone is in a public place.</p> <p>If searches take place in public, officers can only require someone to remove their headgear, footwear, outer coat, jacket or gloves. The person may be detained for as long as is reasonably required for the search to be carried out. The search may be at or near the place where the person is stopped. Searches may also be conducted of people travelling in vehicles.</p>	<p>A written record of each stop and search must be made.</p> <p>The officer should inform the person how to obtain a copy of the record.</p> <p>The record will include details of the person's name, when they were stopped and searched, and the officer number of the police officer who conducted the stop and search.</p>

Section	Power	Overview	Records
24/Schedule 3	<p>Paragraph 4A(1): A senior officer may give an authorisation under this paragraph in relation to a specified area or place.</p>	<p>This power allows a senior officer to authorise officers to stop and search people for munitions or wireless apparatus in specified locations.</p> <p>A senior officer can only make an authorisation if he reasonably suspects that the safety of any person may be endangered by the use of munitions or wireless apparatus. He must also reasonably consider that the authorisation is necessary to prevent such danger, and that the specified location and duration of the authorisation is no greater than necessary.</p> <p>The authorisation lasts for 48 hours, unless the Secretary of State confirms it for a period of up to 14 days from when the authorisation was first made. The Secretary of State may also restrict the area and duration of the authorisation or cancel it altogether.</p> <p>Whilst an authorisation is in place, officers may stop and search people for munitions and wireless apparatus whether or not they reasonably suspect that the person has munitions or wireless apparatus.</p> <p>Searches may take place in public. Officers may ask the person being searched to remove their headgear, footwear, outer coat, jacket or gloves. The person may be detained for as long as is reasonably required for the search to be carried out. The search may be at or near the place where the person is stopped. Searches may also be conducted of people travelling in vehicles.</p>	<p>A written record of each stop and search must be made.</p> <p>The officer should inform the person how to obtain a copy of the record.</p> <p>The record will include details of the person's name, when they were stopped and searched, and the officer number of the police officer who conducted the stop and search.</p>
26 and 42	<p>A power under section 24 or 25 to search premises also applies to vehicles, which include aircraft, hovercraft, train or vessel. The power includes the power to stop a vehicle (other than an aircraft which is airborne) and the power to take a vehicle or cause it to be taken, where necessary or expedient, to any place for the purposes of carrying out the search.</p>	<p>Section 42 extends the power to search premises to vehicles. Section 26 also gives officers the power to stop a vehicle (other than an aircraft which is airborne) and to take a vehicle, where necessary or expedient, to any place to carry out the search.</p> <p>A person commits an offence and may be prosecuted if he fails to stop a vehicle when required to do so.</p> <p>When an officer is carrying out a vehicle search he may require a person in/on the vehicle to remain with it, or to go to any place the vehicle is taken for a search. An officer may also use reasonable force to ensure compliance with these requirements.</p>	<p>A written record of each stop and search of a vehicle must be made.</p> <p>The officer should inform the person how to obtain a copy of the record.</p> <p>The record will include details of the person's name, when their vehicle was stopped and searched, and the officer number of the police officer who conducted the stop and search.</p>

## Part 2

This summary sets out the powers in the **Terrorism Act 2000 (TACT 2000)** which are used by the PSNI and which are covered in the Code of Practice. For a full description of the powers reference should be made to the relevant section of TACT 2000. More details on how the powers should be exercised are set out at the relevant sections of the Code.

Section	Power	Overview	Records
43	A constable may 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.	A "terrorist" is defined in section 40 as a person who has committed one of a number of specified terrorist offences or a person who is or has been concerned in the commission, preparation or instigation of acts of terrorism. And the definition of "terrorism" is found in section 1 of TACT 2000. A constable may seize and retain anything which he discovers in the course of a search of a person under subsection (1) or (2) and which he reasonably suspects may constitute evidence that the person is a terrorist.	A written record of each stop and search must be made, preferably at the time.  The officer should provide the written record to the person searched or, if this is wholly impracticable, provide the person with a unique reference number stating how the full record of the search can be accessed. The person may request a copy of the record within 12 months of the search.  The record is to set out all the information listed at paragraph 10.4 of the Code, including the person's name, the date, time and place of the search, the purpose, grounds and outcome of the search and the officer's warrant or other identification number and the police station to which the officer is attached.
43(2)	A constable may search a person arrested under section 41 of TACT 2000 to discover whether he has in their possession anything which may constitute evidence that he is a terrorist.	A constable may seize and retain anything which he discovers in the course of a search of a person under subsection (1) or (2) and which he reasonably suspects may constitute evidence that the person is a terrorist.	A written record of each stop and search must be made, preferably at the time.  The officer should provide the written record to the person searched or, if this is wholly impracticable, provide the person with a unique reference number stating how the full record of the search can be accessed. The person may request a copy of the record within 12 months of the search.  The record is to set out all the information listed at paragraph 10.4 of the Code, including the person's name, the date, time and place of the search, the purpose, grounds and outcome of the search and the officer's warrant or other identification number and the police station to which the officer is attached.

Section	Power	Overview	Records
43(4B)(a)	<p>When stopping a vehicle to exercise the power to stop a person under section 43(1), a constable may search the vehicle and anything in or on it to discover whether there is anything which may constitute evidence that the person concerned is a terrorist.</p>	<p>In exercising the power to stop a person a constable reasonably suspects to be a terrorist, he may stop a vehicle in order to do so (section 116(2) of TACT 2000). The power in section 43(4B)(a) allows the constable to search that vehicle in addition to the suspected person. The constable may seize and retain anything which he discovers in the course of such a search, and reasonably suspects may constitute evidence that the person is a terrorist. Nothing in subsection (4B) confers a power to search any person but the power to search in that subsection is in addition to the power in subsection (1) to search a person whom the constable reasonably suspects to be a terrorist.</p> <p>In other words this power does not allow a constable to search any person who is in the vehicle other than the person(s) whom the constable reasonably suspects to be a terrorist. Where the search takes place in public, there is no power for a constable to require the person to remove any clothing other than their headgear, outer coat, jacket and gloves. The person or vehicle may be detained only for as long as is reasonably required for the search to be carried out. The search should be at or near the place where the person is stopped. A constable may, if necessary, use reasonable force to exercise these powers.</p>	<p>A written record of each stop and search must be made, preferably at the time.</p> <p>The officer should provide the written record to the person searched or, if this is wholly impracticable, provide the person with a unique reference number stating how the full record of the search can be accessed. The person may request a copy of the record within 12 months of the search.</p> <p>The record is to set out all the information listed at paragraph 10.4 of the Code, including the person's name, the date, time and place of the search, the purpose, grounds and outcome of the search and the officer's warrant or other identification number and the police station to which the officer is attached.</p>
43A	<p>A constable may, if he reasonably suspects that a vehicle is being used for the purposes of terrorism, stop and search (a) vehicle, (b) the driver of the vehicle, (c) a passenger in the vehicle, (d) anything in or on the vehicle or carried by the driver or a passenger to discover whether there is anything which may constitute evidence that the vehicle is being used for the purposes of terrorism..</p>	<p>The definition of "terrorism" is found in section 1 of TACT 2000.</p> <p>A constable may seize and retain anything which he discovers in the course of a search under this section, and reasonably suspects may constitute evidence that the vehicle is being used for the purposes of terrorism.</p> <p>A constable may, if necessary, use reasonable force to exercise this power.</p>	<p>A written record of each stop and search must be made, preferably at the time.</p> <p>The officer should provide the written record to the person searched or, if this is wholly impracticable, provide the person with a unique reference number stating how the full record of the search can be accessed. The person may request a copy of the record within 12 months of the search. After searching an unattended vehicle, an officer should leave a notice on it recoding the fact it has been searched and how a copy of the record may be obtained.</p> <p>The record is to set out all the information listed at paragraph 10.4 of the Code, including the person's name, the registration number of the vehicle, the date, time and place of the search, the purpose, grounds and outcome of the search and the officer's warrant or other identification number and the police station to which the officer is attached.</p>

Section	Power	Overview	Records
47A	<p>A constable may stop and search a person or a vehicle in a specified area or place for evidence that a person is or has been concerned in the commission, preparation or instigation of acts of terrorism, or evidence that the vehicle is being used for the purposes of terrorism. The specified area or place must be specified in an authorisation made by a senior police officer and where necessary confirmed by the Secretary of State in accordance with section 47A of, and Schedule 6B, to the Terrorism Act 2000.</p>	<p>A senior officer (an assistant chief constable or above) may give an authorisation under section 47A(1) in relation to a specified area or place if that officer (a) reasonably suspects that an act of terrorism will take place; and (b) reasonably considers that the authorisation is necessary to prevent such an act and that the specified area or place and the duration of the authorisation are no greater than necessary to prevent such an act.</p> <p>The authorisation may be given for a maximum period of 14 days, but it will cease to have effect after 48 hours unless the Secretary of State confirms it within that period. The Secretary of State may also restrict the area or duration of the authorisation or cancel it altogether.</p> <p>Whilst and where an authorisation is in place, a constable in uniform may stop and search persons or vehicles for the purpose of discovering whether there is evidence that the vehicle is being used for the purposes of terrorism or that the person is or has been involved in terrorism - whether or not the officer reasonably suspects that there is such evidence.</p> <p>A search may be of a vehicle, the driver, a passenger, anything in or on the vehicle or carried by the driver or passenger, a pedestrian or anything carried by the pedestrian.</p> <p>Where the search takes place in public, there is no power for a constable to require the person to remove any clothing other than their headgear, footwear, outer coat, jacket and gloves. The person or vehicle may be detained only for as long as is reasonably required for the search to be carried out. The search should be at or near the place where the person is stopped. A constable may, if necessary, use reasonable force to exercise these powers.</p>	<p>A written record of each stop and search must be made, preferably at the time.</p> <p>The officer should provide the written record to the person searched or, if this is wholly impracticable, provide the person with a unique reference number stating how the full record of the search can be accessed. The person may request a copy of the record within 12 months of the search.</p> <p>The record is to set out all the information listed at paragraph 10.4 of the Code, including the person's name, the date, time and place of the search, the fact that an authorisation is in place, the purpose and outcome of the search and the officer's warrant or other identification number and the police station to which the officer is attached.</p>

## **ANNEX D – STATEMENTS BY THE SECRETARY OF STATE**

### **Northern Ireland Security Situation – February 2015**

**The Secretary of State for Northern Ireland (Theresa Villiers):** This is the seventh statement on the security situation in Northern Ireland and the final regular statement of this Parliament. It covers the threat from domestic terrorism in Northern Ireland, rather than from international terrorism, which members will be aware is the responsibility of my Rt Hon Friend the Home Secretary, who updates the House separately.

A number of small, disparate but dangerous groupings of dissident republican terrorists continue with their attempts to undermine Northern Ireland's democratic institutions through the use of violence. However, because of the tireless efforts of the Police Service of Northern Ireland (PSNI), working in conjunction with MI5, An Garda Síochána (AGS) and Army Ammunition Technical Officers, the overwhelming majority of Northern Ireland's population are able to go about their daily lives untroubled by terrorism. I would like to take this opportunity to thank the PSNI and all its security partners for their outstanding work.

Continued vigilance is, however, essential. The threat level in Northern Ireland and Great Britain from Northern Ireland Related Terrorism remains unchanged since my last statement to Parliament in October 2014. The threat to Northern Ireland is SEVERE (an attack is highly likely) while the threat to Great Britain is MODERATE (an attack is possible but not likely). All threat levels are kept under constant review.

There were twenty two national security attacks in 2014 and there has been one so far in 2015. PSNI and prison officers as well as members of the armed forces continue to be the principal targets for dissident republican terrorists and the threat to life persists. A number of these violent groupings continue to attack, or aspire to carry out attacks, including the so-called 'new' IRA, Óglaigh na hÉireann (ONH) and factions of the Continuity IRA (CIRA).

Since October 2014 when I last reported on the security situation in Northern Ireland, PSNI officers have been subject to violent attack on five separate occasions. In two particularly serious incidents violent dissidents set up booby trapped explosive devices in Strabane and Londonderry and then attempted to lure in PSNI officers by making bogus crime reports. Although the devices were intended to target responding PSNI officers, they could easily have been triggered by passers-by or even by children playing. Thankfully, both devices were made safe by Army Ammunition Technical Officers before anyone was injured.

Two further attempts to murder PSNI officers undertaking their duties were made in Londonderry and Belfast in November. In Londonderry, terrorists detonated an improvised

explosive device in a residential area of the city as a police patrol vehicle passed by, while in north Belfast an explosive device was fired at a stationary PSNI vehicle. Fortunately, the occupants of both vehicles escaped uninjured but both attacks could easily have resulted in fatalities or serious casualties. In a fifth incident an explosive device was sent to the Chief Constable at Police Headquarters in Belfast.

Dissident republicans continue to engage in brutal punishment shootings as a means to try to exert fear and control within local communities.

Hoax devices have been deployed without any regard for the impact they have on the welfare of the community, including elderly residents, children and workers. These shameful incidents can cause significant disruption to local people and to businesses.

Dissident republican prisoners in Maghaberry continue to threaten, and to try to intimidate, staff and contractors as they seek to carry out their work. This Government fully supports the Department of Justice and the Northern Ireland Prison Service as they respond to this wholly unacceptable activity and I pay tribute to all prison officers for the difficult job that they carry out.

Although risks endure, it is important to highlight the excellent progress that has been made in disrupting terrorist activity and bringing dissident republicans to justice. In October 2014 a weapons hide was uncovered on a farm in County Fermanagh. It was found to contain five complete explosive devices, parts for further devices, a firearm and mortar components. In November, a potential shooting attack was averted when the PSNI arrested a man in possession of a sub-machine gun in Belfast. Also in November, a total of fifteen men were arrested following a long-running investigation into dissident republican activity in Newry, County Down. Of those arrested, ten were charged under the Terrorism Act 2000 and remanded in custody.

In the Republic of Ireland, An Garda Síochána (AGS) has also had success in combating the threat. A weapons cache discovered in Dublin was found to contain an assault rifle, automatic pistols, ammunition and a significant quantity of bomb-making equipment that could have been intended for use in attacks in Northern Ireland. Two men were arrested in December in possession of improvised incendiary devices probably destined for use in Northern Ireland.

The close working relationship between PSNI and AGS, and their joint efforts both north and south of the border, has led to considerable success in combating the threat from dissident republican terrorists over the last six months. I am confident that both police services will do all that they can to build on this through 2015 as they make progress with a number of



ongoing investigations. This work is painstaking and lengthy but there is a steadfast commitment to bringing the terrorists to justice on both sides of the border.

In my last statement I commented on in-fighting within loyalist paramilitary organisations. This has persisted in recent months and understandably remains a cause for concern for the wider community. There is no place in Northern Ireland for individuals or organisations that seek to exert fear, control or intimidation. The PSNI have assured me that they are doing all that they can to apprehend those responsible for violent and criminal acts.

As in previous reporting periods, there are individuals associated with loyalist paramilitary groups that are involved in serious criminality. However, overall, we continue to assess that the collective leaderships of the principal loyalist paramilitary groups, the Ulster Defence Association (UDA) and the Ulster Volunteer Force (UVF), remain committed to their ceasefires.

### **The Government's Strategic Approach**

The Government is clear that terrorism will not succeed in Northern Ireland; democracy and consent will always prevail. Tackling terrorism remains a Tier One priority - the highest priority for Government. We will do all that we can to support the PSNI to counter the threat as part of broader efforts by this Government to tackle terrorism, wherever it originates or whatever form it takes.

This Government has already provided additional security funding to PSNI over a five year period amounting to £231million. This is despite the overall spending reductions needed to deal with the deficit and the competing resource needs resulting from international terrorism. In addition, the inclusion in the financial package of Stormont House Agreement of an undertaking by the Northern Ireland Executive to ensure that police funding is protected from significant reductions will help to ensure that the PSNI remains able to tackle the threat effectively.

Our strategic approach has also involved working closely with our colleagues in the devolved authorities and our partners in the Republic of Ireland on a range of issues. This cooperation greatly strengthens efforts to combat terrorism in Northern Ireland.

We continue to build a united, complementary approach to security and politics that leaves no space for violent dissident republicans. We recognise the continuing link between political and security stability. Political progress has been made this year, for example with the Stormont House Agreement, but challenges undoubtedly lie ahead.

Other strategic and political challenges, distinct from the threat from dissident republican groupings, require ongoing and concerted action to ensure Northern Ireland continues to thrive.

For instance public disorder is disruptive and distressing for the communities affected, damages Northern Ireland's reputation abroad, and can expose police officers to risk of attack from dissident republicans. Northern Ireland enjoyed the most peaceful parading season for a number of years in 2014. Those involved in parading or protests need to do all they can to ensure this continues.

## **Conclusion**

Suppressing the threat from violent dissident republicans is a difficult and, in many cases, dangerous task. Despite a challenging working environment, there have been notable successes in recent months. This is the result of the considerable effort, expertise, co-operation and resolve. But continued vigilance is needed. It is clear that these violent groupings retain lethal intent and will seek whatever opportunity they can to target the police officers and others who help to keep families, businesses and communities across Northern Ireland safe. The support of the public and their assistance and patience in response to security alerts is both invaluable and admirable.

With every attack that is mounted and the many more that are foiled, the PSNI and its security partners become more knowledgeable, resilient and able to tackle the threat and bring perpetrators to justice. Our commitment to Northern Ireland and to securing a peaceful, stable and prosperous future will not waver. We remain focused on supporting the work that continues on a daily basis to combat terrorism and ensure that people can continue to go about their daily lives safe from attack.

## **Northern Ireland Security Situation – December 2015**

**The Secretary of State for Northern Ireland (Theresa Villiers):** This is the first written statement of this Parliament on the security situation in Northern Ireland. It covers the threat from domestic terrorism in Northern Ireland, rather than from international terrorism, which members will be aware is the responsibility of my Rt Hon Friend the Home Secretary, who updates the House separately.

In the nine months since my last update to the House, the same small groups of dissident republican terrorists have continued their attempts to undermine Northern Ireland's democratic institutions through the use of violence. The Police Service of Northern Ireland (PSNI) and MI5 have worked tirelessly to limit the threat they are able to pose. Because of these efforts the vast majority of Northern Ireland's population are able to go about their daily lives untroubled by terrorism.

Continued vigilance is essential. The threat level in Northern Ireland from Northern Ireland Related Terrorism remains SEVERE (an attack is highly likely) and continues to evolve while the threat to Great Britain is MODERATE (an attack is possible but not likely). There have been sixteen national security attacks by violent dissident republicans this year in which they have sought to cause harm and death. The primary targets have been PSNI officers, but prison officers and members of the armed forces have also been targeted.

In May and July two radio-controlled explosive devices were deployed in Belfast and Lurgan in an attempt to target security force personnel and, in June, an under-vehicle improvised explosive device was deployed against two off-duty PSNI officers at their home address in County Londonderry. Fatalities or serious casualties were avoided in these attacks by narrow margins.

In August a device initiated inside a postal van while it was parked in Palace barracks in County Down. No one was injured but there was considerable damage caused by the fire that followed to the vehicle and others nearby. In October a viable improvised explosive device was recovered from the grounds of a Londonderry hotel due to host a PSNI recruitment event, and several days later an under-vehicle device was planted in Belfast. It is fortunate that both devices were discovered before they exploded. The following day a military hand grenade was thrown at PSNI officers responding to reports of anti-social behaviour in Belfast; the grenade landed by the officers' feet but thankfully did not explode. In November two police officers in their patrol vehicle in Belfast were extremely fortunate to escape uninjured when they were targeted with an automatic rifle.

The callous and reckless nature of these attacks means that there remains a very real threat of harm to members of the public. Even where there is no injury to people or damage to property, it is often the case that members of the public suffer significant disruption. This can include being forced out of their homes overnight while police deal with security alerts, not knowing if the device is real or hoax and always having to assume the worst.

As part of their unsuccessful attempts to prove their relevance to a society that wants to move on, these violent dissident republicans continue to resort to brutal assaults on members of their own communities in an attempt to exert fear and control.

### **Our Strategic Response**

The Government is clear that terrorism will not succeed in Northern Ireland; democracy and consent will always prevail. Tackling terrorism remains a Tier One risk, the highest priority for this Government. This approach is demonstrated in the provision of £231 million of Additional Security Funding to the PSNI from 2011-2016.

As a result of the strategic approach to tackling the threat from Northern Ireland Related Terrorism pursued by this Government, the increase in terrorist activity that emerged in 2008 has been stemmed. There were 22 national security related attacks in 2014 compared with 40 in 2010. But the need for total vigilance in the face of the continuing threat remains.

The recent Security and Defence Review confirmed we will continue to maintain our investment in capabilities to keep the people of Northern Ireland safe. Looking ahead, as the Chancellor confirmed in the Spending Review and Autumn Statement, the UK Government is making available £160 million in Additional Security Funding to the PSNI over the next five years to assist their efforts to tackle terrorism. This is a significant package at a time of constrained spending and recognises the SEVERE threat from NIRT and the exceptional demands it places upon the police.

The PSNI and MI5 have continued to work incredibly hard in the period since my last update to the House, in many cases placing themselves at significant risk in order to keep people safe. The PSNI has made over 100 terrorism-related arrests of violent dissident republicans since the beginning of the year. In the Republic of Ireland, an intelligence-led operation by An Garda Síochána, the Republic of Ireland police force, resulted in a significant arrest and charge, as well as the seizure of a large quantity of bomb-making equipment. Joint working between PSNI, MI5 and the Garda remains crucial in the investigation and disruption of the violent dissident republican threat.

The Government welcomes the enactment of the Justice Act (Northern Ireland) 2015 which was introduced by the Minister of Justice. Its provisions include measures to reform committal proceedings, reduce delay in criminal proceedings and enhance case management, which are important and necessary steps forward. The PSNI and MI5 go to tremendous effort to bring violent dissident republicans before the courts. It is vital, if the threat is to be tackled and people kept safe, that the criminal justice system as a whole is ready and equipped to deal with these cases. The Government welcomes the commitment in the Fresh Start Agreement by the Executive to further work to ensure cases can be processed through the courts more quickly.

I would like take this opportunity to pay tribute to the hard work of the Northern Ireland Prison Service who conduct themselves with exemplary dedication in what can be a very difficult environment.

### **Continuing Paramilitary Activity**

On 20 October I published the Assessment of Structure, Roles and Purpose of Paramilitary Groups and made a statement to the House. The Assessment stated that structures remain in place for both republican and loyalist groups. It is clear that individuals associated with paramilitary groups remain engaged in serious criminality. The continued existence and activities of these paramilitary groups, albeit much diminished from their peak, undermines the normalisation of our society. Paramilitary groups in Northern Ireland were not justified in the past and they are not justified today. During the recent political talks, the determination of the UK Government, the Northern Ireland Executive, and the Irish Government to achieve a Northern Ireland society free from the malign impact of paramilitarism was clear.

I welcome the commitments contained in the resulting Fresh Start Agreement on this issue. These include an enhanced effort to tackle cross-jurisdictional organised crime, a new NI Executive strategy to disband paramilitary groups and the establishment of a monitoring and implementation body on progress towards ending paramilitarism. I look forward to continuing to work with all involved on this serious matter. Active support by members of the community and by political representatives is essential if we are to move towards a Northern Ireland where the legacy of paramilitary crime is no longer felt in our communities.

### **Parading Season**

I applaud the efforts of all of those who worked together to ensure that the vast majority of parades across Northern Ireland were peaceful this year. While it is encouraging that we have not returned to the level of violence seen in 2013, it remains a matter of significant concern that disorder in Belfast over a three day period in July resulted in the injury of 25

police officers. This is completely unacceptable. In the same month, a rogue group of loyalists made a public statement to the media threatening PSNI officers and the Parades Commission. This too is unacceptable.

This Government will not tolerate acts or threats of violence by any part of the Northern Ireland community. The strain policing the parading season places on PSNI resources should not be ignored, with PSNI figures estimating the total cost to them of this year's season at £6.7 million. There remains much to be done across the community to deal with instability caused by issues such as flags and parades.

### **Conclusion**

The SEVERE level of threat we face from violent dissident republicans is likely to continue. It is likely that a number of the many attacks planned will continue to materialise but the police, working closely with the Garda, will exert every effort to disrupt this violent criminal activity and prosecute those responsible.

As the Government's Northern Ireland manifesto made clear, there can be no greater responsibility than the safety and security of the people of Northern Ireland and of the whole of the United Kingdom. That is why we will always give the fullest possible backing to the men and women of the PSNI who, working alongside other partners such as MI5 and An Garda Síochána, do such an outstanding job. I would like to thank them all for the work they do. Under this Government there will be no let-up in our efforts to ensure that terrorism never succeeds.

**ANNEX E - STATISTICS**

**Table 1: Police Service of Northern Ireland Summary Sheet**

Justice and Security Act – 1<sup>st</sup> August 2014 - 31<sup>st</sup> July 2015

	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Total
<b>1. JSA Section 21 - Number of persons stopped and questioned</b>	100	130	119	185	521	181	142	125	136	139	206	143	<b>2,127</b>
<b>2. JSA Section 23 - Power of Entry</b>	0	3	2	0	2	2	0	0	7	4	0	7	<b>27</b>
<b>3. JSA Section 24 (Schedule 3) - Munitions and Transmitters stop and searches</b>													
No. of persons stopped and searched, public place:	205	190	274	360	632	363	279	249	223	285	521	413	<b>3,994</b>
No. of persons stopped and searched, private place:	11	14	20	19	26	13	19	11	11	12	35	17	<b>208</b>
Persons stopped and searched - total	<b>216</b>	<b>204</b>	<b>294</b>	<b>379</b>	<b>658</b>	<b>376</b>	<b>298</b>	<b>260</b>	<b>234</b>	<b>297</b>	<b>556</b>	<b>430</b>	<b>4,202</b>
<b>JSA Section 24 (Schedule 3) - Searches of premises:</b>													
No. of premises searched - Dwellings:	2	4	18	13	9	4	1	1	8	16	14	13	<b>103</b>
No. of premises searched - Other:	0	0	1	1	0	0	0	0	2	1	0	1	<b>6</b>
No. of occasions items seized or retained	2	2	3	6	1	0	0	1	0	0	2	1	<b>18</b>
<b>JSA Section 24 (Schedule 3) Use of Specialists:</b>													
Use of specialists - No. of occasions 'other' persons accompanied police:	0	0	2	0	0	1	0	0	2	0	1	2	<b>8</b>
<b>4. JSA Section 26 (Schedule 3) - Search of Vehicles</b>													
(1) (a) Vehicles stopped and searched under section 24	394	510	505	1,045	3,174	1,071	555	468	531	895	1,652	946	<b>11,746</b>
(1) (b) Vehicles taken to another location for search	0	0	0	1	0	4	1	0	2	0	1	1	<b>10</b>

*Note: The above statistics for the period Apr15 – Jul15 are provisional and may be subject to minor amendment.*

Source: Statistics Branch, Police Service of Northern Ireland, Lisnasharragh

**Table 2: Use of Powers by Police in Northern Ireland under the Justice and Security (Northern Ireland) Act 2007 between 1<sup>st</sup> August 2014 and 31<sup>st</sup> July 2015**

<b>TABLE 2A</b>	
<b>Section 21 – Stop and Question</b>	
<b>Year</b>	<b>Number of Persons Stopped and Questioned</b>
<b>2014</b>	
August	100
September	130
October	119
November	185
December	521
<b>2015</b>	
January	181
February	142
March	125
April	136
May	139
June	206
July	143
<b>August 14 - July 15</b>	<b>2,127</b>

<b>TABLE 2B</b>	
<b>Section 23 – Power of Entry</b>	
<b>Year</b>	<b>Number of Premises Entered</b>
<b>2014</b>	
August	0
September	3
October	2
November	0
December	2
<b>2015</b>	
January	2
February	0
March	0
April	7
May	4
June	0
July	7
<b>August 14 - July 15</b>	<b>27</b>

Note: The above statistics for the period Apr15 – Jul15 are provisional and may be subject to minor amendment.  
 Source: Statistics Branch, Police Service of Northern Ireland, Lisnasharragh



<b>TABLE 2C</b>			
<b>Section 24 (Schedule 3)</b>			
<b>Munitions and Transmitters Stops and Searches</b>			
<b>Year</b>	<b>Number of Persons Stopped and Searched by Police</b>		
	<b>Public</b>	<b>Private</b>	<b>Total</b>
<b>2014</b>			
August	205	11	216
September	190	14	204
October	274	20	294
November	360	19	379
December	632	26	658
<b>2015</b>			
January	363	13	376
February	279	19	298
March	249	11	260
April	223	11	234
May	285	12	297
June	521	35	556
July	413	17	430
<b>August 14 - July 15</b>	<b>3,994</b>	<b>208</b>	<b>4,202</b>

<b>TABLE 2D</b>				
<b>Section 24 (Schedule 3)</b>				
<b>Searches of Premises</b>				
<b>Year</b>	<b>Searches of Premises by Police</b>			
	<b>Dwellings</b>	<b>Other</b>	<b>Occasions items seized or retained</b>	<b>Occasions 'other' persons accompanied police</b>
<b>2014</b>				
August	2	0	2	0
September	4	0	2	0
October	18	1	3	2
November	13	1	6	0
December	9	0	1	0
<b>2015</b>				
January	4	0	0	1
February	1	0	0	0
March	1	0	1	0
April	8	2	0	2
May	16	1	0	0
June	14	0	2	1
July	13	1	1	2
<b>August 14 - July 15</b>	<b>103</b>	<b>6</b>	<b>18</b>	<b>8</b>

Note: The above statistics for the period Apr15 – Jul15 are provisional and may be subject to minor amendment.  
Source: Statistics Branch, Police Service of Northern Ireland, Lisnasharragh

**Table 2E**

**Section 26 (Schedule 3) – Searches of Vehicles**

Year	Searches of Vehicles by Police	
	Vehicles stopped and searched under JSA Section 24 (Schedule 3)	Vehicles taken to another location for search
<b>2014</b>		
August	394	0
September	510	0
October	505	0
November	1,045	1
December	3,174	0
<b>2015</b>		
January	1,071	4
February	555	1
March	468	0
April	531	2
May	895	0
June	1,652	1
July	946	1
<b>August 14 - July 15</b>	<b>11,746</b>	<b>10</b>

*Note: The above statistics for the period Apr15 – Jul15 are provisional and may be subject to minor amendment.*

Source: Statistics Branch, Police Service of Northern Ireland, Lisnasharragh

**Table 3: Number of Uses of Each Stop/Search and Question Legislative Power in Northern Ireland (i.e. under PACE, Misuse of Drugs Act, Firearms Order, Terrorism Act and Justice & Security Act) 1 August 2014 – 31 July 2015**

Persons stopped and searched under:	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug 14 -Jul 15
PACE / MDA / F Order	1,615	1,719	2,212	1,674	1,767	1,802	2,194	2,050	1,748	1,704	2,025	1,798	<b>22,308</b>
TACT S43	9	11	13	13	8	16	21	13	14	14	9	12	<b>153</b>
TACT S43A	4	3	3	2	0	8	14	6	10	4	4	5	<b>63</b>
TACT S47A	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
JSA Section 21	100	130	119	185	521	181	142	125	136	139	206	143	<b>2,127</b>
JSA Section 24	216	204	294	379	658	376	298	260	234	297	556	430	<b>4,202</b>
Other Legislations***	11	2	17	14	12	18	4	1	8	6	12	11	<b>116</b>
<b>Total (Powers Used)</b>	<b>1,955</b>	<b>2,069</b>	<b>2,658</b>	<b>2,267</b>	<b>2,966</b>	<b>2,401</b>	<b>2,673</b>	<b>2,455</b>	<b>2,150</b>	<b>2,164</b>	<b>2,812</b>	<b>2,399</b>	<b>28,969</b>

\* Please note that this is not the total number of persons stopped and searched/questioned as a stop and search/question can be carried out under a combination of different legislations e.g. JSA S24 and JSAS21.

\* PACE, Misuse of Drugs Act (MDA) and the Firearms Order (F Order) figures are combined, as in previous years.

\* Other Legislative powers' captures stops / searches conducted under the following less frequently used powers: Schedule 5 to the Terrorism Act 2000, Section 139B of the Criminal Justice Act 1988, Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011, Article 6 Crossbows (Northern Ireland) Order 1988, Article 25 Wildlife (Northern Ireland) Order 1985 and Article 23B Public Order (Northern Ireland) Order.

Note, the number of persons stopped and searched under Schedule 5 to the Terrorism Act 2000 and Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011 were not reported in 2013/14.

**Note: The above statistics for the period Apr15 – Jul15 are provisional and may be subject to minor amendment.**

**1 August 2013 – 31 July 2014**

Persons stopped and searched under:	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug 13 -Jul 14
PACE / MDA / F Order	1,831	1,809	3,016	2,153	1,729	1,785	2,044	2,222	1,953	1,795	1,704	1,704	<b>23,745</b>
TACT S43	12	12	7	3	11	3	8	1	14	4	15	6	<b>96</b>
TACT S43A	1	5	0	2	5	0	2	1	3	1	4	1	<b>25</b>
TACT S47A	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
JSA Section 21	140	140	192	228	256	146	117	194	118	87	95	119	<b>1,832</b>
JSA Section 24	377	288	553	620	512	333	412	547	487	257	254	223	<b>4,863</b>
Other Legislations	29	26	53	24	42	37	35	30	30	31	30	20	<b>387</b>
<b>Total (Powers Used)</b>	<b>2,390</b>	<b>2,280</b>	<b>3,821</b>	<b>3,030</b>	<b>2,555</b>	<b>2,304</b>	<b>2,618</b>	<b>2,995</b>	<b>2,605</b>	<b>2,175</b>	<b>2,102</b>	<b>2,073</b>	<b>30,948</b>

\*Please note that this is not the total number of persons stopped and searched/questioned as a stop and search/question can be carried out under two different legislations e.g. JSA S24 and JSA S21.

**Table 3A: Longer Term Trend Information**

Legislation	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10*	2010/11*	2011/12*	2012/13*	2013/14*	2014/15*
PACE / Misuse of Drugs Act / Firearms Order	14,434	16,036	16,174	15,362	20,011	23,990	22,785	20,746	20,910	24,428	22,189
No. of uses of TACT sect 84	3,838	3,299	1,576								
No. of uses of TACT sect 89	2,684	1,906	718								
No. of uses of TACT sect 44	N/A	448	913	3,358	9,548	28,770	9,156	0	0	0	0
No. of uses of TACT sect 43 / 43A	N/A	N/A	N/A	13	56	97	375	254	186	173	192
No. of uses of TACT sect 47A										70	0
No. of uses of JSA sect 21				28	112	5,285	5,355	3,511	2,803	2,350	1,922
No. of uses of JSA sect 24				251	372	621	11,721	12,699	7,687	6,239	3,906
No. of uses of Other legislative powers ***									294	417	190
<b>Total uses of each legislative power</b>	<b>20,956</b>	<b>21,689</b>	<b>19,381</b>	<b>19,012</b>	<b>30,099</b>	<b>58,763</b>	<b>49,392</b>	<b>37,210</b>	<b>31,880</b>	<b>33,677</b>	<b>28,399</b>
<b>Total no. of persons stopped/searched **</b>	<b>20,956</b>	<b>21,689</b>	<b>19,381</b>	<b>19,012</b>	<b>30,099</b>	<b>53,885</b>	<b>45,394</b>	<b>35,268</b>	<b>30,502</b>	<b>32,590</b>	<b>27,539</b>
PACE	69%	74%	83%	81%	66%	41%	46%	56%	66%	73%	78%
Terrorism Act	31%	26%	17%	18%	32%	49%	19%	1%	1%	1%	1%
JSA	0%	0%	0%	1%	2%	10%	35%	44%	33%	26%	21%
Other legislative powers	0%	0%	0%	0%	0%	0%	0%	0%	1%	1%	1%
	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**Source: Statistics Branch, Police Service of Northern Ireland, Lisnasharragh**

\*Based on individual uses of each power from 2009/10 onwards (i.e. combinations of powers counted separately).

\*\*The difference between total use of each power and total no. of persons stopped will be due persons stopped under combinations of powers being counted under each legislation used (ie some double counting).

\*\*\* Other Legislative powers' captures stops / searches conducted under the following less frequently used powers: Schedule 5 to the Terrorism Act 2000, Section 139B of the Criminal Justice Act 1988, Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011, Article 6 Crossbows (Northern Ireland) Order 1988, Article 25 Wildlife (Northern Ireland) Order 1985 and Article 23B Public Order (Northern Ireland) Order. Note, the number of persons stopped and searched under Schedule 5 to the Terrorism Act 2000 and Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011 were not reported in 2013/14.

## Explosive Ordnance Disposal (E.O.D) Activity in Support of the Police

**Table 4: EOD Call Outs: 1 August 2014 to 31 July 2015**

<b>DATE</b>	<b>IED</b>	<b>EXPLOSION</b>	<b>HOAX</b>	<b>FALSE</b>	<b>INCENDIARY</b>	<b>FINDS</b>	<b>TOTAL</b>
August 2014	2	0	4	3	0	7	<b>16</b>
September 2014	2	2	3	3	0	10	<b>20</b>
October 2014	11	1	8	4	1	17	<b>42</b>
November 2014	11	1	3	4	0	15	<b>34</b>
December 2014	1	0	4	3	0	7	<b>15</b>
January 2015	2	0	3	6	0	6	<b>17</b>
February 2015	8	2	4	5	0	5	<b>24</b>
March 2015	3	0	6	7	0	6	<b>22</b>
April 2015	2	2	6	1	0	13	<b>24</b>
May 2015	5	2	5	3	0	4	<b>19</b>
June 2015	3	0	0	0	0	9	<b>12</b>
July 2015	2	2	3	2	0	13	<b>22</b>
<b>Total</b>	<b>52</b>	<b>12</b>	<b>49</b>	<b>41</b>	<b>1</b>	<b>112</b>	<b>267</b>

## ANNEX F – AUTHORISATION FORM

Reference Number:

### Authorisation to Stop and Search – Para 4A, Schedule 3 under the Justice and Security Act (Northern Ireland) 2007

**Applicants should retain a completed copy of this form for their own records**

1) **Name of Applicant:**

--

2) **Length of Authorisation:**

For the purposes of calculating a 14 day period (**the maximum period available**), the day on which an authorisation is given is deemed to constitute a full day, regardless of the time it is authorised. For example, an authorisation given at 08.00hrs on 1 November must end no later than 23.59hrs on 14 November. It cannot run until 07.59hrs on 15 November (Please see Explanatory Notes for details). Please note that the duration of an authorisation should be “**no longer than is necessary**”.

Authorisations must not be for the full 14 day period unless this is necessary.

Start date:	Number of days :
End date:	End time (if not 23.59):

3) **Location where powers to apply** (please specify):

Entire Area of Northern Ireland	[ ]	Map Attached	[ ]
Specific Area	[ ]	Map Attached	[ ]

4) **Reason for exercising Para 4A, Schedule 3 powers:**

Authorising Officers should only use the power when they **reasonably suspect** that the safety of any person might be endangered by the use of munitions or wireless apparatus, and he / she reasonably considers the authorisation **necessary** to prevent such danger (Please see Explanatory Notes for more detail).

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5) **Authorising Officer:**

Authorising Officers must hold **substantive or temporary ACPO rank**. Officers **acting** in ACPO ranks may **not** authorise the use of **Para 4A, Schedule 3 powers**.

Signature.....	Date/Time
Print Name/Rank.....	Of Oral Authorisation (If applicable)
Date Signed.....	.....
Time Signed/Authorised from.....	Authorising Officer
	Of Oral Authorisation.....

Reference Number:
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**Authorisation to Stop and Search – Para 4A, Schedule 3 under the Justice and Security Act (Northern Ireland) 2007**

**1) Authorising Officers Rationale**

**2) Authorising Officer Contact and Telephone Number:**

**3) PSNI Human Rights Legal Advice**

Authorising officers should confirm that they sought legal advice from the Human Rights Legal Adviser that the authorisation complies with the legislative provisions and the Statutory Code of Practice, and should provide a summary below to that effect.

**4) Assessment of the threat:**

Authorising Officers should provide a detailed account of the intelligence which has given rise to reasonable suspicion that the safety of any person might be endangered by the use of munitions or wireless apparatus. This should include classified material where it exists (Please see Explanatory Notes for more details).

**5) Relevant Information and/or circumstances over recent period:**

If an authorisation is one that covers a similar geographical area to the one immediately preceding it, information should be provided as to how the current situation has changed, or if it has not changed that it has been reassessed and remains relevant (Please see Explanatory Notes for more details).



**6) The use of Para 4A, Schedule 3 powers of the Justice & security Act (Northern Ireland) 2007 rather than other powers of stop and search:**

Authorising Officers should explain how the use of **Para 4A, Schedule 3** powers is an appropriate response to the circumstances and why powers under S.43 and S.43A of the Terrorism Act 2000 or other PACE powers are not deemed sufficient (Please see Explanatory Notes for more details).

**7) Description of and reasons for geographical extent of authorisation:**

Authorising Officer should identify the geographical extent of the Authorisation and should outline the reasons why the powers are required in a particular area. A map should be provided (Please see Explanatory Notes for more details).

The geographical extent of an authorisation should be “**no greater than necessary**”

**8) Description of and reasons for duration of authorisation:**

Authorising Officer should identify the duration of the Authorisation and should outline the reasons why the powers are required for this time.

The duration of an authorisation should be “no greater than necessary”

**9) Details of briefing and training provided to officers using the powers:**

Authorising Officers should demonstrate that all officers involved in exercising **Para 4A, Schedule 3** powers receive appropriate training and briefing in the use of the legislation and understand the limitations of these powers (Please see Explanatory Notes for more details).

**10) Practical Implementation of powers:**

The Authorising Officer should provide information about how the powers will be used and why. This may include the use of vehicle checkpoints, stops and searches of individuals operating in the area of the residences of security force members or security force establishments or other recognised targets of terrorist attack (depending on the nature of the threat). The authorising officer should indicate whether officers will be instructed to conduct stops and searches on the basis of particular indicators (e.g. behavioural indicators, types of items carried or clothes worn, types of vehicles etc), or whether the powers will be exercised on a random basis. If the powers are to be exercised on a random basis, the authorising officer should indicate why this is necessary and why searches based on particular indicators are not appropriate.

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**11) Community engagement:**

The Authorising Officer should provide a detailed account on the steps that have been taken to engage those communities that will be affected by the authorisation. Where it has not been possible to carry out community engagement prior to authorisation, the Authorising Officer should carry out a retrospective review of the use of the powers (Please see Explanatory Notes for details).

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**12) Policing Board engagement:**

Authorising Officers making **Para 4A, Schedule 3** authorisations should notify and engage with the Policing Board (Please see Explanatory Notes for details).

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**13) (If applicable) Senior Officer Cancellation / Amendment:**

If at any stage during an authorisation the authorising officer ceases to be satisfied that the test for making the authorisation is met, they must cancel the authorisation immediately and inform the Secretary of State. A Senior Officer may also amend an authorisation by reducing the geographical extent of the authorisation or the duration or by changing the practical implementation of the powers. Where an authorisation is so amended, the Secretary of State must be informed.

Cancellation / Amendment	Date signed.....
Signature.....	Time signed.....

Print Name/Rank.....	
Details of cancellation / amendment:	

**Explanatory Notes to Authorisation to Stop and Search under Para 4A, Schedule 3 of the Justice & Security Act (Northern Ireland) 2007**

**JSA 1**

<b><u>Point 2</u></b>	<p><b><u>Length of authorisation</u></b></p> <p>Start time is the time and date at which the authorising officer gives an oral authorisation or signs a written authorisation, whichever is earlier. The <b>maximum</b> period for an authorisation is <b>14 days</b>, and authorisations should <b>not</b> be made for the maximum period unless it is necessary to do so based on the intelligence about the particular threat. Authorisations should be for no longer than necessary. Justification should be provided for the length of an authorisation, setting out why the intelligence supports amount of time authorised. If an authorisation is one which is similar to another immediately preceding it, information should be provided as to why a new authorisation is justified and why the period of the initial authorisation was not sufficient. Where different areas or places are specified within one authorisation, different time periods may be specified in relation to each of these areas or places – indeed the time period necessary for each will need to be considered and justified. For the purposes of calculating a 14 day period, the day on which an authorisation is given is deemed to constitute a full day, regardless of the time it is authorised. For example, an authorisation given at 08.00hrs on 1 November must end no later than 23.59hrs on 14 November. It cannot run until 07.59hrs on 15 November. Authorising officers <b>must</b> assure themselves that the Authority does <b>not</b> run for more than the statutory 14 day limit. In the case of a new authorisation, an authorisation can be given before the expiry of the previous one if necessary.</p> <p>PSNI may authorise the use of section Para 4A, Schedule 3 powers for less than forty-eight hours, however, <b>continuous use of 48 hour-long authorisations, whereby the powers could remain in force on a “rolling” basis is not justifiable and would constitute an abuse of the provisions.</b></p>
<b><u>Point 4</u></b>	<p><b><u>Reason for exercising Para 4A, Schedule 3 powers</u></b></p>

	<p>The test for authorising JSA powers is that the person giving it: must reasonably suspect that the safety of any person might be endangered by the use of munitions or wireless apparatus and reasonably considers the authorisation necessary to prevent such an act and that the area(s) or place(s) specified in the authorisation are no greater than is necessary and the duration of the authorisation is no longer than is necessary to prevent such an act.</p>
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## JSA 2

<p><b><u>Point 1</u></b></p>	<p>If an authorisation is one which covers a similar geographical area to one which immediately preceded it, information should be provided as to how the intelligence has changed since the previous authorisation was made, or if it has not changed, that it has been reassessed in the process of making the new authorisation, and that it remains relevant, and why.</p> <p><b>Whilst it is possible to issue a successive authorisation for the same geographic areas, this will only be lawful if it is done on the basis of a fresh assessment of the intelligence, and if the authorising officer is satisfied that the authorisation is justified.</b></p>
<p><b><u>Point 4</u></b></p>	<p><b><u>Assessment of the threat</u></b></p> <p>The Authorising Officer should provide a detailed account of the intelligence which has given rise to reasonable suspicion that the safety of any person might be endangered by the use of munitions or wireless apparatus. This should include classified material where it exists. Threat Assessments from International Terrorism and Dissident Irish Republican Terrorism are provided by JTAC and Security Service. Assessments of the threat to various aspects of the UK infrastructure, such as aviation, transport, military establishments are available and if necessary should be sought. If reference is made to JTAC or Security Service assessments, Authorising Officers should ensure that these references are to current material.</p> <p>A high state of alert may seem enough in itself to justify an authorisation of powers; however it is important to set out in the detail the relation between the threat assessment and the decision to authorise.</p> <p>Intelligence specific to particular dates may still be included, even if the relevant date has passed, if it is still believed to be current.</p>
<p><b><u>Point 5</u></b></p>	<p><b><u>Information and/or circumstances over the recent period</u></b></p> <p>Authorising Officers should provide information relating to recent events that are <b>specific</b> to the authorisation. Under this section an Authorising Officer should identify any current situations where terrorist activity may have increased <b>and</b> there is evidence to suggest this.</p>
<p><b><u>Point 6</u></b></p>	<p><b><u>The use of Para 4A, Schedule 3 of the Justice &amp; Security Act (Northern Ireland) 2007 rather than other powers of stop and search</u></b></p> <p>Given they require reasonable suspicion in order to be exercised, Authorising Officers should consider the powers under sections 43 and 43A of the Terrorism Act 2000 and PACE for the purposes of stopping and searching individuals for the purposes of preventing or detecting an act of terrorism <b>before</b> the use of the no suspicion powers under Para 4A, Schedule 3 are</p>

	<p>considered.</p> <p>The powers authorised by Para 4A, Schedule 3 are only to be considered where it is not sufficient to use the powers in sections 43 or 43A or other PACE powers.</p>
<b><u>Point 7</u></b>	<p><b><u>Description of and Reasons for Geographical Extent of an Authorisation</u></b></p> <p>Authorisations which cover all of Northern Ireland should <b>not</b> be made unless they can be shown to be necessary. The wider a geographic area authorised, the more difficult it will be to demonstrate necessity.</p> <p>An authorisation should not provide for the powers to be used other than where they are considered necessary. This means authorisations must be as <b>limited</b> as possible and linked to addressing the suspected act of endangerment. In determining the area(s) or place(s) it is necessary to include in the authorisation it may be necessary to include consideration of the possibility that offenders may change their method or target of attack, and it will be necessary to consider what the appropriate operational response to the intelligence is (e.g. which areas would be necessary to authorise to intercept a suspect transporting a weapon). However, any authorisations must be as limited as possible and based on an assessment of the existing intelligence. New authorisations should be sought if there is a significant change in the nature of the particular threat or the Authorising Officer's understanding of it (and in such circumstances it will be appropriate to cancel the previous authorisation). Single authorisations may be given which cover a number of potential threats if that situation occurs. Authorisations should set out the nature of each threat and the operational response.</p>
<b><u>Point 8</u></b>	<p><b><u>Description of and Reasons for Duration of Authorisation</u></b></p> <p>Authorising Officer should identify the duration of the authorisation and should outline the reasons why the powers are required for this time. The duration of an authorisation should be <b>"No greater than necessary"</b></p>
<b><u>Point 9</u></b>	<p><b><u>Details of Briefing and Training provided to Officer using Para 4A, Schedule 3 Powers</u></b></p> <p>Information should be provided which demonstrates that all officers involved in exercising Para 4A, Schedule 3 powers receive appropriate briefing and training in the use of the powers, including the broad reason for the use of the powers on each relevant occasion.</p>
<b><u>Point 10</u></b>	<p><b><u>Practical Implementation of Powers</u></b></p> <p>The Authorising Officer should provide information about how the powers will be used and why. This may include the use of vehicle checkpoints, stops and searches of individuals operating in the area of the residences of security force members or security force establishments or other recognised targets of terrorist attack (depending on the nature of the threat). The authorising officer should indicate whether officers will be instructed to conduct stops and searches on the basis of particular indicators (e.g. behavioural indicators, types of items carried or clothes worn, types of vehicles etc), or whether the powers will be exercised on a random basis. If the powers are to be exercised on a random basis, the authorising officer should indicate why this is necessary and why searches based on particular indicators are not appropriate.</p>
<b><u>Point 11</u></b>	<p><b><u>Community engagement</u></b></p> <p>Authorising Officers should demonstrate that communities have been engaged as fully as possible throughout the authorisation process. When using the power, PSNI may use existing community engagement arrangements. However, where stop and search powers affect sections of the community with whom channels of communication are difficult or non-existent, these</p>

	<p>should be identified and put in place.</p> <p>Independent Advisory Groups (IAGs) should be as fully engaged as possible at all stages of an authorisation.</p>
<b><u>Point 12</u></b>	<b><u>Policing Board engagement</u></b>  <p>Authorising Officers should notify and engage with the Policing Board. The Policing Board has an essential role in working with the PSNI to build community confidence in the appropriate use of stop and search, and can provide practical advice and guidance to help raise awareness of stop and search.</p>

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Keeping People Safe 

### Equality monitoring consent and information:

- The Police Service of Northern Ireland have committed to being fair in delivering policing to all sections of society by having appropriate employment and working practices.
- One aspect of meeting this commitment is the collection and analysis of equality monitoring data using categories defined under Section 75 of the Northern Ireland Act 1998. The Police Service analyses this data to ensure police powers are being exercised fairly and impartially.
- You are not obliged to provide equality monitoring information. **You can choose to answer some, all or none of the equality monitoring questions.** Any information you provide will be held securely by the Police Service.
- Equality monitoring data will not be used to influence any criminal justice decisions about you.

[Continued on reverse](#)



- Police may share this data in a redacted form with other Criminal Justice partners to allow them to conduct analysis of Section 75 impacts. This will include the equality monitoring details you provide matched against a unique reference number and will not include your name or address.
- Data will only be published in anonymous format and in reference to groups of people, not individuals. No one would be able to identify you from any published data.
- **By completing this monitoring form you are consenting to the Police Service storing, processing and sharing your equality monitoring data as described above.**
- All data storage, processing and sharing will be in compliance with the Data Protection Act.
- For more information about how the Police Service uses your data or about the categories on the monitoring form please visit the website: [www.psni.police.uk](http://www.psni.police.uk)

### Help us improve our service:

Our job is to **keep people safe**. We want to do that by policing alongside you, providing a speedy, effective service but also taking the time to listen to you and play our part in making our communities safer and more confident places to live and work in. We may contact you in the future to ask for your feedback.

Please tear off and retain this section

Tear along dotted line

## Equality Monitoring Data

REFERENCE NUMBER:

*Reference number to be entered by the Officer before completion.*

**DATE OF BIRTH**

**GENDER**

Male  Female

Transgender

**DISABILITY**

No  Yes

Learning  
 Physical  
 Mental  
 Sensory  
 Illness

Fold

Fold

**MARITAL STATUS**

Are you in a marriage or civil Partnership?

Yes  No

**ETHNICITY**

**CARE OF DEPENDANTS**

No  Yes

Child(ren)  
 Older Person  
 Disabled

**COMMUNITY BACKGROUND**

Catholic  Protestant

Other

lick and stick

Would you be willing to participate in research about your experience today?

Yes  No

If yes please provide your telephone number :

lick and stick

lick and stick

# ANNEX H – PSNI BLACKBERRY SCROLL DOWN STOPS Mobility Screens

Location Screen



Person Details Screen



Person Address



Power Used Screen



Power Used Screen



Officer Info Screen



Offence Details Screen



PACE 1/TA Number



**ANNEX J – MAP SHOWING LOCATIONS OF NATIONAL SECURITY ATTACKS IN NORTHERN IRELAND SINCE JANUARY 2010**

