

**REPORT OF THE INDEPENDENT REVIEWER
JUSTICE AND SECURITY (NORTHERN IRELAND) ACT 2007**

**SEVENTEENTH REPORT
1 August 2023 – 31 July
2024**

Dr. Jonny Byrne

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

Seventeenth Report

1 August 2023 – 31 July 2024

Dr. Jonny Byrne

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



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FOREWORD

In his letter of 1 February 2024 the Secretary of State for Northern Ireland, appointed me for the three-year period from 1 February 2024 - 31 January 2027 under Section 40 as the Independent Reviewer of the Justice and Security (Northern Ireland) Act 2007.

That letter set out my terms of reference as follows: “the functions of the Independent Reviewer of the Justice and Security (Northern Ireland) Act 2007 are 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
- report annually to the Secretary of State.

In carrying out your duties, you must 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”.

Previous reports are available on the GOV.UK website:

<https://www.gov.uk/government/publications/annual-reports-of-the-independent-reviewer-of-justice-and-security-northern-ireland-act-2007>.

I now have pleasure in submitting my first report, which is the 17th annual report, covering the period 1 August 2023 - 31 July 2024.

Dr. Jonny Byrne

March 2025

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1. Introduction

- 1.1 The following report sets out my findings from a review of the powers exercised under the Justice and Security (Northern Ireland) Act 2007 (JSA) which are available to police and HM Forces and are additional to those available to the police and prosecution services elsewhere in the UK. These additional powers were designed to address the specific security situation in Northern Ireland when the Act was passed in 2007. At that time, it was considered that additional powers were necessary for the preservation of peace or the maintenance of order. In this report, I once again consider whether this remains the case and the operation of those powers and those affected by them.
- 1.2 The authority for the role of the Independent Reviewer derives from section 40 of the Justice and Security Act (JSA) which has been extensively discussed in previous reports¹.
- 1.3 In this role, I review the operation of those provisions of the Act, which contain powers to stop and question, stop and search and to enter premises to search for munitions, to stop and search vehicles, to take possession of land and to close roads. My review also covers the use of the provisions for non-jury trials (NJT). My review also considers how they affect those subject to all of these powers. I also review the procedures adopted by the military in Northern Ireland for receiving, investigating and responding to complaints. My report containing these reviews is made annually to the Secretary of State and is then laid before parliament.
- 1.4 This and previous reports are available on the GOV.UK website as downloadable reports at <https://www.gov.uk/government/publications/annual-reports-of-the-independent-reviewer-of-justice-and-security-northern-ireland-act-2007>.
- 1.5 All three previous reviewers have noted that ‘The Reviewer is expected to be independent; to have access to secret and sensitive national security information; be able to engage with a cross section of the community; and to produce a prompt report, which informs public and political debate.’
- 1.6 In reviewing NJT determinations by the Public Prosecution Service (PPS) the authorisations of powers and cases of stop and search under the JSA, I must review secret material. This requires the reviewer to undergo security clearance at Developed Vetting (DV) level.

¹ https://assets.publishing.service.gov.uk/media/63170c188fa8f5021841c4ca/E02756398_IRISA_Report_Web_Accessible.pdf

- 1.7 Since the JSA provides a legislative bridge between the emergency laws of the Troubles years and the more limited peacetime powers available to the authorities in England and Wales, the continuing need for such a bridge must be kept under review in the context of the condition of the security situation in Northern Ireland. The broad extent of JSA powers and indeed the wider counter-terrorism powers points to the need for regular review and oversight of such powers. Thus, the Independent Reviewer of Terrorism Legislation (IRTL) Jonathan Hall KC reviews terrorism legislation throughout the UK and the reports of the Human Rights Advisor to the Northern Ireland Policing Board, John Wadham, examine *inter alia* the JSA powers in the broader context of all the powers available to the PSNI.
- 1.8 In writing this report I have tried not to repeat what previous reviewers have noted about the establishment of the role or discuss at length the adjustments to how the powers have been operationalised since 2007. Therefore, readers may want to consider the thoughts of previous reviewers when reading this report.
- 1.9 My report to parliament contains a small number of recommendations for those involved in the implementation of the JSA. This report is divided into a series of chapters which include an analysis of the operating environment; a review of Sections 21-28: Stop and Search Related Powers; Road Closures and Land Requisitions; complaints against the Army, and the process around non-Jury Trial certificates.
- 1.10 I would like to take this opportunity to thank everyone who met with me in relation to the role and provided me with their insights and experiences into the often challenging and sensitive area of policing and security in Northern Ireland. A special thanks to the team in the NIO for assisting me in the preparation of the final report.

Methodology

- 1.11 There were forty days assigned to the role of independent reviewer. These allowed for engagement with a wide range of stakeholders in government departments, the justice system, the police and armed forces and the security and intelligence services, political representatives, academics and communities across Northern Ireland. A full list of engagements can be found in Appendix 1. The remainder of my time was spent reviewing relevant literature and documents, attending several public order events, and preparing this report.

2. Operating Environment

- 2.1 The previous three reviewers have followed a similar structure in terms of describing the environment in which the JSA powers are used. They answer three questions. Firstly, has the progress towards normal security been maintained? Secondly, what is the assessment of the security threat against which these powers were judged necessary? And thirdly, what has been recent experience on the ground, especially in the handling of the parading season?
- 2.2 I intend to dispense with this format and simply outline the security related issues relevant to the reporting period. I don't think there is an agreed understanding of what constitutes 'progress towards normal security' and I believe a focus on the parading season is no longer necessary within discussions around the JSA powers, given the lack of (and potential of) violence and disorder in recent years.
- 2.3 On 6 March 2024, the Northern Ireland-related Terrorism (NIRT) threat level in Northern Ireland was lowered from SEVERE (an attack is highly likely) to SUBSTANTIAL (an attack is likely) and remained there for the remainder of the reporting period. It is interesting to note that from September 2010 to March 2022 it was SEVERE, then from March 2022 to March 2023 lowered to SUBSTANTIAL, and from March 2023 to March 2024 back to SEVERE. Although the threat level has fluctuated over the last fifteen years between SEVERE and SUBSTANTIAL, the public would not necessarily feel or see any differences in relation to policing, security or community safety. Therefore, it should not solely be relied upon as an indication of the transition towards 'normalisation.'
- 2.4 There were no national security attacks in this reporting period. The main threat to national security emanates from Dissident Republicanism through two key groups – the New IRA and the Continuity IRA (CIRA). Although, it is also worth noting that the number of attacks, prevented attacks, and disruptive activities have diminished significantly over the last decade. However, the intelligence pictures suggest that these groups continue to target and/or attack police officers, prison officers and members of the armed forces in an effort to undermine security and political normalisation within Northern Ireland.
- 2.5 On 8 August 2023 the personal information of 9,483 police officers and police staff was published in error on a public website following a routine freedom of

information request.² Following this incident the Chief Constable acknowledged that the information was in the ‘hands of Dissident Republicans.’³ Although, this had significant issues for the safety and security of police officers/staff and their families, to date, there have been no incidents relating to officers (including civilian) attributed to the data breach.

- 2.6 The threat from terrorism in Northern Ireland is regularly restricted by the response of the PSNI, MI5 and their security partners north and south of the Irish border.
- 2.7 Alongside the risks around ‘national security’ attacks there were other attacks involving munitions by both Loyalist and Republican paramilitary groups often associated with community intimidation, feuds with organised crime gangs, and criminal enterprise (Table 1). The JSA is concerned with preventing any risk arising from the use of munitions and not just risks arising from national security attacks.
- 2.8 In this reporting period there was a decrease in both casualties of paramilitary style assaults (30 to 25) and shootings (12 to 10). There was also a reduction from the previous year in the number of firearms found from 20 to 18. Finally, shooting incidents decreased from 33 in 2022/23 to 20 in 2023/24.

Table 1: Security statistics from August 2022 to July 2024

	August 2022 - July 2023				August 2023 - July 2024			
	Loyalist	Republican	Unknown	Total	Loyalist	Republican	Unknown	Total
Security related deaths	0	1	0	1	0	1	0	1
Shooting incidents	13	18	2	33	6	14	0	20
Bombing incidents	3	4	0	7	2	3	1	6
Casualties of paramilitary style assaults	22	8	0	30	22	3	0	25
Casualties of paramilitary style shootings	4	8	0	12	4	6	0	10
Firearms found	6	3	11	20	3	9	6	18
Explosives found (kg)	0.17	0.62	0.00	0.79	0.00	3.12	0.00	3.12
Rounds of ammunition found	45	69	487	601	93	235	492	820
Arrests under S41 TACT	22	96	0	118	13	70	0	83
Arrests under S41 TACT & subsequently charged	6	20	0	26	0	13	0	13

- 2.9 Although the statistics provide an insight into the policing and security environment, they only tell part of the story. Paramilitarism is still a significant issue for many people in Northern Ireland, and the organisations continue to

² <https://news.npcc.police.uk/releases/review-into-psni-data-breach>

³ <https://www.bbc.co.uk/news/uk-northern-ireland-66479818>

exercise coercive control across a number of communities. The relationship between organised crime (up to 55 groups)⁴ and paramilitaries further complicates the landscape, making it challenging to differentiate between conflict-related and traditional crime.

- 2.10 In summary, the current policing and security environment is unrecognisable to what society experienced two decades ago. Since the introduction of the JSA there has been, to an extent, a progression towards some degree of normality. While the capabilities and threats from terrorist organisations and paramilitaries have diminished, they have not been removed. Therefore, the original justification for the powers remains, albeit, with less intensity and risk.

⁴ [Annual Report & Threat Assessment 2022-23](#)

3. Sections 21-28: Stop and Search Related Powers

- 3.1 The following section focuses on the use of the powers by the PSNI and considers the authorisation process, the statistics from their application in practice, alongside issues relating to supervision, training and complaints.

The Authorisation Process

- 3.2 Previous reports have covered extensively the purpose and rationale around the authorisation process. As a reminder, the authorisation document provides a full intelligence overview and justification for the use of the powers in order to support the case for the continued use of the powers. An application form is completed (up to every two weeks), and supporting material is compiled by the PSNI, first at District level, then passed to PSNI headquarters and scrutinised by their senior staff and lawyers and signed by an Assistant Chief Constable (ACC). From there, it is passed to the NIO for further scrutiny by staff and lawyers who provide a covering note for the Secretary of State/Minister of State to whom it is passed for consideration and signature, which is required in order to confirm the powers.
- 3.3 As noted in the 16th report, each authorisation document must contain all the requisite information on the previous use of the powers by districts, the supporting **fresh intelligence** material as well as assessments of the impact of the powers on the community. In total, the documents must convince the Secretary of State that the powers are **necessary** and **effective** to address the threat level and that any **impact on the community due to the broad nature of the powers is justified** in terms of their effectiveness in mitigating that threat.
- 3.4 Between 1 August 2023 and 31 July 2024 there were 32 JSA authorisations with no issues arising in terms of the application process.
- 3.5 Since the authorisation process was introduced in 2010 there has been a significant amount of commentary from my predecessors around its applicability, content and usefulness in capturing the required information to justify the use of the powers (see 13th to 16th reports). I would like to commend my predecessor who established a working group in 2022 to address a number of these issues with the authorisation process, which has resulted in a more satisfactory application form which allows for a more informed decision-making process. This was introduced in January 2024.

- 3.6 I had the opportunity to review all of the authorisation application processes and would like to comment on the following: the two-week time period; the geographical spread of the powers; the contribution from MI5; the relevance of community impact material; and the challenges around defining the operational environment.
- 3.7 The previous two reviewers have written extensively around the need to extend the authorisation process to at least four to six weeks. I am in complete agreement and maintain that the current process of two-weeks is counter-productive and ensures that the powers are considered 'normal' as opposed to 'exceptional.' Furthermore, from a resourcing perspective, in the last reporting period the NIO actioned 32 JSAs which equates to approximately 176 staffing hours. In terms of the PSNI, this amounts to 960 staffing hours. In essence, staff rarely get an opportunity to consider the impact of the powers on the security environment because as soon as one cycle finishes they are back into preparing a new application. It is also worth noting that sometimes the security landscape will not undergo significant change in a fortnight, yet the emphasis in the application process is to constantly provide new information and intelligence. Perversely, this may result in a dilution in the quality of material as staff are focused on providing the content to ensure all elements of the proforma are completed.
- 3.8 Since the introduction of the JSA, stop and search powers have been authorised across all eleven policing districts with the exception of one occasion when they were not authorised in G District in 2022 for two weeks. During my review of the documents, it became apparent that there were significant differences across the districts regarding how often the powers were used (see Table 5 for more information). Further discussions with officers and staff involved in the authorisation process revealed that one of the key evidential bases for the continued need for the power was statistics relating to its use. It was suggested to me that in instances where there was no (or very low) data to highlight its use, that officers in each district were either asked why it was not being employed or encouraged to actively go out and use the powers. This approach runs the risk of instilling a culture of 'use it or lose it' with regards to the powers within the JSA. I am of the view that the PSNI currently still requires the powers. **However, the use of the powers in any given district or area should be justified by need rather than by a desire to demonstrate activity.** The current authorisation process of considering each policing district individually is not helpful and it appears to be encouraging the use of the power to ensure there is evidence for its continued need.
- 3.9 A key element of the authorisation process is the gathering and presentation of information and intelligence under the heading 'assessment of the threat.' This is provided by both the PSNI and MI5. The process is that MI5 provide intelligence

briefs to the PSNI, and these are then used in the preparation (by the PSNI) of the proformas. Upon review of the completed proformas it became apparent that there were a number of inconsistencies in relation to the content under 'assessment of the threat'. In some instances, the material was limited, or the material was several months out of date. Furthermore, on a small number of proformas it appeared that the same material was being used repeatedly, with just a sentence or phrase being altered each time. This is a concern as it is crucial that those responsible for signing the authorisation are informed by the most current, detailed and relevant intelligence. It also raises some questions around how the ACCs are evaluating the material used to assess the current threats.

- 3.10 Within the proforma there is a section on community engagement and accountability which requires the police to demonstrate how they have engaged with communities affected by the JSA powers. For the most part, the current approach (agreed with the previous reviewer) is to highlight the PSNI's engagement with a specific local PCSP. However, I am not entirely satisfied that this method is meeting the need of the authorisation process. I would like to see a wider focus on public engagement around why the JSA powers still exist and how the PSNI require them to address specific security related issues. This is an area I intend to revisit in my second term.
- 3.11 While reviewing a number of authorisations it became apparent that there were multiple references to criminality and organised crime gangs, some with paramilitary associations. Previous reviewers have noted concerns around a potential 'over reach' of the powers in terms of their use against traditional forms of criminality. It is important to note that the JSA was introduced as not only an exceptional measure, but also as a 'bridge' which could support the path towards normalisation. The current security environment is complex where it can be challenging to differentiate between terrorism, paramilitarism and organised crime. Therefore, it is important and necessary that the PSNI do not lose sight of the original purpose of the legislation, and can evidentially make the case as to why it is still necessary.
- 3.12 There is no doubt that the authorisation process in its current format with regards the **time frame** and **geographical focus** is time consuming, resource intensive, encourages repetition, and limits opportunities for stakeholders to assess the long-term impact of their interventions. However, it is still necessary and the powers could not be exercised in its absence. Therefore, a new focus should be placed on the merits of the current approach and consideration given as to how it could be significantly improved.

Using the JSA Powers

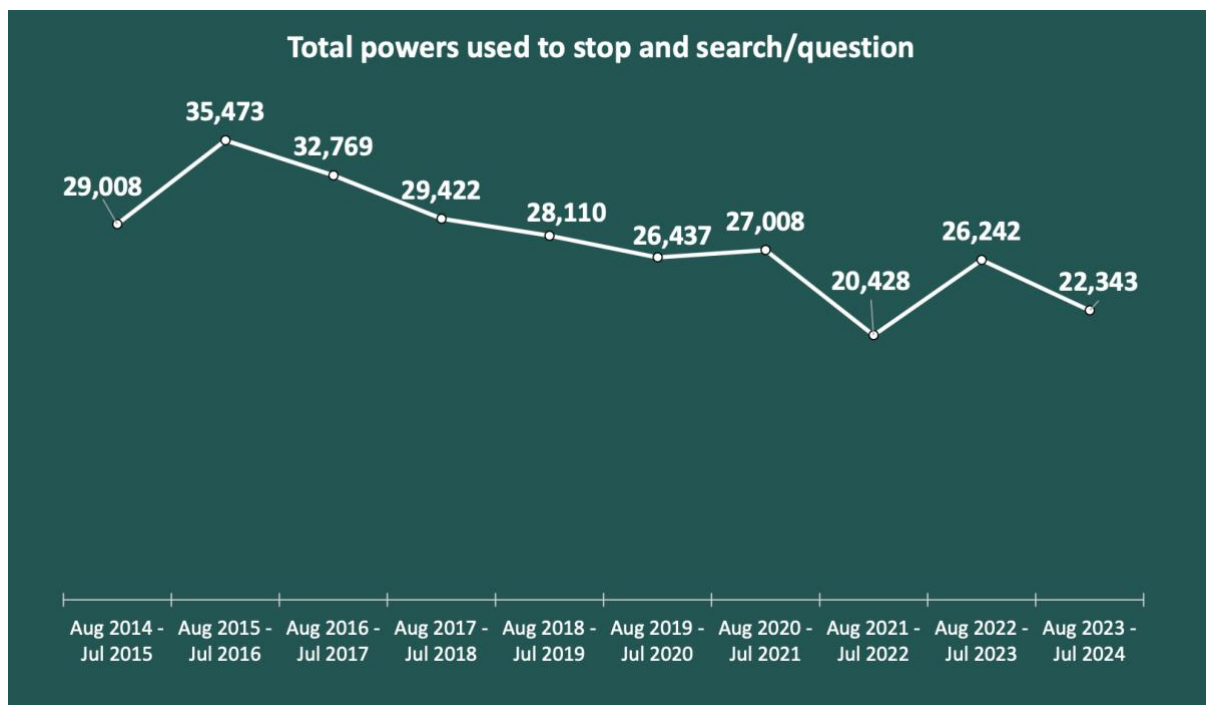
3.13 This part of the report has been guided by the approach taken by previous reviewers who maintained that the powers should be exercised appropriately, effectively, and in a proportionate way and for the intended purpose. Below is a series of statistical tables and graphs which provide a detailed overview of the use of the powers alongside relevant analysis relating to trends and/or emerging issues.

3.14 As set out in previous reports (see 14th report sections 5.1 & 5.2), the PSNI have additional stop and search powers under the JSA which dispense with the 'reasonable suspicion' requirement. The Explanatory Memorandum to the Justice and Security (Northern Ireland) Act 2007 (Code of Practice) Order 2003 sets out the legislative context for these powers:

"The 2007 Act provides a range of powers to the PSNI, including stop and question, search for munitions and wireless apparatus and entry of premises. It also gives the police the power to seize items found during searches of people, premises and vehicles. As amended, it reflects the changes to the powers of stop and search for munitions and wireless apparatus in the 2007 Act which were brought into effect by the Protection of Freedoms Act 2012. Schedule 6 to the 2012 Act amended Schedule 3 to the 2007 Act, introducing an authorisation procedure for the exercise by the police of stop and search powers in relation to munitions and wireless transmitters. These powers do not require reasonable suspicion in relation to each individual who is searched, although they do require the authorising officer to have a reasonable suspicion that the safety of any person might be endangered by the use of munitions or wireless apparatus. Schedule 6 also introduced, by way of amendments to Schedule 3 to the 2007 Act, a power to stop and search, whether in public or private, if a constable reasonably suspects that an individual has munitions unlawfully with him or her or wireless apparatus with him or her. Whilst a number of the powers in the 2007 Act are primarily for use by the PSNI, the armed forces also have powers under the 2007 Act which they can use in support of the police."

3.14 In terms of the overall use of all stop and search powers by the PSNI (Table 2) it is apparent that since 2014 there has been a significant decrease in their use from 29,008 in 2014/15 to 22,343 in 2023/24.

Table 2: Ten year trend for all stop and search powers



3.15 As for the PSNI's use of JSA stop and search powers (S24 and S21), the data indicates in Tables 3 and 4 that they were used 3,420 times compared to 5,110 in the previous reporting period (2022/23). Since then there has been a 31% decrease in the use of S24 and a 42% decrease in the use of S21. This overall decrease follows a general trend in the use of the powers since a high of 7,793 in 2015/2016. This also suggests that the spike in figures for the previous reporting period (2022/23) was an isolated period and not a change in the overall downward trajectory of the use of the powers.

Table 3: Ten year trend for the use of JSA powers

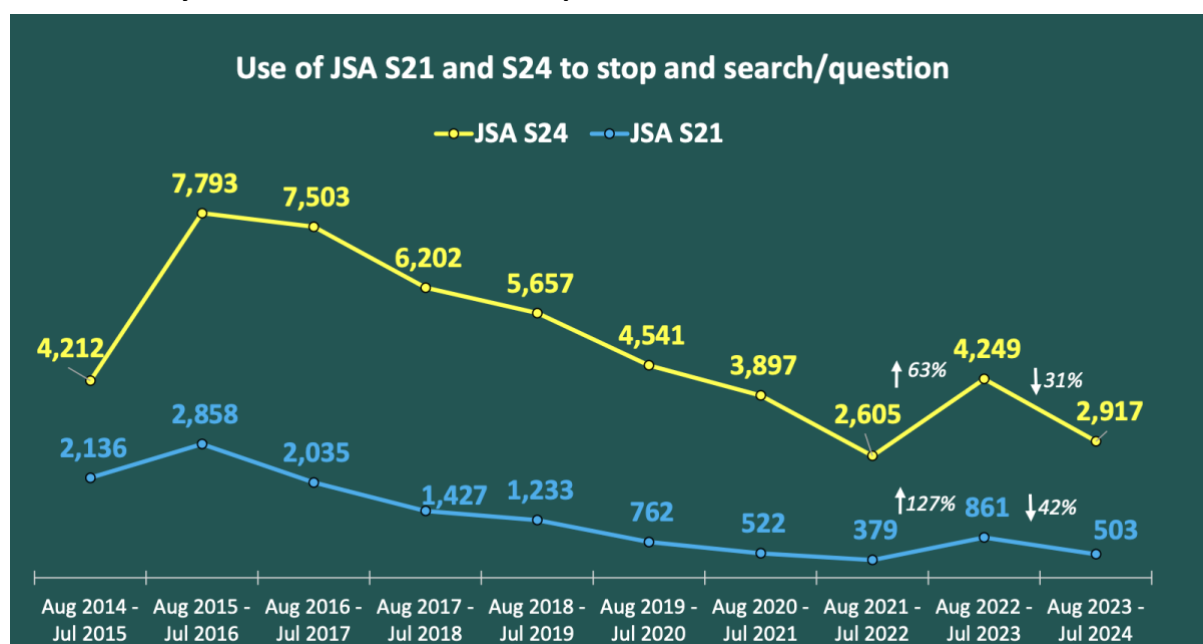


Table 4: Summary of JSA powers (August 1st 2023-July 31st 2024)

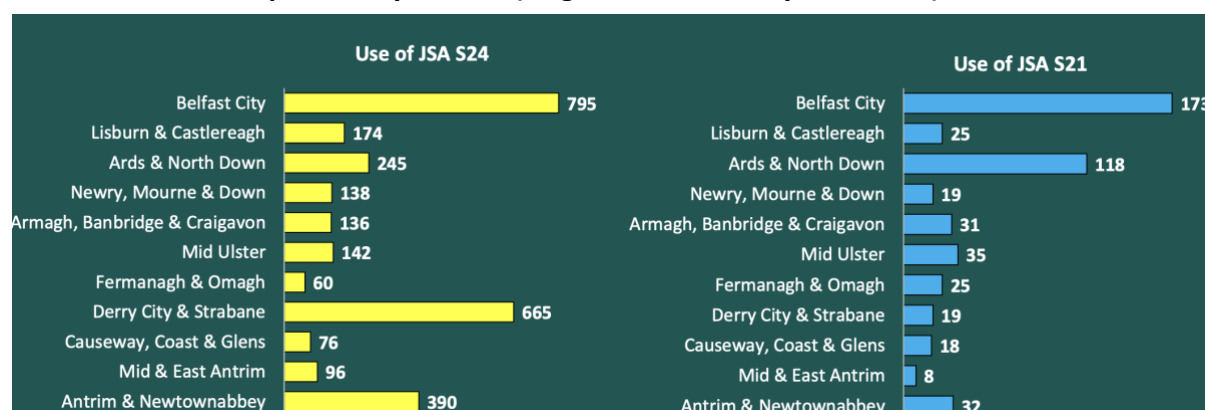
Persons stopped & searched/questioned				
	Aug 2022 - Jul 2023	Aug 2023 - Jul 2024	Change (count)	Change (%)
JSA Section 21	861	503	-358	-42%
JSA Section 24	4,249	2,917	-1,332	-31%

Vehicles stopped & searched				
	Aug 2022 - Jul 2023	Aug 2023 - Jul 2024	Change (count)	Change (%)
JSA Section 26	5,582	3,301	-2,281	-41%

(1) Vehicle searches include vehicle-only searches as well as those in which a vehicle was searched together with any persons in it. Therefore, the JSA Section 24 and JSA Section 26 figures in the tables above should not be added together to get the total number of stop and searches as this would result in the double counting of an occupant of a vehicle searched.

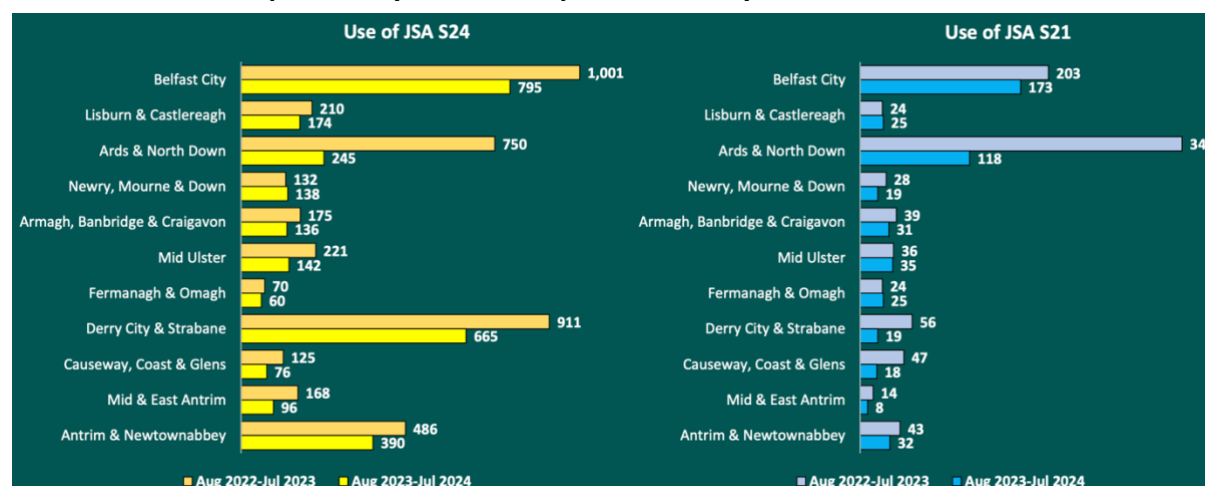
3.16 In relation to this reporting period it was important to consider the geographical spread around the use of the powers (Table 5). The policing districts of Belfast City (795), followed by Derry City and Strabane (665) and Antrim and Newtownabbey (390) used S24 the most. In terms of the use of S21 this was Belfast City (173), Ards & North Down (118) and Mid Ulster (35) respectively.

Table 5: Use of JSA powers by district (August 1st 2023-July 31st 2024)



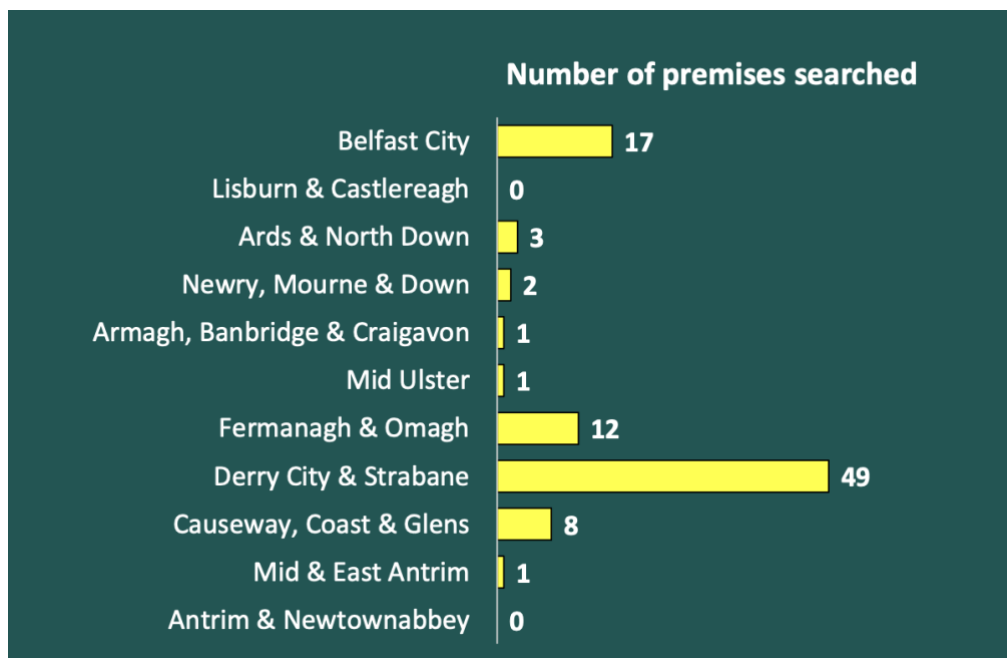
3.17 A closer examination of the previous two years revealed that there had been a decrease in the use of S24 and S21 across all of the policing districts with the exception of one case for JSA S24 and two cases for JSA S21 (Table 6). In Newry, Mourne and Down S24 was used 132 times in 2022/23 and 138 times in 2023/24. In regards to S21, Lisburn and Castlereagh used it 24 times in 2022/23 and on 25 occasions in 2023/24, and Fermanagh and Omagh used it 24 times in 2022/23 and 25 times in 2023/24.

Table 6: Use of JSA powers by district for previous two years



3.18 In relation to the use of S24 of the JSA (Table 7) the data revealed that 49 premises were searched in Derry City & Strabane, followed by 17 in Belfast city. In total 94 premises were searched in this reporting period. This compares to a figure of 154 for the previous reporting period.

Table 7: JSA Section 24 – premises searched (August 1st 2023-July 31st 2024)



- Data in Table 7 is provided as unvalidated management information sourced from administrative systems

3.19 In terms of the age of the individuals impacted by the JSA powers, Table 8 indicates that in this reporting period S21 and S24 powers were used in total 110 times on under 18s, compared to 3,309 times on those 18 and over. In the previous reporting period these powers were used 148 times on under 18s - S21 31 times and S24 117 times.

Table 8: Use of JSA powers by age (August 1st 2023-July 31st 2024)

	Under 18	18 and over	Not specified	Total
All powers	8%	92%	<1%	100%
JSA Section 21	2%	98%	0%	100%
JSA Section 24	3%	97%	<1%	100%

	Under 18	18 and over	Not specified	Total
All powers	1,830	20,215	4	22,049
JSA Section 21	12	491	0	503
JSA Section 24	98	2,818	1	2,917

- (1) As more than one legislative power can be used to stop and search/question a person, the sum of the powers used will be greater than the total number of persons stopped and searched/questioned.
(2) Age may be officer perceived.
(3) Percentages are rounded to the nearest whole number.

3.20 As for gender (see Table 9), the overwhelming use of both S21 and S24 was on males (83% and 91% respectively) in this reporting period. Females accounted for 16% under S21 and 9% under S24.

Table 9: Use of JSA powers by gender (August 1st 2023-July 31st 2024)

	Male	Female	Unknown/ other	Total
All powers	84%	15%	<1%	100%
JSA Section 21	83%	16%	<1%	100%
JSA Section 24	91%	9%	<1%	100%

	Male	Female	Unknown/ other	Total
All powers	18,624	3,406	19	22,049
JSA Section 21	420	82	1	503
JSA Section 24	2,662	252	3	2,917

- (1) As more than one legislative power can be used to stop and search/question a person, the sum of the powers used will be greater than the total number of persons stopped and searched/questioned.
(2) Age may be officer perceived.
(3) Percentages are rounded to the nearest whole number.

3.21 In relation to ethnicity (see Table 10) the data shows that those from a white ethnic background were the most likely to be stopped under S21 (97%) and S24 (96%) in

this reporting period. This figure has remained consistent since records were collected.

Table 10: Use of JSA powers by ethnicity (August 1st 2023-July 31st 2024)

	White	Irish Traveller	Other ethnic group	Black	Asian	Mixed	Not specified	Total
All powers	94%	2%	2%	1%	1%	<1%	<1%	100%
JSA Section 21	97%	<1%	1%	<1%	2%	0%	0%	100%
JSA Section 24	96%	1%	1%	1%	1%	0%	0%	100%

	White	Irish Traveller	Other ethnic group	Black	Asian	Mixed	Not specified	Total
All powers	20,697	355	365	305	241	85	1	22,049
JSA Section 21	486	2	3	2	9	1	0	503
JSA Section 24	2,805	20	36	20	32	4	0	2,917

- (1) As more than one legislative power can be used to stop and search/question a person, the sum of the powers used will be greater than the total number of persons stopped and searched/questioned.
- (2) Age may be officer perceived.
- (3) Percentages are rounded to the nearest whole number.

3.22 As part of the analysis I requested data on the number of officers using the JSA powers over the reporting period. This is the first occasion that this type of data has been presented and is an area which I will explore in more detail in my second year. Table 11 shows that 826 officers used the JSA powers, with 49 officers using the powers on at least 11 or more occasions. The data also revealed that 3 officers used them between 41-50 times, with a further 6 using them at least 51 times in the year.

Table 11: Number of JSA stops carried out by PSNI officers (August 1st, 2023-July 31st, 2024)

Number of stops carried out	Number of officers	%
1	328	39.7
2	160	19.4
3	108	13.1
4	57	6.9
5	39	4.7
6-10	85	10.3
11-20	27	3.3
21-30	9	1.1
31-40	4	0.5
41-50	3	0.4
51 or more	6	0.7
Total	826	100%

- (1) Persons may have been stopped under JSA S21 and/or S24 in conjunction with other non-JSA powers

3.23 Further analysis revealed that of the ten officers that used the powers most frequently four of them were attached to a District Support Team (DST), four were with an Auto Crime Team, and two were in Local Policing Teams (LPT).

- 3.24 Each District has dedicated Local Policing Response Teams (LPRTs) and Local Neighbourhood Policing Teams (LNPTs) working to protect people in the community, prevent crime and detect offenders through Policing with the Community. Across Northern Ireland there are 26 LPRTs. These teams respond to calls, conduct investigations and deal with community problems. Officers have been assigned geographic ownership of a particular area and are expected to build up an in-depth knowledge of that area. There are also 34 LNPTs based in areas where there are higher levels of crime and deprivation, rural isolation or where there is a particular policing need. These officers provide an additional, dedicated, policing presence in communities where it is most needed. They will build long term relationships, address complex anti-social behaviour problems, investigate local crime and help communities resolve conflicts. The purpose of District Support Teams is to support Local Policing and Neighbourhood Policing Teams and carry out pro-active operations based on local intelligence in line with District and organisational Policing Plan objectives. Officers will also engage with the community and respond to community issues across their District, as directed by the Contact Management Centre and District Command team.
- 3.25 I had the opportunity to meet with a number of officers from both DSTs and LPTs and discuss in detail the use of the JSA powers. It appeared that those in DSTs were best placed and equipped to use them, particularly in areas where the threat was highest. They had a clear and deep understanding of the behaviours of nominals in their area, significant experience of conducting stop and searches, and well informed about updates to local intelligence.
- 3.26 I also reviewed data relating to multiple stops under sections 21 and 24 of the JSA (Table 12). The previous reviewer in the 16th Report outlined in detail the historical challenges in collecting data on this very topic, and the role of NISRA statisticians must be commended in being able to present it now. During the reporting period there were 3,348 stop and searches/questions under the JSA (Sections 21 and 24), of which 2,989 (89%) had a unique personal identification number recorded on the stop and search record. **These 2,989 stop and search/question encounters involved 1,683 unique persons.** Table 12 shows the distribution of the number of times these 1,683 persons were stopped. Furthermore, there were 3,014 stop and searches/questions of males under the Justice and Security Act (Sections 21 and 24), of which 2,732 (91%) had a unique personal identification number recorded on the stop and search record. **These 2,732 stop and search/question encounters involved 1,482 unique males.** There were 330 stop and searches/questions of females under the Justice and Security Act (Sections 21 and 24), of which 255 (77%) had a unique

personal identification number recorded on the stop and search record. **These 255 stop and search/question encounters involved 199 unique females.**

Table 12: Multiple stops of persons under sections 21 and 24 of the Justice and Security Act (August 1st, 2023-July 31st, 2024)

Number of times stopped	Number of unique persons	%
Once	1,367	81.2
Twice	146	8.7
3 times	52	3.1
4 times	27	1.6
5 times	14	0.8
6-10 times	41	2.4
11-20 times	24	1.4
21-30 times	8	0.5
31-40 times	3	0.2
41-50 times	0	0
More than 50 times	1	0.1
Total	1,683	100%

- (1) Figures were produced using a unique identification number that has not been validated. The unique identification number was recorded on 89% of all JSA stop and search records, meaning 11% (359) of JSA stops have been excluded from the above table.
- (2) Persons may have been stopped under JSA S21 and/or S24 in conjunction with other non-JSA powers.
- (3) Figures are provisional and subject to minor amendment.

Summary

3.27 In terms who is being stopped and how often the powers are being used it is important to make the following observations:

- In this reporting period the use of the JSA powers has decreased. Aside from the previous reporting period the overall use of the powers has followed a downward trajectory since 2015.
- The powers were initially designed to address the unique security situation in Northern Ireland, therefore, unsurprisingly the powers are used most frequently in the policing districts of Belfast, along with Derry & Strabane where the intelligence indicates the greatest threat from Dissident Republican armed groups.
- 6% of under eighteens stopped under all powers were stopped using the JSA. In conversations with youth organisations, it was made clear to me that most young people do not distinguish between the different types of legislation and powers. Therefore, it is important that when considering the impact of stop and search on young people that the powers are not considered in isolation.

- The data relating to officer's use of the powers identifies DSTs as the most frequent users of the JSA. Upon reflection this should be the case as they are best placed to ensure the most up-to-date intelligence is being used to inform the basis of the stops.

Outcomes

3.28 A key question often asked, and one that has been discussed at length in previous reports, centres on 'what are the outcomes associated with the use of the powers?' Table 13 shows the measurable outcomes for all stop and search powers and indicates that the overall outcome rate for S21 was 1% and S24 was 4%. When compared to other stop and search powers these figures are particularly low. However, it is important to note that these outcomes rates have remained consistent over the last decade. This is an area which I would like to return to in my second term and work with the PSNI to consider these figures within the context of supervision and training. The JSA Code of Practice states that 'an authorisation should not be given on the basis that the use of the powers provides public reassurance or that the powers are a useful deterrent or intelligence gathering tool.' I would like to explore further whether there is a view among some officers that in fact a successful outcome is contrary to what the code of practice states it should be.

Table 13: All powers by outcome (August 1st, 2023-July 31st, 2024)

	Number of stops	Overall outcome rate ^(1,2,3)	Arrest rate ^(1,2,3)
PACE	2,722	35%	24%
Misuse of Drugs	15,560	26%	6%
Firearms	51	25%	24%
TACT S43	394	3%	1%
TACT S43A	179	2%	1%
JSA Section 21	503	1%	<1%
JSA Section 24	2,917	4%	1%
Other legislative powers ⁽⁴⁾	17	12%	6%

- (1) Arrests are incorporated in the overall outcome rate. Other outcomes may include community resolutions, report to the PPS and penalty notice for disorder.
- (2) The outcome may not be linked to the initial reason of the stop and search. For example, if an individual is stopped under JSA S24 and during that search an officer finds illegal drugs, the individual may get a community resolution for possession of drugs. On the stop and search record that outcome will be recorded against a stop under JSA S24.
- (3) Outcome rates are rounded to the nearest whole number.
- (4) Other powers may include Section 139B of the Criminal Justice Act 1988, Article 6 Crossbows (Northern Ireland) Order 1988, Article 25 Wildlife (Northern Ireland) Order 1985, Article 23B of The Public Order (Northern Ireland) Order 1987 and the Psychoactive Substances Act 2016.

3.29 It is also interesting to note the types and amounts of material found by the PSNI during the stopping of vehicles and/or people over the last reporting period (Table 14).

Table 14: Finds of wireless apparatus or munitions (August 1st 2023-July 31st 2024)

Following persons and/or vehicles stopped and searched under JSA Section 24 or Section 26:	
<ul style="list-style-type: none"> On one occasion multiple firearms, ammunition and a Taser was found. Follow up search found further firearms and paramilitary regalia. On one occasion a firearm and ammunition was found. On one occasion ammunition was found. On 5 occasions wireless apparatus was found (mobile phones and walkie talkies). On one occasion (legally held) ammunition was found. On one occasion a pistol (airsoft weapon) was found. 	
	<ul style="list-style-type: none"> Based on information recorded on the PSNI's stop and search database. Data is provisional and should be treated as management information.

Basis

3.30 As a legal requirement the PSNI must record the basis of any stop and search under the JSA. Since the Ramsey (2020) judgement⁵ the two previous independent reviewers have provided extensive commentary around how the PSNI responded with new policies and procedures. Essentially, officers cannot use the JSA powers simply because an ACC has signed the fortnightly authorisation form, there must be a basis for the stop. When conducting a stop the officer must select from a drop down menu on their Origin App 'a basis' from four options – briefing, subjects location, subjects behaviour and incident. Furthermore, there is a free text box which requires the officer to provide additional information in relation to the basis of the stop. Table 15 indicates that under S24 the most frequent basis was 'briefing' (60%) with the least frequent being 'incident' (7%).

Table 15: JSA Section 24 Basis for search (August 1st 2023-July 31st 2024)

Basis for stop/search	Number of times this basis was recorded	Percentage of times this basis was recorded
Briefing	1,757	60%
Subject's location	907	31%
Subject's behaviour	858	29%
Incident	193	7%

(1) Basis is a drop-down list from which an officer can choose one or more reason. As a result of this, the percent figures sum to more than 100%. (2) Figures exclude vehicle-only searches

⁵ <https://www.judiciaryni.uk/files/judiciaryni/decisions/Ramsey%27s%20%28Steven%29%20Application%20%28No.2%29.pdf>

3.30 During the reporting period I was particularly interested in how officers were addressing the issue of basis when they used the powers. I asked the statisticians to provide me with an overview of the content officers included in the text box around the basis of the stop. Upon review, it was evident that:

- A large number of officers provided more comprehensive details and background pertaining to the stop
- Some officers failed to complete the box
- A number of officers simply repeated the words from the drop-down menu

Overall, there was a lack of consistency in how officers approached this process, which raises some concerns around whether they are using the powers appropriately. During the reporting period I had the opportunity to meet with a number of officers and I asked them about the basis of stops. Interestingly, there were a range of responses with a small number indicating that *'the email stating that the ACC had signed off the authorisation was enough'* while others noted that *'you have to really have a reason, an evidence base to stop someone.'* Overall, there appears to be a lack of knowledge and understanding among a number of officers around the importance of the 'basis' to the stop, and the need to record a robust rationale.

Community Monitoring

3.31 On the 30th of April 2024 the PSNI commenced a three-month service wide pilot to monitor the community background of individuals stopped and searched under the following powers:

- JSA24 (Authorisation)
- Justice and Security (NI) Act 2007 (s21)
- JSA24 (reasonable suspicion)
- Terrorism Act 2000 (s43)
- Terrorism Act 2000 (s43A)
- Terrorism Act 2000 (s47A)
- Terrorism Act 2000 Sch5
- TPIM Act Sch5

3.32 In 2020 the Court of Appeal in Ramsey stated that the PSNI was under a legal obligation to implement the community monitoring of stop and search powers. Since then, the organisation has been considering a number of approaches to this issue. All

of these discussions have been extensively documented by my predecessors in the 13th through to the 16th reports. There is no doubt that this has been a frustrating and challenging process for all concerned, so getting to the pilot stage is an accomplishment in itself, and everyone should be commended for their efforts.

3.33 In terms of the process, data is collected through the Origin App in relation to either a person searched or a person responsible for vehicle searched. The officer has a script to aid them in explaining why the data is being asked for and collected. The officer states “to help us monitor the necessity and proportionality of this use of stop and search powers, I will now ask you a question. You are not required to answer this question. What is your community background, is it:

- Catholic/Nationalist/Republican (these are not separate categories)
- Protestant/Unionist/Loyalist (these are not separate categories)
- Other (this requires officer to input a meaningful free text entry)
- Declined to say/refused

3.34 The PSNI have recognised this is a pilot and that there will be challenges with its implementation given the nature of the question. However, it is important to note the organisation’s position:

‘Great consideration has been given to the fact that there is no legislation currently in place directing the collection of such protected CBM data. The proposal to gather said data has been subject to rigorous legal interpretation thus far and will remain under regular scrutiny and review. The over-arching understanding of the pressing social need for scrutiny of the use of Stop and Search powers as well as our obligation to meet lawful conduct by adhering to the relevant codes of practice has guided the PSNI towards this new aspect of public accountability.’

3.35 Prior to the launch of the pilot the PSNI delivered an internal briefing and communications plan to ensure all officers were both aware of the new policy and clear about why it had been introduced. Senior PSNI officers also met with the Northern Ireland Policing Board (NIPB) Performance Committee to ensure members were aware of its introduction. Initially, the PSNI planned to review the data from the pilot along with feedback from officers after three months. However, it was decided to extend the programme for a further six months so that more data could be collected and analysed to allow for a more robust evaluation.

3.36 In the first three months of the pilot 753 individuals were asked for their community background (Table 16). Of that total, the largest number (66%) refused to provide

that information. A further 18% indicated that they were Catholic/Nationalist/Republican, while 7% stated they were Protestant/Unionist/Loyalist.

Table 16: Community background composition of those persons stopped and searched/questioned under JSA and/or TACT during the period 30 April 2024 to 31 July 2024

Community Background	Count	Percent
Catholic / Nationalist / Republican	136	18%
Protestant / Unionist / Loyalist	52	7%
Other	41	5%
Refused	494	66%
Not recorded ⁽¹⁾	30	4%
Total	753	100%

- 1) Due to a suspected technical issue with the Origin App, the community background question was not asked during 30 stops and so no community background was recorded.
- 2) Figures exclude any persons searched under warrant.
- 3) Figures are provisional and subject to minor amendment. Percentages may not sum to 100% due to rounding.

3.37 There is no doubt that the introduction of community background monitoring is a significant development in terms of how the JSA powers are both used and scrutinised. It will take time to analyse the data and understand its implications, but I hope in the 18th Report to be in a position to provide a more substantial commentary. In the short-term I make the following observations:

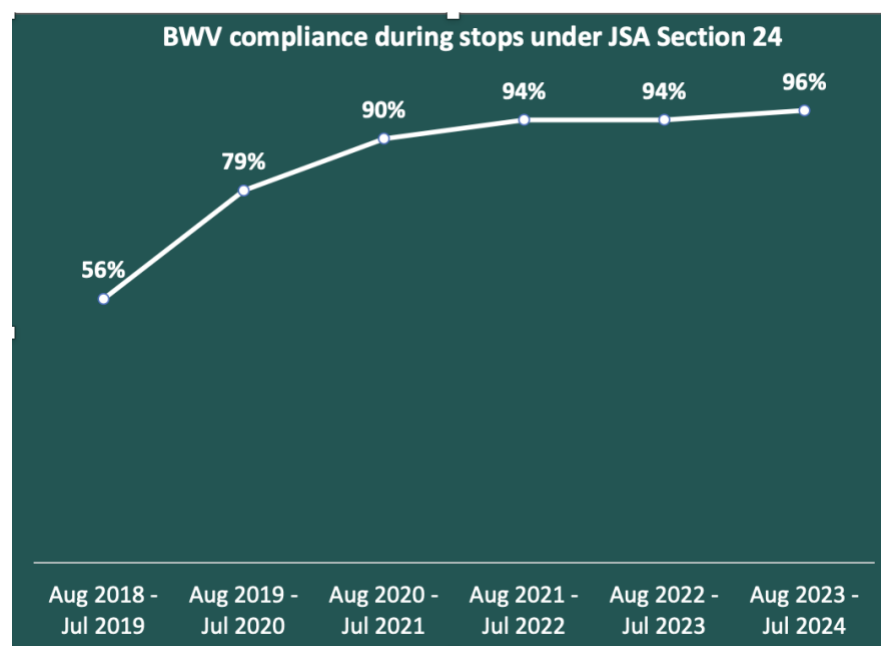
- The pilot does not record whether the officer asked the community background question. Therefore, it is my assumption that there is a high probability that in some cases the 66% who refused were not actually asked the question. I spoke with a number of officers who indicated a sense of unease in asking the question and suggested that in some stop and searches it could increase tensions.
- Internal oversight and scrutiny around whether officers are asking the community background question will be key to its success. There is an onus on supervisors to review BWV (body worn video) and ascertain details around this, and ensure appropriate feedback is provided.
- I am not convinced that the categories are helpful in identifying community background. For example, an individual may consider themselves a Nationalist but not a Republican but grouping the two categories together means they feel misrepresented.

- During the training lesson I attended on the JSA there was no mention of the pilot. However, I did meet with the college about the content of the lesson, and they immediately incorporated details about the pilot into the lesson plan.

Supervision, Complaints and Training

3.38 As a matter of policy, PSNI officers are instructed that “body worn video MUST be used when conducting ANY stop and search. Any stop and search not recorded on body worn video will require a reasoned explanation as to why this is the case.” In the previous two review periods 1 August 202/2021 – 31 July 2021/2022 the usage of BWV on JSA stops was 94% and for the current review period, the rate has increased to 96%. Table 17 shows the significant improvement in BWV compliance over the last six years with the figure increasing from 56% in 2018/19 to 94% in 2023/24.

Table 17: Use of body-worn video during JSA s24 stops (August 1st, 2023-July 31st, 2024)



(1) Figure excludes vehicle-only stops.

- 3.39 During discussions with PSNI it was reiterated to me on several occasions how the organisation uses the BWV to improve their approach around using the JSA powers. I am aware that it is used as part of the lesson material in the Student Officer Training Programme and is constantly updated to account for the evolving operational environment.
- 3.40 Supervisors in district continue to follow procedures in relation to dip sampling BWV of stops and reviewing areas such as the basis of the stop; the approach and

language used by the officer, and the outcome. The monitoring is scrutinised and reviewed on a regular basis. For instance, supervisors dip sample an absolute minimum of 10% of their team's stop and searches and are advised to check 100% of searches on juveniles, people from an ethnic minority background, vulnerable people and in areas where there are high complaints of stop and search procedures. I am reassured that the policies and procedures are in place to address any issues of poor practice involving officers and the execution of the powers.

- 3.41 On two occasions I watched a dip sample of BWV involving officers using the JSA powers. I was able to review the officers conduct and consider whether the officers employed an appropriate basis for the stop. The officers that were present answered my questions and provided supplementary information to the stops. These were robust conversations but also reassuring in that I left confident that the appropriate safeguarding and quality assurance measures were in place.
- 3.42 The Police Ombudsman for Northern Ireland (PONI) reported on complaints in relation to the operation of JSA powers in this review period. There were 22 complaints relating to searches under JSA, in comparison to 12 in the previous reporting period. None of the complaints appear to be linked when looking at incident date and incident title. Of the 22 complaints 3 complainants made multiple complaints - Person A (3), Person B (2) & Person C (2)
- 3.43 Eighteen officers have been identified in relation to 11 of the complaints. Of these 2 officers have been identified in relation to multiple complaints.
- 3.44 Seventeen of the complaints relate to District A - Belfast City, 2 to District F – Mid Ulster, 2 to District J – Causeway Coast and Glens and 1 to District H – Derry City and Strabane
- 3.45 None of the complaints have been identified as being from juveniles. Twenty of the complaints have been closed, and two remain open. Of the twenty that were closed in five of those the office substantiated the complaint or identified an issue of concern. Four of those cases related to officers failing to complete the PACE 1TA appropriately, regarding the details about the basis for the stop.
- 3.46 According to PONI there were two recommendations issued from the office during this reporting period in relation to the PSNI's use of the JSA powers. This was in relation to an incident where officers maintained that 'they did not need reasonable suspicion to stop any person if a senior officer had authorised the legislation's use in that location.' However, the PONI concluded that 'the officers' understanding of these powers was insufficient and that the use of the powers in the circumstances

described was not appropriate due to a lack of full understanding of the JSA Codes of Practice.’ Performance was therefore recommended to PSNI Professional Standards in this matter and accepted.

3.47 Following the case the PONI made the following recommendations:

- It is recommended that the PSNI provide training to all officers in the Justice and Security Act and its Codes of Practice, giving specific consideration to Section 24 Schedule 3.
- As per Policy Recommendation 21-22/23 from this office, police continue to fail to complete the Pace 1TA with a short narrative of their rationale which is in breach of PSNI Service Instruction SI0321. It is recommended that this be incorporated into the training.

3.48 During the reporting period I had the opportunity to observe a morning lesson on the JSA powers as part of the Student Officer Training Programme. The 21-week programme is an intensive introduction into policing, and provides the student officers with the initial knowledge, skills and learning required to become a probationary police officer. Ideally, there would be more time to focus on the JSA, but in an already packed schedule, the organisation can only commit a focused 3hrs. The Training College have been very supportive of my role and those responsible for teaching on the JSA have met with me to consider new additional content around the basis, impact and outcomes of using S21 and S24 of the powers.

Final thoughts

3.49 Following my engagement with a number of police officers of different rank, the analysis of the statistics, and observations at a range of public order events I have answered the following questions in relation to the use of the powers.

3.50 **Are the powers in the JSA used in a way that is intelligence led?** For the most part I do believe that intelligence drives the use of the powers. At the management level, the authorisation process ensures there is a constant focus on both the threats and capability of armed groups. Although I have slight reservations about the contribution from MI5, the overall process maintains the emphasis on evidence and intelligence as the basis for the powers. From an operational perspective it appears that DSTs embody the most appropriate outworkings of the legislation. They understand the importance of the powers and recognise its benefits in terms of keeping communities safe. Underpinning their approach to using the powers is local

knowledge relating to the risks, harms and vulnerabilities of those which the legislation was designed for.

- 3.51 **Are the powers used in a disproportionate or discriminatory manner?** In general, I am satisfied that the powers are being applied in a proportionate and non-discriminatory manner. However, I am also of the view that among some officers there is both a comfortableness and complacency regarding the use of the JSA powers. In certain circumstances, officers will default to the JSA as they consider it as 'suspicion-less powers' (literally) and the easiest, quickest and most uncomplicated approach to stopping an individual. I am not entirely convinced that all officers are clear as to the importance of the 'basis' of the stop. This view has also been repeated to me in discussions with the office of the PONI. I believe these are isolated incidents, but it is important that they are addressed so as not to become systemic. I am encouraged by the data which demonstrates the continued downward trend in the use of the powers, and that they are being employed most in the areas where the threats and risks appear to be highest. However, the importance of an appropriate and evidence-based 'basis' for the use of the powers cannot be underestimated and is an area which will require further monitoring.
- 3.52 The pilot for Community background monitoring is to be welcomed and will ensure further safeguarding and oversight in relation to the execution of the powers, particularly by individual officers.
- 3.53 **Is there a general understanding around the outcomes attributed to the JSA?** At an organisational level I believe there is a clear understanding as to the purpose, function and positive outcomes attributed to both having and using the JSA powers. The unique policing and security situation in Northern Ireland provides a legitimate basis for their continued existence and allows the PSNI to maintain peace and order. However, I am also of the opinion that there are officers that maintain the powers are 'there to provide public reassurance and/or act as a useful deterrent or intelligence-gathering tool'. This is contrary to what is stated within the code of practice. Clearly, there is more that can be done by the Police College, district supervisors and the internal communications team to articulate what is to be achieved from having the JSA powers.
- 3.54 **Is there appropriate oversight and accountability?** Yes, there are a number of measures in place to ensure appropriate internal and external oversight and accountability of the powers. There is robust supervision and monitoring of BWV at the district level. Furthermore, the PSNI Service Accountability Panel provides the opportunity for independent scrutiny of all police powers. As the independent

reviewer I have been given full access to all records, BWV and any material pertaining to the JSA powers. In relation to the authorisation process there are a number of checks and balances (PSNI Legal Services along with NIOLA) in place to ensure that intelligence and security related issues continue to provide the justification for the powers and that there is full compliance with the legislation.

4. Road Closures and Land Requisitions

- 4.1 Under Sections 29 to 32 of the JSA the Secretary of State may requisition land (s29) and close roads (s30 and 32) for “the preservation of the peace or the maintenance of order” (s29). In line with Agency Agreements agreed between the DOJ and the Secretary of State (see paragraph 238 onward of the fourth report) the requisition power in section 29 and the road closure power in section 32, can be exercised by the DOJ in respect of devolved matters.

Road Closures

- 4.2 In the reporting period – 1st August 2023 to 31st July 2024, no new road closures were initiated.

Land Requisitions

- 4.3 'The PSNI wrote to the Department of Justice, ahead of the 'Whiterock Parade on Saturday 29th June 2024 and Whiterock LOL 974 parades on Friday 12th July 2024, requesting a section 29 authorisation under the Justice and Security (Northern Ireland) Act 2007, for part of the land owned by Invest NI at Forthriver Business Park (the former Mackies factory site), Springfield Road. The Secretary of State for Northern Ireland, Economy Minister and Justice Committee were notified of the use of these powers.
- 4.4 The PSNI made these, now annual, requests as they required the land to be held to ensure an effective policing operation for the purpose of enforcing the respective Parades Commission determinations in respect of the two parades noted above.
- 4.5 The powers contained in section 29 of the Act allow the Secretary of State for Northern Ireland to take possession of land and hold it if it is considered necessary for the preservation of the peace or maintenance of order. Agency arrangements were agreed with the Secretary of State to allow these powers to be exercised by the Department of Justice in respect of transferred matters.'
- 4.6 On both occasions, Police believed that requisition of the site was essential as a forward operation base to deploy officers, if required, but also to assist in reducing the visible police footprint and presence on the Springfield Road close to the actual parade. The PSNI sought the requisition from 0001hrs until 2359hrs on Saturday 29th

June 2024 and from 0001hrs until 2359hrs on Friday 12th July 2024. The orders were time bound; de-requisition orders were not therefore necessary. There was no disorder related to either parade.

5. The Army

5.1 Section 40(1)(b) of the JSA requires me to review the procedures adopted by the General Officer Commanding Northern Ireland (GOC) for receiving, investigating, and responding to complaints.

5.2 I review two aspects of Army operations:

- Explosive Ordnance Disposal (EOD activity) where the Army support the PSNI in dealing with explosive material; and
- the operation of the Army complaints procedure.

5.3 In terms of EOD activity there were a total of 157 incidents compared to 143 in the previous reporting period. However, this is still significantly lower than the 226 recorded incidents in 2019/20. Table 18 summarises the types of incidents dealt with by the army.

Table 18: Explosive Ordnance Disposal (E.O.D) Activity in Support of the Police (August 1st, 2023-July 31st, 2024)

DATE	IED	EXPLOSION	HOAX	FALSE	CMD	FINDS	FIND X-Ray	INCENDIARY	TOTAL
August 23	1	1	2	1	6	1	9	0	21
September 23	0	0	2	1	2	2	6	0	13
October 23	0	1	1	1	3	2	6	0	14
November 23	2	1	1	0	4	1	8	0	17
December 23	1	2	0	1	2	0	5	0	11
January 24	2	1	2	1	2	1	7	0	16
February 24	2	0	0	2	3	1	7	0	15
March 23	0	0	1	1	5	0	6	0	13
April 24	0	0	0	1	4	2	3	0	10
May 24	1	0	1	0	0	0	9	0	11
June 24	1	0	1	0	1	1	0	0	4
July 24	0	0	5	0	6	0	1	0	12
TOTAL	10	6	16	9	38	11	67	0	157

IED – A confirmed Improvised Explosive Device, e.g. a pipe bomb;

Explosion – A confirmed explosion

Hoax – A suspicious object, which has been accredited to a codeword or similar warning, cleared, and declared not to be an IED

False – A suspicious object which is found by a member of the public, examined and declared to be nothing of concern

Incendiary – A device designed to create a fire rather than explosion

Finds – Objects recovered, usually during a search

Find X-Ray – An object x-rayed by EOD at the request of the PSNI and declared safe before being entered into police evidence

CMD or "Common Munitions Disposal" i.e. grenades or legacy munitions washed up on the shores

5.4 In regards to complaints, there were five cases with a single complaint contained in the Military Complaints File for the period 1 August 2023 - 31 July 2024. In the

previous reporting periods, there were ten (2022/23), six (2021/22), and eight (2020/21). As noted by previous reviewers, the majority of files could not properly be characterised as complaints, but rather as questions or requests for verification about low flying aircraft and objects in the sky.

- 5.5 The documentation I examined in all of these cases was both detailed and complete. Those contacting the Army were treated with courtesy and respect. Their concerns were taken seriously, and the responses were both timely and appropriate. Even in cases where the Army were not responsible, they took the time to signpost the individuals to those that might be in a position to provide more information. I am satisfied that the complaints I reviewed were handled in a robust, professional and timely manner.

6. Non-Jury Trials

- 6.1 In Northern Ireland from 1972 to 2007 jury trials were dispensed with for politically motivated scheduled offences which were heard in Diplock courts before a single judge. In 2007 the JSA introduced the current system whereby criteria are applied to each case prior to arraignment by the Director of Public Prosecutions (DPP) who may then issue a certificate whereby the trial can proceed without a jury. It is important to acknowledge that the position of the previous government was that it remained ‘fully committed to seeing an end to these non-jury trial provisions, when it is safe to do so and compatible with the interests of justice.’⁶
- 6.2 Provisions for non-jury trials under the JSA expire every two years and are renewable subject to the approval of both Houses of Parliament. There are no limits on the number of times NJT provisions may be extended. Although they were designed to be a temporary measure, they have been extended by successive orders since 2007. At each renewal, the Northern Ireland Office (NIO) launches a public consultation on whether to renew these legislative provisions. The provisions for non-jury trials are due to expire in July 2025.
- 6.3 The process of determining whether a NJT certificate is to be granted is set out in detail in Arthurs [2010] NIQB 75 and at paragraphs 19.1-19.5 of the tenth report and again at paragraph 9.64 of the 15th report. In brief, it is as follows:
- PSNI compile a case file including summary of case, details of offence and circumstances of the accused and whether any of the 4 conditions are met
 - File is sent to PPS
 - PPS writes to PSNI asking whether conditions are met
 - Intelligence material is reviewed
 - Application for NJT certificate compiled by Prosecutor and sent to PPS
 - File sent to DPP who makes the decision.
- 6.4 Under the JSA, each case must meet one or more of four conditions in order for a NJT to be established:
- **Condition 1** – the defendant is, or is an associate of, a person who is a member of a proscribed organisation, or has at any time been a member of an organisation that was, at that time, a proscribed organisation.

⁶ https://assets.publishing.service.gov.uk/media/6363a4ff8fa8f5057864ffeb/221102_-_NJT_Consultation_Document_22_23_-_FINAL.pdf

- **Condition 2** – the offence or any of the offences was committed on behalf of the proscribed organisation, or a proscribed organisation was otherwise involved with, or assisted in, the carrying out of the offence or any of the offences.
- **Condition 3** – an attempt has been made to prejudice the investigation or prosecution of the offence or any of the offences and the attempt was made on behalf of a proscribed organisation or a proscribed organisation was otherwise involved with, or assisted in, the attempt.
- **Condition 4** – the offence or any of the offences was committed to any extent (whether directly or indirectly) as a result of, in connection with or in response to religious or political hostility of one group of persons towards another person or group of persons.

6.5 Should one or more of four conditions be met, the Director applies the second test: whether there is a risk to the administration of justice. Where a case meets these two tests a Certificate is to be issued.

6.6 In terms of this review I have been guided by the approach adopted by the two previous reviewers and participated in high level engagement with key stakeholders, so as to consider the quality of material used in the decision-making processes.

6.7 For this reporting period there were 16 certificates issued for NJTs with 4 refusals (table 19). The most frequently cited conditions were conditions 1, 2 and 4. It was interesting to note that condition 3 (an attempt has been made to prejudice the investigation or prosecution of the offence or any of the offences and the attempt was made on behalf of a proscribed organisation or a proscribed organisation was otherwise involved with, or assisted in, the attempt) was not used once.

Table 19: Total number of certificates issued by condition(s) (August 1st, 2023-July 31st, 2024)

Condition(s)	Number of certificates
1, 2, 4	9
1, 2	5
1, 4	1
1	1
Total	16

- 6.8 When compared to previous years it is evident that there has been a significant reduction in the number of certificates issued since a high of 28 in 2011. Furthermore, the number of certificates refused has also increased since 2007 (table 20).

Table 20: Certificates issued and refused for Non-Jury Trial by the DPP (2007-2024)

Year	Certificates issued	Certificates refused
2007	12*	2
2008	25	2
2009	11	0
2010	14	0
2011	28	0
2012	25	3
2013	23	3
2014	14	1
2015	15	0
2016	19	1
2017	22	1
2018	17	1
2019	13	1
2020	11	2
2021	16	1
2022	21	3
2023	20	4
2024	16	4

* Provisions under the 2007 Act were brought into effect on 1 August 2007

- 6.9 Data was also provided around the different conditions that were met to issue certificates since 2007. Table 21 indicates that conditions 1 and 2 were the most frequently adopted with conditions 3 and 4 used much less frequently. This pattern is consistent over the past eighteen years.

Table 21: Conditions met in non-Jury Trial cases 2007-2024road closure

Year	Number of Cases in which Condition Met				Certificates Issued
	Condition 1	Condition 2	Condition 3	Condition 4	
2007	12	6	3	4	12
2008	24	16	3	4	25
2009	11	7	0	2	11
2010	13	9	2	3	14
2011	27	23	4	8	28
2012	21	16	1	10	25
2013	22	16	3	21	23
2014	18	12	0	16	18
2015	14	13	0	7	15
2016	10	11	0	7	11
2017	9	6	0	8	9
2018	16	12	0	14	17
2019	10	9	0	8	13
2020	10	7	2	4	11
2021	15	10	1	12	16
2022	11	10	0	3	21
2023	19	16	2	5	20
2024	16	14	0	10	16
Total	278	213	21	140	(total grounds)
%age	43%	33%	3%	21%	% of all conditions used
Source: Northern Ireland Director of Public Prosecution's Office					

6.10 I reviewed all twenty applications for NJT certificates in the period 1 August 2022 to 31 July 2023. Overall, it was clear that the PPS carefully considers the details of each case, how each condition is met and whether there is a risk to the administration of justice. On a number of occasions clarification and further questions were raised with the PSNI in relation to specific cases. It was also interesting to observe the scrutiny employed by the PPS around what constituted membership of a paramilitary group and an organised crime gang. Of the twenty applications for a certificate, twelve could be associated with individuals and groups from a Republican

background, while the remaining eight were attached either directly or indirectly with Loyalist groups. It should be noted that during the previous public consultation (2023) around the renewal of the legislation the Secretary of State commissioned⁷ the security services to conduct an intelligence-based assessment of the threats against jurors. This formed a key part of his decision on whether to seek renewal of these provisions. However, this assessment only focused on armed Republican groups, yet as the data shows, just under 50% of certificate applications involve those from a Loyalist background.

- 6.11 I also considered in detail the intelligence material underpinning the views on alternative juror protection measures, and whether there was sufficient evidence to suggest there was jeopardy to a fair trial. Across the majority of applications there were similar responses from the PSNI in relation to threat assessments and risks to potential juries. This content appeared to lack insight and depth, and on a small number of occasions it appeared that the text from one application was simply lifted and used in another one. Furthermore, when outlining their thoughts on ‘the risk of a proscribed organisation intimidating a jury’ they refer back to the 2015 Assessment on paramilitary groups in Northern Ireland. That assessment was conducted nearly a decade ago and the landscape has certainly evolved.
- 6.12 There also appeared to be an absence of sufficient consideration given to how risk could be managed and mitigated against in the absence of NJTs.
- 6.13 Overall, I have the sense that the analysis and opinion around NJTs is constructed on the **perception of risk**, as opposed to any **actual current risk** assessment. I would not just place this observation on approaches to NJTs. I am firmly of the view that the balance around ‘risk management in general’ is still influenced by the past and not sufficiently updated to reflect recent societal changes.
- 6.14 The NIO launched its public consultation on the use of non-jury trials in December 2024 in view of the provisions expiring in July 2025. I will respond to the consultation and outline my thoughts as to whether the use of non-jury trials should be extended.
- 6.15 In this review period, I am satisfied that the procedures and scrutiny with which each case was considered is commensurate with the kind of deliberation and care warranted by the gravity of the decision to deny the right to jury trial.

⁷ https://assets.publishing.service.gov.uk/media/6446a53d529eda00123b0379/HMG_response_to_NJT_Consultation_2023__1__1_.pdf

7. Conclusion and Recommendations

7.1 The following sections set out my main conclusions from the review along with a series of recommendations. As previously noted, this is the seventeenth report, and during that time there have been significant contributions from each of the three reviewers around improving safeguarding, accountability, oversight and operational issues with the JSA powers. Essentially, all of these interventions have ensured that the legislation has been fit for purpose and that there remained a legitimate and robust evidence-base for its continued existence. I am simply building on the work of my predecessors and have some additional thoughts on the current reporting period and future of the powers.

7.2 Exceptional powers (JSA) were introduced in Northern Ireland to support a process of societal transition towards security normalisation. Setting out why the powers were needed to Parliament on 13 December 2006 the Secretary of State painted a picture of evolution towards a condition of normality:

“The powers are necessary to deal with a number of different circumstances. They will help in managing parades, road closures, and dealing with extreme public order incidents such as the Whiterock parade last year (2005) which mercifully was not repeated this year [2006]. They may be used in dealing with organised crime and will be essential in combating loyalist and dissident republican terrorism, which is still with us. Let me give some practical examples. The stop and search powers may be used to search people for weapons around a parade or a sports event where it is anticipated that there might be trouble, to deal effectively with bomb threats by allowing police to cordon off the area and by providing appropriate powers of access if the device is on private property, to search premises ahead of VIP visits, and to allow the police or the Army to chase criminals across private land without breaching trespass laws.”

7.3 Almost two decades later, there appears to have been little progress on defining ‘normalisation’ in practice. Analysis of the current security environment continues to be shaped by the interplay between paramilitarism, terrorism and organised criminality and we struggle to disentangle the complex actions, behaviours and threats associated with the different organisations and their affiliates. This has implications for both community and security approaches. For as long as conflict-related presumptions are not interrogated, there is a risk that special powers in Northern Ireland will continue to be justified and reinvented and the question of ‘normalisation’ postponed. In effect, there is a general acceptance in some quarters

that the 'exceptional' has become the 'new normal' which has subsequently reduced our appetite to consider the difference between 'perceived' and 'actual risk.'

- 7.4 In terms of this review, most of my time has been focused on how the PSNI have executed the powers primarily around stop and search. In recent years the issues pertaining to the DOJ (land requisitions) and the Army (complaints) have significantly decreased to the point where they form a very small element of the process. The review of non-jury trials involved slightly more time with a consideration of the certificates through engagement and analysis of the documentation.

- 7.5 There are three conclusions surrounding the PSNI and the use of the powers which are important:

I am of the view that ensuring the police have the powers is not the same as saying they must use them. However, the current process which prioritises '*the number of times the power is used in any given area*' means that police are being encouraged to use the powers to essentially justify its existence. This approach needs to change, given it will impact on community confidence and legitimacy issues.

Although the PSNI are legally required to identify the basis for the exercise of the power, there remains some uncertainty among officers around what that actually means. A number of officers fail to recognise both the exceptionalism and intrusiveness of the powers, or the long-term impact their misuse could have. This potentially could lead to an abuse of the power and an area which the police need to really consider moving forward.

There are a number of officers that continue to default to JSA powers in a given situation because it is convenient and can be quickly justified under the label 'briefing' or 'threat.'

- 7.6 The Authorisation process gives legitimacy and legal authority for the use of the powers. However, it is apparent that some complacency has set in regarding the gathering and presentation of intelligence around the threats and capabilities of armed groups. I recognise the challenges in trying to refresh and update a document every 14 days, but there needs to be more thought and consideration given to generating the evidence which justifies the powers. Otherwise, people will begin to question whether the level of risk and threat which defines our 'unique security situation' actually justifies the continued renewal of the powers.

- 7.7 In relation to non-Jury Trials it is clear that the decisions on awarding certificates are based on credible and robust intelligence. However, there appears a lack of new

thinking in terms of jury measures to mitigate intimidation and bias. Much of the discourse is outdated and one dimensional, which is why there has never been a case where such measures have been introduced.

Recommendations

- 7.8 Over the course of the previous sixteen reports, numerous recommendations have been made by the three reviewers which have ultimately improved the delivery and oversight of the JSA in Northern Ireland. To that end, there are only a small number of recommendations I will make on the basis of my review.

MI5

- 7.9 Given the importance of new and evolving intelligence for the S24 stop and search Authorisations it is important that MI5 review their current approach to the process. They must ensure that their intelligence material is robust, timely and very relevant. Furthermore, the emphasis must be on providing intelligence which reflects a constantly evolving operational environment.

NIO

- 7.10 The Northern Ireland Office need to seek out a legislative vehicle to allow for the extension of the current 14 days authorisation period. This should be extended to 42 days.
- 7.11 The JSA Code of Practice states that ‘both the duration and the geographical extent of an authorisation must be no greater than is necessary to prevent endangerment to the public caused by use of munitions or wireless apparatus and based on an assessment of the available information’ (8:23). The NIO should move to allow the authorisation process to include ‘all of Northern Ireland’ and cease with the current approach which involves eleven separate policing districts. This will not require a change to the legislation.

PSNI

- 7.12 The PSNI should develop an internal action and communications plan around the importance of ‘basis’ to the execution of the JSA powers. This should involve establishing a working group with representatives from the College, District Trainers

and Supervisors, along with a Senior officer. Supervisors should also be encouraged to dip sample and review the text boxes of the PACE 1TA to ensure officers are providing comprehensive details regarding a stop.

- 7.13 The PSNI needs to review its training, focus and messaging around the purpose and outcomes associated with the use of the JSA powers. The organisation must ensure that officers have a consistent narrative and understanding around why they have these 'exceptional' powers and what constitutes a successful outcome. This must involve more than a service-wide email and be a meaningful intervention with specific outcomes aligned to it.
- 7.14 The Service Accountability Panel should have a non-police representative with extensive knowledge and experience of the needs of young people.
- 7.15 The PSNI should consider capturing the learning from DSTs around their approach to using the JSA powers. This material could support training and learning programmes and be used to articulate to key stakeholders the function and purpose of the powers.

PSNI/PPS

- 7.16 The PSNI need to review their approach to providing intelligence on alternative jury protection measures. The material should be robust, recent and specific to the case and not drawn from generalisations and outdated sources. Furthermore, the DPP need to consider how to challenge the presented material and articulate what is necessary to support the introduction of such measures.

8. Appendix

Organisations and individuals consulted

Julie Harrison Permanent Secretary, Northern Ireland Office
James Crawford, Political and Security Director, Northern Ireland Office
Officials from the Political Affairs and Security and Protection Group
Adele Brown, Director of the Northern Ireland Executive's Cross-Departmental Tackling
Paramilitarism, Criminality and Organised Crime Programme
Jon Boutcher Chief Constables, Police Service of Northern Ireland and members of the
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Officers from C3 Intelligence Branch, Operational Support Department and Statistics
Branch, PSNI
Staff of 38 (Irish) Brigade and NI Garrison
Minister, Department of Justice
Director V and staff, MI5
John Wadham, Human Rights Advisor, Northern Ireland Policing Board
Adrian McNamee, Director of Performance, Northern Ireland Policing Board
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Criminal Justice Inspectorate NI
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Stephen Herron, Director of Public Prosecutions, Public Prosecution Service for Northern
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Michael Agnew, Deputy Director, The Public Prosecution Service for Northern Ireland
Tom Murphy, Principal Private Secretary to the Director of Public Prosecutions for
Northern Ireland
Attorney General, Brenda King DCB
Jonathan Hall KC, Independent Reviewer of Terrorism Legislation
Representatives from Sinn Féin, Ulster Unionist Party, Alliance Party, SDLP and the
Democratic Unionist Party
Children's Law Centre
Northern Ireland Commission for Children and Young People
Committee on the Administration of Justice Northern Ireland
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