

REPORT OF THE INDEPENDENT REVIEWER

JUSTICE AND SECURITY (NORTHERN IRELAND) ACT 2007

NINTH REPORT: 1st August 2015 – 31st July 2016

David Seymour CB

March 2017

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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 James Brokenshire
Secretary of State for Northern Ireland

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

In her letter to me of 11th November 2013 your predecessor, the Rt Hon Theresa Villiers, appointed me as the Independent Reviewer for the 3 year period from 1st February 2014 to 31st January 2017 under Section 40 of the Justice and Security (Northern Ireland) Act 2007.

My terms of reference were set out in that 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 and Eighth Reports which I prepared over the past 2 years 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.

I now have pleasure in submitting to you my third report, which is the ninth annual report, covering the period 1st August 2015 to 31st July 2016.

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

DAVID SEYMOUR CB

March 2017

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INTRODUCTION

- 1.1 On 11th November 2013 I was appointed by the then 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 1st February 2014. The function of the Reviewer is 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 summarized 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”.

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 organizations and individuals who engaged in this process. I am also grateful to officials in the NIO who facilitated these discussions and arranged my visits to Northern Ireland.

- 1.3 The previous 8 reports covering the years 2008 to 2015 can be found on the Parliamentary website

www.gov.uk/government/publications

EXECUTIVE SUMMARY

- 2.1 The **methodology and approach** adopted for this review including details of visits, briefings, attendance at parades etc are set out including details of two important conferences held to celebrate the 15th anniversary of the PSNI. The annual reporting period remains 1st August to 31st July and should be changed to one based on the calendar year at the next available legislative opportunity (paragraphs 3.1 to 3.10).
- 2.2 The **security situation** remains as set out in the Secretary of State's Statements to Parliament of 15th December 2015 and 11th July 2016. The main threat to national security comes from DRs who continue to target police officers, prison officers and members of the armed forces. There would be more national security attacks but for the good work of the PSNI, MI5 and their security partners. There were approximately 200 disruptive actions (eg arrests, charges and seizures) carried out against DRs in Northern Ireland and the Republic of Ireland. There have been significant finds of munitions. Paramilitary groups have continued to conduct violent attacks against members of their own communities. There is a dissenting view which challenges this analysis and maintains that the security position is exaggerated by the Government and the focus on "national security attacks" is counterproductive. The **public order situation** has improved during the reporting period. In particular the 12th July parades throughout Northern Ireland were largely peaceful affairs and agreement has been reached between the communities which has resulted in the closure of the Twaddell camp in Belfast (paragraphs 4.1 to 4.14).
- 2.3 There is one outstanding **legal challenge** to the JSA regime namely the case of **Ramsey**. The applicant in that case claims that the powers in the JSA contravene the ECHR. This case has made slow progress through the courts. However, if ultimately successful, that challenge may, depending on the terms of the judgment, require changes to the JSA, Code of Practice or PSNI practices (paragraphs 5.1 to 5.4).
- 2.4 An analysis of the **operation of the powers in practice** indicates a general reversal of the recent downward trend in use. In particular the use of the power to stop and search a person without reasonable suspicion has increased by 85% and the power to stop and search a vehicle without reasonable suspicion has increased by 130%. This is against the background of an increased use of stop and search powers under all legislation. The reasons for this change are set out (paragraphs 6.2 to 6.6). The low arrest rate and the low success rate of searches under JSA powers is discussed (paragraphs 6.7 to 6.14). Recommendations are made for more effective supervision of the use of these powers (paragraphs 6.15 to 6.18). There is an analysis of the use of repeat stop and search (paragraphs 6.19 to 6.25). Good progress has been made on rolling out the use of body worn cameras throughout the PSNI and this process should be complete by the end of 2017 (paragraphs 6.26 to 6.32). Concerns about the heavy handed use of these powers is dealt with (paragraphs 6.33 to 6.43) as are concerns that the powers are used in a discriminatory manner (paragraphs 6.44 to

46). Concerns are also addressed about the use of these powers near schools or when children are present (paragraphs 6.47 to 6.51).

- 2.5 Issues surrounding **record keeping** are discussed, in particular, the current inability to establish with any accuracy how many individuals who are stopped subsequently attend a police station to collect a written record of their stop/search (paragraph 7.1 to 7.4)
- 2.6 The PSNI continue to work on a viable method of **community monitoring**. Little progress has been made in recent years since the recommendation was first made that the background of those stopped and searched should be recorded and published (paragraph 8.1 to 8.7).
- 2.7 The **authorisations** which permit the use of stop and search without reasonable suspicion have been examined in detail. The process is painstaking but completed thoroughly and properly on each occasion. Nothing has happened in this reporting period to alter the recommendation made in last year's report that the JSA should be amended to enable such authorisations to continue for a period of 3 months (paragraphs 9.1 to 9.5).
- 2.8 The **armed forces** have been called out on EOD activity on fewer occasions (246) in this reporting period. Nevertheless they were still called out on 35 occasions to deal with an IED; on 12 occasions to deal with an explosion and on 112 occasions to deal with the discovery of munitions or component parts. There appears to have been no controversy about the deployment of army search and disposal teams this year. There was only one serious complaint about the army and that concerned members of the public who found themselves in the vicinity of an army exercise on public property (paragraphs 10.1 to 10.10).
- 2.9 Two **miscellaneous** matters are considered. First, road closures and land acquisitions under the JSA where little has changed in this past year (paragraphs 11.1 to 11.4). Secondly, the various views of consultees are summarized (to the extent that they are not reflected in the body of the Report). These include concerns about loss of community policing, paramilitary activity, delays in the criminal justice system (which encourage paramilitaries) and the need for other agencies to support the PSNI (paragraph 11.5 and 11.6).
- 2.10 The response to **recommendations** made in the last Report is considered (paragraph 12.1 to 12.6). Further recommendations are made in relation to setting up a website dedicated to the use of JSA powers; regular supervision of the powers; more detailed recording of the use of the powers near schools or where children are involved; evaluation of the TSG's engagement programme; the annual assessment of the use of body worn cameras; the recording of the number of occasions when an individual visits a police station to collect a record of his stop and search; and an

improved narrative about the use of these powers as between different paramilitary groups (paragraph 12.7) and some general observations are made about why it is particularly important that the PSNI are more open about how they use the powers in the JSA (paragraphs 12.8 to 12.10).

METHODOLOGY AND APPROACH

- 3.1 I have said in my previous reports that this is not an inspection, inquiry or investigation but a review of the exercise, primarily by the police, of the use of the powers in the JSA. It is concerned with how these powers are exercised generally. It is not concerned with individual conduct or complaints which are a matter for the relevant authorities ie the Ombudsman, PSNI disciplinary proceedings and the courts. I have no powers to compel people to give evidence or to co-operate (other than the power to require the Army to provide me with documents – see section 40(7)). The report depends on its effectiveness on the willingness of many people in Northern Ireland to contribute to the process by talking honestly and openly about the powers, how they are used 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 who spoke openly to me about their experiences. The report is based on what they have told me. All references in this report to sections are to sections of the JSA unless otherwise stated.
- 3.2 I visited Northern Ireland on 13 occasions between May and November 2016. These visits varied in length from 1 to 3 days. I also had a number of meetings in London.
- 3.3 I attended many briefing sessions (both formal and informal) with the PSNI and discussed the use of the JSA powers with many police officers of all ranks. I was also briefed by the Army and MI5. I visited HQ 38 (Irish Brigade) at Thiepval Barracks at Lisburn and at Aldergrove. In particular I was briefed on the continuing role which the Army plays in support of the PSNI. Once again, I was very impressed by the dedication, bravery and professionalism of those whose role it is to defuse and dispose of IEDs the use of which still remains a constant threat in Northern Ireland (see paragraph 10.3 below).
- 3.4 In addition to my discussions with PSNI officers, I have also had discussions with PSNI lawyers, statisticians and analysts. I attended a training session on the use of JSA powers at the PSNI Training College at Garnerville. On 13th October 2016 I attended a meeting of the PSNI's "Policing Powers and Development Group" at their Headquarters in Knock, East Belfast. I visited and spoke to police officers at all levels in Belfast, Derry, Lisburn, Banbridge and Craigavon. I went on patrol with the PSNI on the evening of 11th July and observed the parade in Belfast on 12th July. I also attended the Apprentice Boys Parade on 13th August and had detailed discussions in Derry with senior police officers and senior church figures about the use of the JSA powers and other issues relating to security and public order.

- 3.5 I attended two well supported one day conferences in Belfast both of which were held to celebrate the 15th Anniversary of the establishment of the PSNI following the Patten Report in September 1999. The first conference was hosted by the NIPB on 3rd November and was entitled “Reflecting and Refocussing: 15 Years On”. The focus of this conference was on models of police accountability, collaborative working, community expectations and future opportunities and challenges. The second conference was hosted by Ulster University and was entitled “Reflecting back – moving forward: Fifteen years since the establishment of the PSNI”. This conference reflected on 15 years of policing and criminal justice issues; lessons from oversight; policing challenges and looking forward. It was encouraging to see how well attended these conferences were attracting participants from across the community divide and different backgrounds and interests.
- 3.6 I had discussions with a wide variety of people in Northern Ireland including representatives of political parties, church and community leaders, NGOs, the CJINI, the Ombudsman, organizations representing police officers, former paramilitaries and ex-prisoners and other members of the public. I received a number of briefings from officials in the NIO and the DoJ and discussed policing with the Minister for Justice, Claire Sugden MLA and the Secretary of State for Northern Ireland, The Rt. Hon. James Brokenshire MP. A full list of all those consulted is at **Annex B**.
- 3.7 I also read articles and papers provided by the CAJ, University of Ulster, Queen’s University, Belfast, Stopwatch and the College of Policing.
- 3.8 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 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 summarized in Part 2 of **Annex C**.
- 3.9 In my last two Reports I mentioned my concerns about the reporting cycle under the JSA. The period runs from 1st August to 31st July and straddles the marching season with the 12th July parade falling in one period and the Apprentice Boys parade in Derry falling in the next reporting period. I repeat my view that it would be helpful if, in due course, the reporting period could be changed to the calendar year.
- 3.10 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 powers in the JSA and the procedures adopted by the military for dealing with complaints but I have not received any such requests.

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 15th December 2015 the then Secretary of State, the Rt Hon Theresa Villiers MP, made a Statement to Parliament on the Northern Ireland Security Situation – the 8th bi-annual statement and her 6th as Secretary of State. On 11th July 2016 she made a further such Statement to Parliament – the 9th bi-annual statement and her 7th as Secretary of State. Both those Statements are at **Annex D** to this Report. The more recent Statement said that “*the same, relatively small and fractured, violent dissident republican groupings have persisted with their campaign of violence*”. The threat level in Northern Ireland from Northern Ireland related terrorism remains SEVERE (an attack is highly likely). The good work of the PSNI had prevented “countless attacks” in their early stages. There had been 59 arrests in the first half of 2016 as a result of which 8 individuals had been charged with terrorist offences. On May 1st 2016 the then Home Secretary announced that the threat level in Great Britain from Northern Ireland related terrorism had been raised from MODERATE (an attack is possible but not likely) to SUBSTANTIAL (an attack is a strong possibility). Between January and May 2016 there had been 27 paramilitary-style attacks 3 of which had been fatal. Reference was made to the Fresh Start Agreement of November 2015 and, in particular to the Independent Panel Report on the Disbandment of Paramilitary Groups in Northern Ireland. The statement read “*..there are individuals who use the real and perceived remnants of paramilitary structures to engage in serious criminality and violence which can have a devastating effect on communities*”.
- 4.3 The main threat to national security are DRs who continue to target police officers, prison officers and members of the armed forces in an effort to undermine “normalisation” in Northern Ireland. Levels of support for their activities are low and their impact is felt most powerfully in communities in which they are embedded and by those who are targets of their attacks. There were 9 such “national security” attacks during this last reporting period. Significantly, the attacks and attempted attacks demonstrate a range of methodologies. Both the NIO and the PSNI have referred to a “heightened tempo and intent” in DR activity. In August 2015, at the start of this reporting period, a suspected IED exploded in the back of a Royal Mail delivery van inside a military base in Greater Belfast destroying the van and a nearby vehicle. Fortunately, there were no injuries. In October 2015 an IED was recovered from a hotel in Derry which had been scheduled to host a PSNI recruitment event. There were no injuries but the incident resulted in significant local disruption and media attention. In the same month an UVIED was deployed against an MOD contractor in Belfast. Fortunately, the device, which contained approximately 230

grams of Semtex, did not function as intended. The New IRA claimed responsibility. In the following month a stationary unmarked PSNI vehicle with two officers inside was attacked by a gunman armed with an AK-type assault rifle in Belfast. The vehicle was struck 7 times but no round penetrated the armour and there were no injuries. Again, responsibility for the attack was claimed by the New IRA.

- 4.4 The most significant – and tragic – attack took place in March 2016. A UVIED was placed under the vehicle of serving Prison Officer Adrian Ismay in East Belfast on his way work at HMP Hydebank. Mr Ismay died 11 days after the attack as a direct result of his injuries. Once again the attack was claimed by the New IRA. The PSNI briefed me in some detail about this attack. This was the first fatality resulting from a DR attack since the murder in November 2012 of Prison Officer David Black who was shot dead on the M1 motorway as he drove to work at Maghaberry. That attack was also claimed by the New IRA. In January 2017 as this Report was being finalised a police officer was shot and wounded in North Belfast. The BBC reported that the New IRA had said it was responsible for the attack.
- 4.5 There would be many more attacks but for the work of the PSNI, MI5 and their security partners north and south of the border. There were approximately 200 disruptive actions (eg arrests, charges and seizures) carried out against DRs in both Northern Ireland and the Republic of Ireland during this last reporting period. Significant volumes of material have been taken out of DR hands as a result of this activity including 1.5 kgs of Semtex, 82 kgs of commercial explosive, several AK variant rifles and an EFP. The reference here to “commercial explosive” (as opposed to home-made explosive) is to either military explosives (usually smaller quantities of Semtex or another plastic explosive) or explosives used in the quarrying and construction sectors. Much of the commercial explosives seized last year were explosives used in those two sectors. The reference to “AK variant rifles” is a reference to a family of military assault rifles based on the original Kalashnikov design. The most common variant in Northern Ireland is the AK47 and its successor the AKM but there are numerous makes and models which, to the layman, look exactly the same. Shortly after the end of this reporting period on 24th August 2016 two arms dumps were discovered in Larne, County Antrim.
- 4.6 Paramilitary groups, including DRs, have continued to conduct violent attacks and intimidation against members of their own communities in order to exercise their authority and control. Since January 2016 there have been 3 fatalities linked to these “community control” attacks. Some concern was expressed in the early part of the year that the centenary of the Easter Rising in Dublin in 1916 would be marked by increased activity and violence but in the event this did not materialise.
- 4.7 David Anderson QC makes the point in his recent Report on the operation of the terrorism legislation in the UK that the level of terrorist and paramilitary violence is of “a lesser magnitude” than during the 30 year Troubles which ended in the Good Friday Agreement in 1998 and well down on the levels that prevailed between 1998

and the announcement by the IRA of its ceasefire in 2005. Nevertheless the scale of this violence is “*seldom fully appreciated in other parts of the UK*”.

4.8 Not everyone agrees with this assessment. Some say that –

(a) the threat level of SEVERE is “a bit of a stretch” -it is maintained by motives of self- interest to justify presence, budgets and the retention of powers;

(b) consequently, normal policing is impossible;

(c) tensions would be less if the powers in the JSA were used less frequently;

(d) exaggerating the threat level hinders normalisation and maintains a narrative which is based on conflict - there is a focus on “national security attacks” (ie attacks on police, prison officers and the HM forces) and insufficient attention is paid to combatting violence within paramilitary groups;

(e) consequently there are “no go” areas where the police and therefore the criminal justice system do not function effectively particularly in loyalist communities where there is significant amount of weaponry;

(f) academics point to research which indicates that a fall in the use of stop and search powers does not generally result in increased violence or criminality.

I am satisfied that the threat level of SEVERE is the correct one but these contrary views are held by some serious observers. These divergent views reinforce the need for a better narrative particularly in relation to the use of JSA powers (see paragraphs 12.6 to 12.10).

Public Order

4.9 So far as public order is concerned there have been some encouraging signs this year. There were nearly 5,000 parades - roughly one half of those were parades by members of the PUL community. Approximately 250 were parades by the CNR community. There were a large number of parades which were not sectarian in nature – marches against immigration and the EU, gay pride marches, charity runs, sponsored walks, DeLorean car rallies etc. The vast majority of these passed off without incident and without violence. Tensions appear to have reduced since the Flags protests of 2013. The number of judicial reviews of Parades Commission determinations has declined steeply. Compliance levels of Parades Commission determinations are high and nearly all parades are notified to the Parades Commission.

4.10 The 12th July parade in Belfast passed off without significant incident. According to the Belfast Telegraph of 13th July “even the contentious parade at Ardoyne in North Belfast passed off peacefully with the Orange Order allowed to march down the road in the morning and adhering to the Parades Commission ruling not to pass that spot

on the return journey". All the other 12th July parades at 18 centres across Northern Ireland and Donegal were peaceful affairs.

- 4.11 Perhaps the most significant development is the agreement which resulted in the closure of the Twaddell camp in September 2016. It was an agreement between the Ligoniel Orange Lodges and CARA. The Agreement states that-

"Both parties commit to implementing the complete package of measures in good faith; and in a spirit of genuine respect and co-operation commit ourselves to working towards a common, peaceful, shared future for all".

As a result of this agreement –

- (a) the Lodges applied to complete their outstanding 2013 return parade on the morning of 1st October;
- (b) the procession was restricted to 3 local lodges and their bands; it proceeded from the Woodvale Road without stoppages; only hymn music was to be played on that part of the junction of Woodvale Road and Twaddell Avenue up to the junction of Crumlin Road and Hesketh Road;
- (c) on that section of the road all flags would be furled except for the Union flag and Orange standards, banners and bannerettes;
- (d) on this basis no objections to this parade would be lodged by CARA and they would not file for a protest;
- (e) following completion of this parade the Lodges agreed to a voluntary moratorium on applying for a return parade;
- (f) this moratorium would allow for a process between the Lodges and CARA to seek agreement on future return parades;
- (g) if such an agreement is reached the moratorium would be lifted;
- (h) CARA undertook to raise no objection to the filing of existing morning parades on the basis that they adhere to the same conditions as in last year's determinations in terms of hymn music, flags, banners and bannerettes and supporters;
- (i) the Ligoniel lodges also agreed to use their best endeavours to ensure that no other Loyal Order would file for a return procession whilst the moratorium was in place;
- (j) following completion of the parade on 1st October the protest camp at Twaddell would be dismantled and all protests would end.

It was further agreed that a local community forum would be convened including representatives of CARA and the Loyal Orders. Significantly all sides agreed “to participate in a spirit of co-operation”.

4.12 This is potentially a very significant development. In November 2016 I visited the site of the Twaddell camp and it was deserted and abandoned. It will be interesting to see whether an agreement can be reached on future return parades. In the meantime the PSNI have been relieved of the burdensome obligation of policing the daily protests at Twaddell. In my last Report (para 4.9) I noted that the cost of policing the Twaddell camp was estimated at £23,984 **per day**. The success of this agreement would also be a significant gain for residents in the immediate area and a further incremental step towards “normalisation”. The Agreement has been welcomed by both the First and Deputy First Ministers.

4.13 Despite this Agreement and other positive developments some concerns remain in connection with public order generally –

(a) GARC oppose the Agreement so there is not unanimity in the nationalist community;

(b) concerns remain about bonfires which are lit in the evening of the 11th July prior to the main parade. A 72 year old woman was evacuated from her house in the Shankill Road which was set alight by nearby bonfire. Alban Maginness was quoted in the Belfast Telegraph of 13th July 2016 as saying “*where else in the civilised world would a Government or its agencies, particularly the police service, become a mere spectator on the sidelines of a potentially very dangerous fire becoming an actual risk to life and property?*”. He noted that the bonfires are too often an excuse for the flagrant display of sectarian and political hatred with offensive racist signs, the burning of Irish tricolours or the burning of nationalist or republican posters. He went to say that “*the outrageous painting last week of Foreigners Out at a bonfire sight on the Newtownards Road is yet another example of uninhibited racism and a shameful indictment of loyalist bonfire culture*”. The Viewpoint section of that day’s Telegraph concluded that “*..there are outstanding issues to be addressed on the marching season and we have 365 days before the next Twelfth to do so. The public, quite rightly, will be critical if matters such as bonfires or parading disputes are not resolved in the intervening period*”;

(c) despite the role that the Parades Commission plays in reconciling differences and facilitating parades it lacks support amongst some Loyalists. Grandmaster Edward Stevenson of the Orange Order was reported in the Belfast Telegraph of 13th July 2016 as referring to “*unending discrimination by the Parades Commission*” which needed to be addressed and he condemned its “*ludicrous decisions against our traditional processions*”.

4.14 The PSNI have done an excellent job policing these parades throughout the reporting period. In particular, they have managed the policing of the Twaddell camp on a nightly basis for a very long time despite coming under attack in the process.

The PSNI have an international reputation for public order policing. Police forces from overseas (including from India and the Middle East) have visited Northern Ireland to learn from PSNI expertise in this area.

5. LEGAL CHALLENGES

- 5.1 In my last report I referred to the one outstanding challenge to the JSA regime namely **In the matter of an Application by Steven Ramsey for Judicial Review**. Unfortunately, at the time of writing this Report, little progress has been made in bringing this case to a conclusion.
- 5.2 Briefly, Mr Ramsey claims he was repeatedly stopped and searched without reasonable suspicion under Section 24 and Schedule 3. The stops and searches which are the subject of the challenge took place between 15th May 2013 and 8th August 2013. The challenge was made on the basis that the power to stop and search 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 the provisions of the JSA failed the “quality of law” test in that there were insufficient safeguards against arbitrariness. On 8th May 2014 Mr Justice Treacy dismissed the application on the basis 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*”. The case went to the Court of Appeal on 28th April 2015. The Court of Appeal was concerned that the applicant was raising issues on appeal which had not been the subject of argument or adjudication in the High Court. It allowed the applicant to provide an amended statement to ensure that the issues were properly before the Court and then on 11th May 2015 remitted the case to Mr Justice Treacy so that the new issues could be the subject of a first instance decision.
- 5.3 The fresh grounds of challenge are, in summary form, as follows
- (a) the exercise of the power to stop and search without reasonable suspicion under section 24/Schedule 3 is unlawful and in breach of Article 8 of the ECHR because the stop and search is an interference with the right to respect for private life; it is not in accordance with law and/or the use of the power is disproportionate;
 - (b) section 24 and Schedule 3 together with the Code of Practice fails the “quality of law” test and is not “in accordance with law” because there are insufficient safeguards
 - the authorisation does not act as an effective limitation on the use of the power; the test for the authorisation is insufficiently robust as is executive oversight; there is no independent oversight of the authorisation process; as a result, authorisations continue on a “rolling basis”;
 - there is no effective way of challenging the authorisation;

- the authorisation regime lacks transparency;
 - the Code of Practice imposes insufficient safeguards – there is no express provision for recording or monitoring the use of the power on religious and political grounds so it is impossible to determine the “differential impact” on different groups;
 - the failure to monitor the use of the power on the basis of perceived religious or political opinion is a breach of the Code of Practice;
 - the Code of Practice imposes insufficient control over the conduct of an individual officer;
 - there is no mechanism for effective supervision of the use of the power;
 - there is no effective means of challenging the individual use of the power;
 - the Independent Reviewer appointed under the JSA does not provide an adequate safeguard because his powers are confined to general reporting of the statutory provisions.
- (c) the searches were disproportionate – there is no recording of the basis of the search and the PSNI have failed to develop a mechanism for examining records of the use of the power to stop and search with the name of the officer and the person searched.

In short the use of the power was unfair, unreasonable and unlawful.

- 5.4 As I mentioned in my last report, this is an important case and, if the applicant is successful, 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 use of the power (in practice to refrain from exercising it) pending fresh legislation and a revised code. The case came before the High Court on 6th January 2017 and was further adjourned to allow the applicant to make yet more grounds of challenge. Given the importance that the PSNI attach to this power and the sensitivities of the communities in which repeat stops and searches are commonplace, it is unfortunate that these issues have taken so long to be determined. It is three and a half years since the challenged stops and searches took place – and in that time (between 1st August 2013 and 31st July 2016 to be precise) individuals in Northern Ireland have been searched under this power on over 16,000 occasions. It is a matter which now needs to be resolved as quickly as possible.

6. THE OPERATION OF THE POWERS IN PRACTICE

- 6.1 This Chapter deals with how the JSA and TACT 2000 powers are used in practice.

The key issues are-

- (a) how frequently are the powers used?
- (b) what do the statistics tell us?
- (c) what is found following a stop and search and what are the outcomes
- (d) how effectively is the use of the powers monitored by the PSNI?
- (e) repeat stops and searches
- (f) progress on the use of body worn cameras
- (g) is the use of these powers “heavy handed”?
- (h) are the powers used in a discriminatory way?
- (i) why does stop and search take place near schools or when children are present?

There are related issues dealt with in separate chapters below namely record keeping (Chapter 7), community monitoring (Chapter 8) and the how the Army assists in the exercise of these powers (Chapter 10).

How frequently are the powers used?

- 6.2 Detailed statistics relating to the use of the powers in 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 1st 2015 and 31st July 2016 (together with comparisons with the previous year) were as follows

JSA

- (a) Section 21, stop and question - **2,857** (up from 2,136 – a **34% increase**);
- (b) Section 23, entry of premises – **2** (down from 27 - a **93 % decrease**);
- (c) Section 24/Schedule 3, paragraph 4, stop and search for munitions – **7,788** (up from 4,212 – an **85% increase**);
- (d) Section 24/Schedule 3, paragraph 2, power to enter premises – **188** (up from 109 – a **72% increase**);

(e) Section 26/Schedule 3, power to search vehicles – **27,008** (up from 11,759 – a **130% increase**).

TACT 2000

(a) Section 43, stop and search of person reasonably believed to be a terrorist - **250** (up from 153 – a **63% increase**);

(b) Section 43A, stop and search of vehicle reasonably believed to be used for terrorism – **148** (up from 63 – a **135% increase**);

(c) Section 47A, stop and search without reasonable suspicion where senior police officer reasonably believes an act of terrorism will take place – **NIL** (the **same as last year**).

6.4 It should be noted that the figures for 2014/15 quoted above in relation to section 21 (power to stop and question), section 24 (stop and search) and section 26 (power to search a vehicle) differ very slightly from the figures for that year quoted in the Eighth Report. The figures quoted in that report for these sections were provisional because the data for the months April to August were not finalised by the PSNI until the end of March (ie the end of the financial year). The figures quoted in paragraph 6.3 above are the correct figures.

6.5 Again these statistics need to be seen in a wider context. There are a number of stop and search powers in Northern Ireland which are listed in paragraph 7.5 of the Seventh Report on the use of the JSA powers. The **overall use of stop and search under all legislation** (including PACE, the Misuse of Drugs Act 1971 and the Firearms (NI) Order 1981) numbered **35,419** – up from 29,008 in 2014/2015 – **an increase of 22%**. The increase in the use of the stop and search power in the Misuse of Drugs Act 1971 was 11% (from 15,847 to 17,577) ie more than double the number of stops and searches under the JSA. The increase in the number of stops and searches under PACE was only 3% (from 6,315 to 6,512) and the increase in the number of stops and searches under the Firearms (Northern Ireland) Order was 14% (from 166 to 190). There was a decrease in the use of all remaining stop and search powers of 16% (from 116 to 97).

What do these statistics tell us?

6.6 These statistics show that -

(a) there is a very marked reversal of the downward trend in the use in recent years of stop and search powers. In the 2009/10 financial year the section 24 powers and section 44 of TACT 2000 powers were used 29,391 times and the section 21 powers were used 5,285 times. By financial year 2014/15 the section 24 powers were only used 3,906 times and the section 21 powers were used only 1,922 times. In the current reporting period the use of the stop and question power has gone up by 34%; the use of the stop and search power has gone up by 85%; the use of the power to enter premises has gone up by 72%; and the use of the power to search vehicles has gone up by 130%;

(b) the reasons for this increase are-

(i) the PSNI had concluded that the powers had been underused for the reasons set out in paragraph 6.6 of my last report – namely, officer confidence in the use of the powers, complacency and concern about lack of support if a complaint was made following a search. As a result of this concern a programme of training was rolled out last year aimed at officers who exercised these powers and also officers who supervised the use of the powers. The training increased awareness of the powers, how they should be used and their value in preventing harm from the use of munitions etc;

(ii) the reorganization of the PSNI in April 2015 provided the PSNI with an opportunity to co-ordinate the use of the JSA powers between the 11 police districts;

(iii) there was concern about an increased risk of terrorist activity in the run up to the centenary of the Easter Rising in Dublin in 1916. Fortunately, there were no incidents but the figures show that the heaviest use of the powers was in the weeks immediately before Easter 2016. Indeed individuals were stopped and questioned under section 21 in February and March 2016 on 999 occasions and individuals were stopped and searched under section 24 in those two months on 2,320 occasions;

(iv) there has been an increase in loyalist violence which has required the PSNI to use these powers more frequently in that community.

(c) the increased use of these exceptional powers is likely to come under renewed scrutiny and reinforces the need for greater transparency about the way they are used (see paragraphs 12.6 to 12.10);

(d) the power to stop and question under section 21 was most frequently used in Belfast (824), Lisburn and Castlereagh (586), Causeway Coast and Glens (365) and Derry City and Strabane (328). However, the power to stop and search under section 24 was most frequently used in Derry (1,923) followed by Belfast (1648), Causeway Coast and Glens (930), Newry and Mourne (758) and Lisburn (466).

(e) by far the biggest increase in the use of the JSA powers, was in relation to the power in section 26 to stop and search vehicles which went up by 130%. 11,892 vehicles were stopped in January, February and March 2016 (in the run up to Easter) which is more than in the whole of the previous year;

(f) the PSNI have not been relying solely on the “without reasonable suspicion” powers in the JSA. It is noticeable that the use of the stop and search a person reasonably believed to be a terrorist under section 43 of TACT 2000 has gone up from 153 during the last reporting period to 250 (a 63% increase) and the use of the power to stop and search a vehicle reasonably believed to be used for terrorism under section 43A of TACT 2000 has gone up from 63 to 148 (a 135% increase). There is no evidence to suggest that the without reasonable suspicion JSA powers are being used when TACT 2000, PACE, Misuse of Drugs Act or Firearms Order powers would be more appropriate. Use of these other powers has also gone up in this reporting period although by a smaller margin – eg PACE (3% increase to 6,512), Misuse of Drugs Act (11% increase to 17,577) and Firearms Order (14% to 190);

(g) 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) was not used at all. Neither, incidentally, was it used during this period in the rest of the UK, despite the continuing threat from international terrorism. By contrast, in Northern Ireland, throughout the reporting period, there has been an authorisation in place under the JSA (confirmed by the Secretary of State) permitting stops and searches without reasonable suspicion. This illustrates what I and my predecessor have said in recent reports about the different tests and purposes of the JSA and TACT 2000 powers (see paragraph 9.1 to 9.6 of the Seventh Report);

(h) the statistics also reveal that on some days the use of the stop and search powers is particularly high (around 60 or 70). I have been briefed by the PSNI who have explained in some detail that these “spikes” (3 times the daily average) can be attributed to specific operations requiring extensive use of the power.

What is found following a stop and search and what are the outcomes?

- 6.7 In my last Report I recommended that the PSNI should publish an explanation of why the arrest rates following searches under the JSA and TACT2000 were so low and statistics about the number of occasions munitions etc were found following such a search.

6.8 The statistics provided by the PSNI in relation to persons stopped under the JSA and TACT 2000 during this reporting period are as follows –

Power used	Persons stopped	Persons arrested	Arrest rate
Section 21 JSA (stop and question)	2857	20	0.7%
Section 24 (stop and search without reasonable suspicion)	7488	51	0.7%
Section 24 (stop and search with reasonable suspicion)	300	4	1.3%
Section 43 TACT 2000 (stop and search person)	250	9	3.6%
Section 43A (stop and search vehicle)	148	1	0.7%

6.9 Following these stops and searches, munitions were found as follows -

(a) following vehicle searches under Section 24/Schedule 3 Glock and Sig handguns and rifles were found on 6 occasions, ammunition was found on 3 occasions and wireless telegraphy apparatus was found on 3 occasions.

(b) following a stop and search in a public place under Section 24/Schedule 3 munitions or wireless telegraphy apparatus was found on 15 occasions. On 6 of these occasions munitions were found (including hand guns, short barrelled weapons and imitation firearms) and on 9 occasions wireless telegraphy apparatus was discovered (3 walkie talkies and 6 mobile phones). In one case the subscriber of the mobile phone has been charged with an offence under telecommunications legislation and is currently on bail. In 3 cases the mobile phone has remained in police custody for ongoing police enquiries to take place.

Since the end of the current reporting period the BBC reported that four men had appeared in Lurgan, County Armagh after the discovery of an armour piercing mortar or EFP following a search under the JSA. As a result two men have been charged with the attempted murder of a police officer and two others were charged with targeting a former member of the security forces. A month later, a search under the JSA in a loyalist community recovered firearms which were fully loaded and ready for use with one round chambered in each firearm.

6.10 The overall rate of success following a search for munitions and wireless telegraphy is 0.7%.

6.11 At first sight these statistics about arrest rates and the outcome of searches are worrying. However, as I explained in paragraph 6.7 and 6.8 of my last Report this is

a preventative power and there are reasons for this low rate. The statistics about arrest rates can be skewed by large scale stop and search operations as explained by Girvan LJ in the Court of Appeal in **Canning, Fox and McNulty [2013] NICA19**. Such operations (eg in Belfast in the weeks before Christmas in 2014) are reassuring for the public in the light of previous attempts to set off bombs in the city centre

6.12 It is worth noting that –

(a) the difference in the arrest rate under JSA when using the powers with reasonable suspicion is not much higher than when they are used without reasonable suspicion;

(b) the arrest rate under section 43 of TACT 2000 is approximately 4 times higher but that arrest rate is still only 3.6% (and down from 9% in the 2014/15 reporting period).

6.13 It is interesting to make a comparison with the main “without reasonable suspicion” stop and search power in England and Wales. Under section 60 of the Criminal Justice and Public Order Act 1994 if a senior police officer reasonably believes that serious violence may take place in any locality or that people are carrying dangerous instruments or offensive weapons in that locality he may make an authorisation which allows a police officer, without reasonable suspicion, to stop and search any pedestrian or vehicle for offensive weapons etc. The power is similar to section 24 of the JSA in that -

(a) the reasonable belief relates to a state of general state of affairs;

(b) the power is confined to a specific locality

(c) the use of the power is to protect the public and prevent violence;

(d) the power of search is limited to searching for dangerous weapons etc .

According to Home Office statistics, in the year ending March 2015, there were 1,082 stops and searches under this power and the arrest rate was only 3%. The total number of people stopped and searched under all legislation in England and Wales was 541,000 and the arrest rate was only 14% (99.8% of these stops were under PACE which requires reasonable suspicion of an individual).

6.14 It is clear that the exercise of JSA powers has prevented the use of munitions which would have endangered lives. The police are often in possession of information which indicates that individuals (named or unnamed) are involved in activity which may cause harm to members of the public or security forces through the use of munitions and wireless telegraphy apparatus. The nature of this information may not be specific enough to establish the “how, where and when” which would justify a stop and search on the basis of reasonable suspicion. Moreover, it is sometimes overlooked in this context that the police have an overriding obligation under Article 2 of the ECHR to keep people safe. The issue is whether, in order to achieve that objective, the powers have to be exercised on the scale and in the manner in which they are currently used. A clear, sustained and persuasive narrative needs to be

maintained to demonstrate that the PSNI practice is pitched correctly not only in terms of the volume of searches but also in terms of the factors which trigger their use. Paragraph 8.61 of the Code of Practice makes it clear that there must be a basis for the search even though reasonable suspicion is not required. It states 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 gives cause for concern”.

Getting this right, ensuring consistency of approach and explaining this to a sceptical public is key to a better understanding of PSNI practice in relation to stop and search. The target audience would not just be the “hard to reach” sections of the public but also those who are not hard to reach but who have yet to be persuaded.

How effectively is the use of the powers monitored by the PSNI?

- 6.15 In my last Report I recommended that the PSNI publish an explanation of how frequently individual officers’ use of the powers is monitored by senior officers using the PUMA system. This is particularly important given the increased use of the powers and the fact there is some evidence that their use is being exploited in some quarters for propaganda purposes. The scrutiny has to be effective and independently verified.
- 6.16 Stop and search records are recorded on a central database instantaneously after they have been recorded on the police officer’s BlackBerry. All PSNI officers of a supervisory rank have access to the PUMA system which allows them to monitor their officers’ use of stop and search (access is through an icon on the supervising officer’s desktop computer). The supervising officer can customise a search to monitor individual officers, the use of a particular power more generally or search a specified district during set times. The database will also flag up when an item is found. The system is currently being updated to allow supervisors to monitor whether the object of the search relates to the purpose of the search. For example if an officer searches an individual under JSA powers and finds a firearm then this would be classified as being linked to the purpose of the search. If, on the other hand, drugs are found, then this would be classified as not being linked. In most cases where, say, drugs are found the officer would switch to a search under the Misuse of Drugs Act 1971. This would be consistent with recommendations in Home Office Guidance “Best Use of Stop and Search”.
- 6.17 An audit of the PUMA system shows that during the current reporting period “quality assurance checks” were carried out on 5,930 occasions in relation to stop and

search under JSA and TACT2000. A quality assurance check is a check whereby a supervising officer accesses the computer database and checks the search records to ensure that the power was used correctly. The check would not normally involve a face to face interview with the officer. Nor would the check involve an examination of what had triggered the stop and search in the first place. The PSNI say that checks are carried out on a weekly and sometimes daily basis.

It is clear that, for example, DRs are not stopped all the time. Sometimes no action is taken; sometimes a "sighting" is recorded and sometimes they are stopped and searched. Some are stopped repeatedly and some not at all. I was told that, in a loyalist area, an individual was searched repeatedly over a period of time, helicopters were involved and all the police found were two counterfeit tracksuits. The PSNI have also accepted that sometimes they "get it wrong" and the individual should not have been stopped because there was nothing in the conduct of the individual or the circumstances which justified triggering the exercise of the power under the Code of Practice.

- 6.18 A better record of the circumstances triggering a use of these powers would provide evidence of a robust system of supervision. Given the number of stops and searches it would be too burdensome to keep a record of the trigger for each stop and search. However, it would be particularly useful in relation to repeat stops and searches and searches near schools and when children are present (see paragraph 12.7(c)). Such records would facilitate an assessment of not only the formal legality but also the appropriateness of stops and searches in these most sensitive cases. The College of Policing in England has produced a definition of a fair and effective stop and search encounter. It states that *"a stop and search is most likely to be fair and effective when ..the search is justified, lawful and stands up to public scrutiny.... And was the most proportionate method the police officer could use to establish whether the person has a prohibited article"*. An effective and transparent system of public scrutiny would help to provide the reassurance that these powers are being used not only lawfully but in the most appropriate way.

Repeat stops and searches

- 6.19 The issue of repeat stops and searches (ie where a person is stopped more than once) was dealt with in some detail in last year's Report (paragraphs 7.1 to 7.12). Concern about repeat stops is felt in both the CNR community and PUL community and is shared by community leaders and elected representatives. Their work is made more difficult by the misunderstandings and resentment that surround this issue. Repeat stops and searches have also been the backdrop to the current challenge in the case of **Ramsey** which, at the time of writing this Report, is yet to be heard by the High Court in Belfast. In my last Report I recommended that the PSNI should review its use of repeat stops and searches and publish an explanation of how these powers will be used and how their use will be monitored.

- 6.20 A review has been carried out by a senior PSNI civilian analyst. The review concluded, not unsurprisingly, that most repeat stops and searches were of known or suspected DRs and their associates in those areas where the threat of the use of munitions by DRs is high. During the reporting period 422 individuals were stopped and searched more than once using JSA and TACT 2000 powers. This represents 1990 separate searches. Of the 422 individuals stopped repeatedly across Northern Ireland 308 (73%) were known or suspected DRs or their associates. In some areas the percentage is higher. For example, in Derry City and Strabane this percentage is 91% and in Mid Ulster the percentage is 95%.
- 6.21 Just over one quarter (27%) of those stopped and searched were not linked to DR activity. Of those –
- (a) 29 (7%) were loyalist paramilitaries and associates;
 - (b) 39 (9%) were active criminals of whom about 25% were known to carry firearms;
 - (c) 43 (11%) were stopped for a variety of reasons – but this category was stopped the least often with only 3 individuals being stopped more than twice.
- 6.22 Of all those stopped and searched repeatedly 400 (95%) were male and 5% were female.
- 6.23 A significant majority of those repeatedly stopped and searched are stopped in Belfast City and Derry City and Strabane - two areas which are exposed to high levels of threat from violent DRs. The 3 districts with the fewest repeat stops and searches have the lowest populations of DRs. Significantly those same 3 districts have the highest proportion of stops and searches of individuals in the PUL community. Typically those munitions are used in “community control violence” (ie punishment attacks) and internal disputes within loyalist paramilitary groups.
- 6.24 The percentage of repeat stops and searches of DRs and their associates in each individual district in this reporting period were as follows –

Mid Ulster	95%
Derry City and Strabane	91%
Armagh City, Banbridge and Craigavon	82%
Lisburn and Castlereagh	80%
Newry Mourne and Down	73%
Belfast City	68%
Fermanagh and Omagh	63%
Antrim and Newtownabbey	18%
Mid and East Antrim	14%
Causeway Coast and Glens	9%

6.25 The average number of stops and searches in the case of DRs or their associates is 5.6 times a year which equates to once every 65 days. Some DRs have never been stopped and searched at all. Most of those who are repeatedly stopped and searched are therefore stopped relatively infrequently. They would not normally be stopped if there was no reason to do so. On many occasions, rather than stop and search a “sighting” would be noted and recorded on police records. In relation to one well publicised stop and search the supervising officer could not explain what had triggered the stop in the first place. The PSNI carried out a review of repeat stops and searches in 2016 and concluded that the power was being exercised appropriately and there was no need for any operational adjustments to be made. The PSNI are not legally required to explain to the individual why he has been stopped and searched. They can simply rely on the fact of the authorisation (see paragraphs 11.4 to 11.6 of the Seventh Report). However, although not legally required to do so, it would be helpful if (possibly on an experimental basis) the PSNI could record, for internal purposes, the circumstances or factors which caused an individual to be stopped and searched (see paragraph 6.18 above). This might assist internal supervision. That information could then be made available to the Independent Reviewer who could form an independent view on whether the power to stop and search on a repeat basis was being used appropriately.

Progress on the use of body worn cameras

6.26 In paragraphs 6.13 to 6.16 of my last report I mentioned the pilot on body worn cameras which the PSNI had run in Derry in 2014 and the potential advantages of using these cameras.

6.27 The PSNI have decided to provide body worn cameras to all front line officers throughout Northern Ireland. The procurement process began in 2015. They purchased 2,200 cameras and their use will be rolled out in the financial years 2015/16 and 2016/17. It is anticipated that the cost of this project will be £1.5m in total spread over a 5 year period. The cost to date has been £750,000. Half of these cameras will be in use by the end of 2016 and it is intended that the process will be complete by the end of 2017. Training in the use of these cameras began in May 2016. The process began on 20th June 2016 when these cameras were issued to officers in Derry City and Strabane in November of 2016. The cameras will be rolled out to other Districts as follows-

Armagh Banbridge and Craigavon	November 2016
Newry Mourne and Down	January 2017
Fermanagh and Omagh	March 2017
Coleraine	to be confirmed but in 2017
Antrim and Newtownabbey	to be confirmed but in 2017
Ards and North Down	to be confirmed but in 2017
Mid Ulster	to be confirmed but in 2017
Mid and East Antrim	to be confirmed but in 2017
Lisburn and Castlereagh City	to be confirmed but in 2017

- 6.28 The cameras will be different from the cameras used in the 2014 pilot. I have seen some of the videos produced by these cameras and they are of high quality with a fish eye lense and ultrawide angle. The main difference between these cameras and the cameras used in the pilot is that the new cameras have an efficient booking out system which relieves the supervising officer of the task of having to allocate cameras to officers. Instead officers use their individual swipe card to assign a camera to themselves at the start of each shift. The cameras were obtained from a Scottish company Edesix
- 6.29 The anticipated advantages of using these cameras do not just relate to the use of JSA powers. It is hoped that it will lead to
- (a) increased reliability of evidence gathered leading to more guilty pleas;
 - (b) an increase in domestic violence and abuse prosecutions;
 - (c) a reduction in complaints about police conduct;
 - (d) a reduction in the number of assaults against the police and in the need for the police to use force;
 - (e) improved behaviour of all those involved in police interactions with the public;
 - (f) speedier justice;
 - (g) increased confidence in the police because the footage will demonstrate their professionalism.

Mr Richie McBride, the Managing Director of Edesix said that “ *the benefits of body worn technology have been widely recognized..... Body Worn Video can be used to support the delivery of a transparent, accountable police service from the perspective of both police officers and of the communities they serve. As a result, the technology is being actively used by a number of police services across the world*”.

Body worn cameras are also being introduced in the Metropolitan Police. Mayor Sadiq Khan said in October 2016 that “*Body Worn Video is a huge step forward in bringing our capital’s police force into the 21st century and encouraging trust and confidence in community policing. The technology is already helping to drive down complaints against officers and making them more accountable, as well as helping to gather better evidence for swifter justice. As we roll them out across London, these cameras will make a real difference to officers as they continue their great work on the front line fighting crime and keeping our city safe*”.

Specifically, it is hoped that the use of these cameras during a stop and search situation under any of the powers in the JSA or TACT 2000 will lead to fewer confrontational encounters, better behaviour and increased confidence by both the police and public in the way stop and search is conducted in Northern Ireland. A stop

and search under these powers will be conducted by more than one officer so there will be more than one video recording of any incident. The camera will be attached to the officer's clothing and will not be permanently switched on. An individual who is stopped and searched will be informed that the camera has been switched on. The footage will be automatically uploaded to a secure server once the camera has been "docked" at the police station at the end of the shift. The PSNI will keep the recording for 30 days allowing decisions to be taken on whether the recording will be needed for evidential purposes, criminal proceedings or complaints against the police. After 30 days the recording will be destroyed.

6.30 The cameras are easy to use and training officers to use them is straightforward. The training takes 2 hours. Supporting guidance as well as training notes are published internally on the PSNI intranet. The training package conforms with national guidance and includes relevant legislation, procedure and management of recordings. The main challenge – and the main lesson learned during the 2014 pilot - was that the key to success will be putting in place the network infrastructure which can allow large amounts of recorded material to be centrally stored and managed.

6.31 However, the use of body worn cameras should not be seen as a panacea. There are a number of issues which will need to be addressed –

(a) there will be challenges in ensuring that the technical infrastructure can cope with the amount of material which will be generated;

(b) there will need to be strict compliance with the Data Protection Act 1998 and subject access requests made under that Act;

(c) preliminary results from a Cambridge University Survey of 8 UK and USA police forces suggest that assaults against police officers were 15% higher when body worn cameras were used (though this could be due to officers feeling more able to report assaults once they are captured on camera);

(d) this research also suggests that use of body worn cameras may make officers less assertive and more vulnerable to assault;

(e) in particular the research suggests that if an officer decides to announce that the camera is being switched on half way through an encounter that could provoke a violent reaction;

(f) when the TSG are deployed in a full public order situation in a shield formation the body worn camera may not be effective in capturing high quality footage through the shield. In these situations it will still be necessary to use an evidence gathering team to obtain the best possible evidence;

(g) in relation to Armed Response Unit officers, it will be necessary to find a solution to the problem of a chest mounted body worn camera footage being obscured when an officer uses a firearm. Work continues with the manufacturer, Edesix, to find a solution to this problem;

(h) more generally, the PSNI are working on a Service Instruction for body worn cameras. At this stage in the roll out officers are relying on their training

and other Frequently Asked Questions posted internally online within the PSNI.

6.32 The PSNI recognize that the use of this technology worldwide is new and it will be important to monitor trends, consider emerging issues and adjust procedures and practice, if necessary, in the light of experience not only in Northern Ireland but in other jurisdictions where the police are rolling out this technology to their officers. The PSNI are committed to monitoring the impact of this technology and its practical benefits, particularly its impact on stop and search and the outcome of this evaluation will be published in time for next year's Report. That evaluation should address, amongst other things, the issues raised in paragraph 6.31 above

Is the use of the powers “heavy handed”?

6.33 In paragraphs 6.9 to 6.12 of my last Report I set out the concerns felt in both the PUL and CNR communities about how the TSG are perceived to operate and the difficult role they have in policing some of the most challenging incidents in Northern Ireland. I recommended that the PSNI explain the role of the TSG and how it operates.

6.34 Those concerns have been expressed again this year but perhaps less often and less vociferously. The TSG is demand driven with local PSNI officers requesting support for particular tasks and they act on advice given by local PSNI officers acting on intelligence. Their main duties are to deal with public disorder, to carry out specialist searches (including missing persons searches), to assist in counter terrorist and anti-crime operations and to support the night time economy by policing events. In one typical week the TSG carried out 29 searches of premises (under all legislation not just the JSA), provided 62 escorts (including prisoner escorts), carried out 4 counter terrorism patrols, attended 9 public order incidents and policed 19 large events or parades. In other words, they do more than search houses and they play a full part in a wide range of activities to keep people safe. I have seen a video of the TSG policing a public order situation in the Newtownards Road and being subjected to sustained personal abuse by an angry crowd yet acting throughout with admirable restraint. Moreover, the TSG are not a “breed apart” – all of their officers will have spent most of their police careers outside the TSG performing normal police duties.

6.35 The TSG will generally conduct about 90% of searches of premises under the JSA and TACT 2000. When carrying out a house search they may be accompanied by District Crime Teams who themselves have undergone specialist search training. When the TSG carry out a search of premises under the JSA it will be carried out by a uniformed unit consisting of 1 inspector, 4 Sergeants and 23 Constables. Inevitably, given their distinctive clothing and equipment and the fact that they carry out the most intrusive acts in searching domestic premises under the JSA, the TSG have acquired an image which many find threatening. However, many of these searches are in premises where the occupant may have a motive in exploiting any engagement with the PSNI for political purposes.

- 6.36 In order to address the adverse public perception of the TSG, the PSNI have embarked on a strategy of engagement with the public. In paragraph 6.11 of my last Report I mentioned that the TSG have “an accountable engagements strategy” and highlighted the fact that each TSG officer had to undertake 3 engagement opportunities each year. Whilst the majority of officers achieved this in 2014/15 it became difficult for the TSG to sustain this level of engagement activity along with its operational commitments. This aspect of their engagement strategy has therefore now been changed. The current arrangement is for each of the 13 TSG units to participate in 3 engagement events every year.
- 6.37 Examples of this engagement are –
- (a) in Belfast and South Armagh TSG officers have been invited to attend school careers events to explain their role within the PSNI;
 - (b) the TSG have invited students from a school in Bessbrook to observe training in Ballykilner. This was a significant step forward in reaching young people from a community which historically had a contentious relationship with the police;
 - (c) TSG attended a community event in Derry and explained how they work both in an operational capacity and more locally at a community policing level.
- 6.38 Returns are completed after each engagement event and collated separately within the Operational Support Department. I have read some of the responses from the local community to recent engagement activity and it is indeed encouraging and occasionally heart-warming. Clearly some PSNI officers are doing excellent work in this area. Perceptions of the TSG have been changed in some cases and the TSG are to be congratulated on becoming more open and transparent with the local community.
- 6.39 The TSG’s new emphasis is now on engagement by way of social media. This strategy has been directly targeted at explaining the TSG role in the delivery of the PSNI’s overarching objective of keeping people safe. This strategy has resulted in 282 posts and 3.47 million views by November 2016. This enables all members of the public to understand how the TSG supports local policing. This also involves an opportunity for on-line engagement enabling members of the TSG to provide immediate answers to questions about how the TSG operates.
- 6.40 During the current reporting period the Ombudsman’s office received only 21 complaints about the use of the JSA powers following a stop and search/question. This represents less than 1% of all complaints received by the Ombudsman in that period. On closer inspection –
- (a) most of the complaints arising from a JSA stop and search/question occurred in Derry City and Strabane and Belfast City Police Districts;

(b) there were 4 complaints from Armagh City, Banbridge and Craigavon Police District and also from Causeway Coast and Glens Police District;

(c) there were no complaints arising from stop and search under JSA in any of the other Police Districts;

(d) the most common complaints were about harassment, assault and irregularities with the search;

(e) of these complaints only 3 were about TSG officers (involving 4 officers in total);

(f) of all these 21 complaints only one complaint (an allegation of irregularity) was upheld;

(f) as for the remainder, 2 were about failure to keep accurate police records, irregularity in the stop/search of the vehicle and mishandling of property and were dealt with by the informal resolution process; 13 complaints were unsubstantiated and 5 were closed after the complainant failed to engage with the process.

6.41 Of the 3 complaints made specifically against TSG officers, in two cases there was no evidence to support the allegations made in the complaint. In the third case the allegation about oppressive behaviour was not substantiated but the complaint about inaccurate reporting was upheld. The Ombudsman did not, however, make any recommendation that the officer involved to be disciplined but it did recommend that the software on the PSNI BlackBerry be improved.

6.42 This information from the Ombudsman's office needs to be placed in context. It relates only to the current reporting period and some people who are subject to police action under the JSA do not use the formal complaints mechanism. Others may seek to exploit the encounter on social media for their own purposes or seek publicity in local newspapers. Nevertheless, I heard fewer complaints about the TSG this year and it may be that the recent training and the increased engagement activity by the TSG has begun to alter public perception in those areas where JSA powers are most used.

6.43 It has also been said that the PSNI seal off whole estates and close roads unnecessarily when searching premises under the JSA. The PSNI have confirmed that they do not seal off roads unless

(a) there is an identifiable risk to the public; and

(b) it is necessary in order to keep people safe.

Typically, this will be when a device has been discovered and the police have deployed with an army ATO in support. The police will then -

(a) try to identify a suitable venue for relocation; and

(b) use the media to broadcast the fact of the road closure so the public can make alternative travel plans.

Are the powers used in a discriminatory manner?

- 6.44 The authorisations justifying stop and search without reasonable suspicion rely on the use of munitions in the PUL community as well as the CNR and criminal community (see paragraphs 4 and 5 of the Form at **Annex F**). Part of the justification of the need for these powers is use of munitions by loyalist paramilitaries. However, in practice, the use of the powers is to a very large extent concentrated on the activities of DRs in the CNR community. The absence of any clear explanation of this apparent different treatment leads some to believe that the powers are too focussed on “national security” attacks by DRs and not sufficiently used in relation to loyalist paramilitaries. Some people think that the explanation for this approach is that loyalist paramilitaries are not trying to undermine the State; assist the police in a variety of different ways and present no threat to them. However, the JSA is not concerned with such distinctions. It does not use the word “terrorism” (as TACT 2000 does) or the expression “national security attacks”. The JSA powers are concerned, at large, with whether “the safety of **any person** might be endangered by the use of munitions or wireless telegraphy”.
- 6.45 The PSNI response to this is that the threat posed by loyalist paramilitaries is of a different type and level from that posed by DRs; the main threat to national security in Northern Ireland comes from DRs; it is sustained and severe and focussed on the security forces ie the police, prison service and HM forces; in the CNR community DRs are involved in increasingly violent paramilitary style attacks on fellow community members; the PSNI consequently use the JSA powers to counter these threats; it is just one aspect of their work to discharge their duty under Article 2 of the ECHR to protect life; most paramilitary shootings are carried out by republican paramilitaries; loyalist paramilitaries are also involved in violence which can lead to fatalities; but, generally, loyalists carry out assaults against individuals and do not use firearms to the same extent as republican paramilitaries. The PSNI say that loyalist violence and the threat of it is not being ignored but the threat that it creates does not require the same level of response as the DR threat. The PSNI need and use the JSA powers in relation to loyalist paramilitaries but do not need to use them to the same extent.
- 6.46 This is an area where further work needs to be done particularly at a time when the Government is trying to remove all paramilitaries from Northern Ireland life. There is a persistent and strongly held view that there are some areas of Northern Ireland where the police and criminal justice system generally (and indeed other agencies) do not operate as effectively as they should or at all because local paramilitaries take matters into their own hands. There is a legitimate point of view which says that this permanent state of affairs is as equally corrosive of the State as sporadic “national security” attacks. It may be that there are powers other than those in the JSA which are used to counter the threat used by loyalist paramilitaries but this is not a state of affairs which some people accept or understand.

Why are the powers used near schools or when children are present?

6.47 A frequent concern expressed by community leaders and politicians relates to the use of these powers near schools or when children are present. The worry is that this is counterproductive and makes it harder for those committed to the peace process to retain the trust and support of their local community (see paragraph 7.4(b) of my previous report).

6.48 This is not an issue unique to Northern Ireland. The organisation StopWatch in London submitted a paper to the UN Committee on the Rights of the Child in 2016. In relation to encounters between police and children it stated-

“These experiences have a damaging impact on children; research from the USA has found that being stopped or arrested increased deviant attitudes and negatively influenced future interactions with the police. In the United Kingdom, a study interviewing 15 to 17 years old who had been in contact with the youth justice system found almost all of them had been treated unjustly by police officers. The interviewees believed that their age, dress and social background exposed them to unfair and unjustified police attention and the study proposes that the primary function of stop and searching young people is social control rather than crime prevention.

More broadly we would like the Committee to recognise that damaged police-community relations undermine police forces’ legitimacy and erodes trust, deterring co-operation and fuelling racial tensions. Through StopWatch’s educational programme for young people we know this to be particularly true; for many children a negative encounter with the police can have a long-lasting and devastating impact.”

6.49 It is common ground that a bad encounter with the police at an early age can have a damaging impact on a young person and in the context of Northern Ireland it has the potential to radicalise on sectarian grounds. It is fair to say that the PSNI are fully aware of the sensitivities when using these powers when children are present or near schools. There are, however, no restrictions in law which prevent the searching of children and young persons. There is, however, a requirement that officers comply with the PSNI policy directive concerning policing with children and young people which specifically incorporates the requirement that the best interests of children are pursued.

6.50 The police are required to carry out a search at or near the place where the individual is stopped. They have no powers to move an individual to a different place. This means that occasionally searches have to take place in sensitive areas eg outside schools. On these occasions the police can recommend to the individual that the search takes place somewhere else but they have no power to force the individual to agree to that request.

6.51 To put this in context officers have told me of cases where

(a) the individual to be searched has not stopped the car when the police vehicle flashes its lights and has driven some distance before stopping outside school gates;

(b) the children in the car were invited to go into the school prior to the search but the driver told them to remain in the car;

(c) the search had allegedly made the child cry but the child was already upset and crying before the individual was stopped;

(d) individuals have goaded police officers to stop and search; and

(e) photographs have been taken of an incident which contrive show a police officer searching a young person even though that was not the case.

In other words, there are situations where the stop has been engineered or exploited to obtain adverse publicity for the police. The use of body worn cameras may reduce this risk in future. However, whenever there is a stop and search involving children, near a school or other sensitive location the officer should report the circumstances to a supervising officer and the reason for that particular stop and search should be recorded.

7. RECORD KEEPING

7.1 Stops and searches under the JSA have been recorded on BlackBerrys since 1st February 2012. There are many advantages of this system but the one disadvantage is that in order to obtain a copy of the search record the individual has to go to a police station to collect it in person (see paragraphs 8.1 to 8.7 of the Eighth Report). Therefore in my last report I recommended that the PSNI should publish statistics about how many individuals stopped and searched under JSA and TACT 2000 go to police stations to collect a copy of their stop/search record.

7.2 The PSNI's PUMA system does not enable the PSNI to provide this information. However, it does enable the police to collate information on the number of times a search record has been **printed** by the PSNI – but the record may have been printed for a variety of reasons (including for the purpose of court prosecutions) and not just for the purpose of providing a copy of a JSA search to the individual. There are plans to update the PUMA system so that before a record can be printed the reason for doing so will have to be selected. When these arrangements are in place the PSNI will be able to establish how many records of JSA stops and searches have been printed for the purpose of collection by the individual and that information should be available in 2017.

7.3 During the reporting period the number of occasions on which a search record under JSA or TACT 2000 was printed totalled 480. Even if all of these records were printed

for the purpose of collection the percentage of people stopped who collect their search record from a police station would be roughly 6%.

- 7.4 It is safe to conclude on the basis of this information that the vast majority of people stopped and searched do not at present attend a police station to collect a copy of their search record. That situation may improve. If the PSNI establish a website so that the public can access information about stop and search then that would be a good vehicle for putting this information in the public domain. The PSNI are currently considering a method whereby an individual accessing any such website could receive a copy of their record electronically. Whether that would improve the “take up” rate depends on the willingness of those stopped and searched to provide an email address.

8. COMMUNITY MONITORING

- 8.1 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. I dealt with this issue in some detail in my two previous reports – Chapter 8 of the Seventh Report and Chapter 9 of the Eighth Report. There are serious issues about how best to obtain this information. However, some in the PSNI have in the past been resistant to the idea of community monitoring . I said in paragraph 8.6 of the Seventh Report that

–

“The PSNI have also expressed concern that making a police officer record community background would introduce a consideration into the mind of an officer which his training and experience has led him to consider irrelevant. However, a significant majority of those I have consulted considered that such monitoring should be done given the obligation of the PSNI not to discriminate and the need for transparency”.

- 8.2 Progress on this issue in recent years has been slow but the PSNI now fully supports the concept of community monitoring (though “equality monitoring” seems now to be the favoured term).
- 8.3 The Equality Monitoring Stop and Search Project (EMSS Project) described in Chapter 9.4 was not a success. It was a project which ran for 3 months from December 2015. Everyone stopped and searched under JSA or TACT2000 was given a pre-addressed card and invited to indicate their community background on the card and return it by post. No completed cards were received by the PSNI.
- 8.4 The PSNI adopted a different approach in 2016 relying on an analysis of anonymised data from stop and search records. This was an ingenious methodology

- (a) a 3 month period was identified ie 1st December 2015 to 29th February 2016;
- (b) the home address post code of the individual was identified;
- (c) the location of the stop and search was identified;
- (d) the 2011 census data for that area was identified;
- (e) the composition of the area where he was lived was identified eg 70% Catholic and 30 Protestant;
- (f) the consequent modelling of a search in that area would then be 0.7% and 0.3% respectively;
- (g) individual estimates were combined to give a combined estimate of all searches under JSA and TACT 2000.

8.5 Using this method 499 people were stopped and searched in the 3 month period beginning 1st December 2016. in Derry City and Strabane (including repeat stops). Of these 499, 321 had postcodes recorded on the data base. The overall result showed that 87% of those stopped and searched were Catholic and 13% were Protestant. This pilot showed that the powers in that District were used predominantly in areas where those posing the greatest threat reside. This result is not unexpected and consistent with briefings that the PSNI had given in the past.

8.6 However, the PSNI will not continue with this methodology because

- (a) the 2011 census is out of date; and
- (b) there was no guarantee that the address given was correct or that it had been recorded properly.

The PSNI are currently engaging an academic to research the most appropriate method of gathering this information. The NIPB were updated in August 2016 and raised no formal objection to this proposed way forward. It is now 7 years since the CJINI reported in May 2009 that the PSNI *“has not been able to produce figures relating to the community and religious background of those they stop and search....we recommend therefore that the PSNI take steps to establish an effective method of monitoring the use of stop and search powers across districts”*.

8.7 It is important that an effective method of community monitoring is found if only to satisfy the demands from a number of bodies that it be done. I have detected in the past a reluctance to pursue this in the PSNI which may be a contributory factor to the delay in finding an effective method of recording community background. However, they are now fully committed to finding a way forward. There may not be a perfect method of doing this and there is general agreement that precision may not be possible. However, that should not be a reason for continuing delay. The PSNI have always resisted a method based on a combination of officer perception and intelligence. The argument is that it would require an officer to make an irrelevant judgment in the course of exercising these powers. It may be that, despite those

reservations, it would be the most accurate method of monitoring community background. Whatever method is chosen, it is worth making two points –

(a) It is common knowledge and confirmed by the PSNI that the powers are used predominantly against members of the DR community and their associates who are a threat to national security. Indeed that fact is used to explain to the public that the powers are not used in a random way but in a manner which is targeted and intelligence led. So the outcome of any successful community monitoring exercise may not reveal any trend which is not already well known;

(b) if the purpose of community monitoring is to illustrate a potential bias in the way intrusive stop and search powers are used then it would be sensible to impose this requirement in relation to all stop and search powers ie under PACE, the Misuse of Drugs Act and the Firearms Order and not just those under the JSA and TACT 2000. The vast majority of stops and searches are under those powers (see paragraph 6.5). It has been suggested that this would just obscure the inherent bias in the use of JSA powers by burying the information amongst other irrelevant information. I do not accept this. Most people do not make fine distinctions about the precise legal power under which they are stopped and searched and the impact on the individual is the same whichever power is used. Indeed the police may switch from one power to another during the course of the search depending on what is found.

9. AUTHORISATIONS

9.1 The authorisation process under Section 24/Schedule 3 permits the use of JSA powers without reasonable suspicion. In Chapter 11 of my last report I concluded that the four main criticisms of that process were without foundation. Those criticisms were that

(a) the authorisations are simply done on a “rolling basis”;

(b) they cover the whole of Northern Ireland and should be limited to just those parts of Northern Ireland where risk of harm caused by the use of munitions is highest;

(c) the authorisation process is a rubber stamp exercise;

(d) there is no independent element in the process – the decision is made just by a senior PSNI officer and confirmed by the Secretary of State.

9.2 However, I did recommend in paragraph 15.2 of that Report that, at the next available opportunity, the JSA should be amended to allow the authorisation to remain in place for at least 3 months instead of 14 days provided the security situation in Northern Ireland remains as it is and sufficient safeguards remain in place.

9.3 Nothing has happened during the last Reporting period to cause me to change my rejection of these criticisms of the process or my view that the authorisations currently made under the JSA are for too short a period. Many people have agreed with this latter proposition provided adequate safeguards remain in place. As I explained in paragraphs 11.7 to 11.10 of my last Report, these provisions, insofar as they were to apply to Northern Ireland, were given insufficient consideration and scrutiny by Parliament. By way of analogy, it is sensible to require cars of a certain vintage to be subject to an annual MOT test as that is a safeguard needed in the interests of road safety generally – but nobody would suggest that this requirement should become a monthly let alone a fortnightly requirement. A sensible balance has to be struck about what is a reasonable safeguard in the light of experience, particular circumstances and the need for sensible use of limited public resources. It should be noted in this context that -

(a) when confirming an authorisation the Secretary of State can under paragraph 4D(4) of Schedule 3 (as inserted by POFA 2012) substitute a shorter period for the authorisation; and

(b) can also, under paragraph 4E of that Schedule cancel an authorisation at any time.

So a 3 month period would only be a maximum within which, if the security situation were to improve, the Secretary of State could authorise a shorter extension in the light of prevailing circumstances. The current arrangements are unsatisfactory and do not lead to a sensible use of, in particular, PSNI resources.

9.4 The authorisation form is at **Annex F**. It is a substantial document and, in particular the paragraph dealing with the assessment of the threat (paragraph 4) and relevant information and circumstances relevant to that threat (paragraph 5) is completed in great detail. A study of the form reveals the complex process that is undertaken whenever an authorisation is made. I have studied nearly half of the authorisations made in this reporting period and am satisfied that the process is carried out properly and thoroughly on each occasion. It is painstaking work. A frequent challenge by NIO officials is to the relevance of the intelligence set out in the authorisation and, in particular, whether it supports the statutory test that the authorising officer (in practice an ACC) “reasonably suspects (whether in relation to a particular case, a description of case or generally) that the safety of any person might be endangered by the use of munitions or wireless telegraphy apparatus”. On one occasion a number of items of intelligence were highlighted which did not on the face of it match that test and the PSNI were asked to provide further details to confirm that the intelligence was relevant. This is an example of the level of scrutiny of these authorisations which takes place on roughly a fortnightly basis. Other examples include pointing out minor errors in the authorisation (which don’t affect the substance) and the clarification of statistics. I can confirm that the submissions to the Secretary of State or Minister (as the case may be) seeking confirmation of the authorisation set out the relevant tests and factors to be taken into account before a decision is made. Finally, it is worth noting that the material in the authorisations covers threats not only from DRs but also loyalist paramilitaries and criminal gangs.

9.5 The authorisation process engages personnel in the PSNI, NIO and MI5 in addition to Ministerial time on a fortnightly basis. In practice the authorisations continue for less than a fortnight. So far as the PSNI are concerned, in relation to each new authorisation, the time taken up by this process breaks down as follows –

- Constable - 23 hours
- Sergeant - 31 hours
- PSNI lawyer- 1 hour
- ACC - 1 hour
- District Supt. - 1 hour x 11 for each Police District ie 11 hours

This amounts to over 1700 man hours a year in PSNI time alone.

10. THE ARMED FORCES

Role of the Army in Northern Ireland

10.1 My predecessor in his 6th 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 in 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”.

10.2 These arrangements are still in place today. Nothing has happened in the past year to cause me to alter the view I expressed in paragraph 12.2 of my last Report that the Army should retain the powers that they have under the JSA even though they have not needed to be used since the JSA came into force in 2007. In due course Parliament will want to consider whether these powers should be retained but that decision must be made in the light of the prevailing security situation in Northern Ireland.

Explosive Ordnance Disposal (EOD) activity

10.3 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 246

occasions. This is a fall from 267 in 2014/15 reporting period which, in turn, was a fall from 347 in the reporting period 2013/14. The figure of 246 is broken down as follows (with the corresponding figures for the previous year in brackets)-

- on 35 (52) occasions to deal with an IED – typically an active device such as a pipe bomb;
- on 12 (12) occasions to deal with an explosion;
- on 42 (49) 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 45 (41) 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 there was no telephone call or attribution;
- on one occasion (2) was there a call out to deal with an incendiary device ie a device which is programmed to ignite and cause buildings to burn;
- on 112 (112) occasions the call out, very often acting on intelligence, was to deal with the discovery of munitions or component parts.

Only in the category of hoax call outs was there a slight increase in the numbers – up by 42 to 45. Not too much should be read into the downward trend revealed in these figures. In particular the number of finds (112) has remained the same and it is clear from all the intelligence that there are large quantities of munitions available to DRs and other paramilitaries. There was not a month in the last reporting period when munitions were not found. It is interesting to note that the number of false call outs (ie where a member of the public genuinely believed an object to be suspicious) was highest in March 2016 - immediately prior the 1916 centenary celebrations. The decline in the total number of call outs (though welcome) is not necessarily indicative of a reduced threat because these numbers do not reflect the number of attacks which were disrupted before they come to fruition by security force action or which fail for a range of other reasons.

The role of the Army in support of the police

10.4 In the previous reporting period there was some concern about the deployment of the Army when searching for munitions following incidents in Derry City and Strabane District Council in July 2015. I reported on this at some length in my previous report. These incidents are capable of being exploited for political purposes as well as generating legitimate public concern. The PSNI have restated that when an army search team is deployed in relation to high risk searches involving munitions etc they will deploy alongside police and will not do so without the approval of the police search advisor. The police implement cordons to protect the public and do not close off roads unless absolutely necessary (see paragraph 6.43). In Derry City and Strabane, the PSNI meet on a regular basis with both community and political representatives and these meetings are used, amongst other things, to discuss the use of JSA powers and, in particular, the use of stop and search powers and the

involvement of the army in search operations. In Derry City and Strabane there is a standalone local agreement that when an army search team is deployed an EODV will be deployed alongside the search team at the time of the search even before any explosives have been found. This arrangement is unique to Derry City and Strabane and does not extend to other parts of Northern Ireland. During this process the search teams remain at all times under the operational command of the police. These arrangements would appear to be acceptable to the local community and their leaders and political representatives. There does not appear to have been any controversy or misunderstanding about these deployments in this reporting period.

Processing and handling of complaints

- 10.5 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 Army. 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. Section 40(7) provides that the Brigadier must provide such information, disclose such documents and provide such assistance as the Reviewer may reasonably require.
- 10.6 It was not necessary in either this or previous reporting periods to exercise any of these powers. However, I did make two recommendations in paragraph 15.8 of my last report –
- (a) 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, was taken;
 - (b) when compensation is paid to a complainant by the MoD in London 38 (Irish) Brigade should be notified of the outcome and a record of it placed on the file.
- 10.7 There have only been 3 new complaints in the last reporting period none of which raise issues which requires any action mentioned in 10.6 (a) or (b) above. It is worth noting that in 2009 there were 110 complaints about Army activity in Northern Ireland and by 2013 this number had fallen to 18. Most (but not all) of these complaints related to low flying aircraft. In this last reporting period there have been only 5 complaints. The reduction in the number of complaints to such a low figure, in this part of the UK, where there remain some sensitivities about the Army's presence, is a reflection of the care which the Army takes to maintain good relations with the public and to be as unobtrusive as possible when carrying out its routine activities. However, when a complaint is made it is important that it is taken seriously and dealt with promptly.

10.8 In paragraphs 12.16 and 12.17 of my last report I referred to two complaints which were made on 27th September (in the current reporting period). They both concern trespass on and damage to private property which occurred during a military training exercise. As I explained in paragraph 12.18 of that Report this complaint was not handled as promptly or as well as it should have been. Following the recommendation at paragraph 10.6(b) the details of the settlement of one of these claims has been placed on the file (£350 compensation). The other claim has not been settled because the complainant has not, as requested, provided a formal letter of claim detailing the alleged damage to property.

10.9 The 3 new complaints were -

(a) a lady complained that while walking with her husband on Sunday 18th October in Springwell Forest between Coleraine and Limavady she saw three men wearing balaclavas and armed with firearms. Once the men realised that they had been seen they walked quickly from the scene. Within 30 seconds of them walking away they heard 3 bursts of gunfire which caused them to panic and run away. Their initial thought was that these were paramilitaries and they suffered an extremely frightening experience. The initial complaint was made to the PSNI. Eventually, the NIO Civil Representative contacted the complainant on behalf of the Army on 25th November. On 9th December the Army wrote to the complaint informing her that a formal investigation had been initiated. That investigation revealed that a military exercise had taken place that day in the forest (which is a public place) and 3 members of the support staff were dressed in military uniform to simulate an enemy force. During the course of this exercise the “enemy force” fired several blank rounds at army personnel forcing a return of fire. One 18th December the Brigadier at HQ 38 (Irish) Brigade wrote to the complainant with a “sincere apology” for the “unfortunate actions of some soldiers who were taking part in the exercise” and an undertaking that “lessons are applied to the preparation of future training”. This was an unfortunate incident and it took a few weeks before the Army became engaged but once they did they carried out a prompt internal investigation and responded promptly and appropriately to the complainant;

(b) during this training exercise in the Springwell forest damage was caused to a narrow lane and adjacent culvert when a the lane collapsed under the weight of an Army vehicle. The land is owned by the Northern Ireland Forestry Service. Following discussion between the Forestry Service and the MoD the Forestry Service stated that the repair costs were minimal (approximately £500) and they would not be making a claim. The Forestry Service carried out the repairs from their running/maintenance costs;

(c) on 16th February 2016 a complaint was made about low flying aircraft by a resident of Warrenpoint. The daughter of the resident complained of low flying

aircraft in the late evening/early hours on 14th and 15th February. The noise and vibration had scared her mother. On the same day the Army contacted the complainant to explain that it had carried out an investigation and that there were no Army helicopters in the area on the dates in question. The complainant is recorded on the file as saying that she had made enquiries of her own and had established that the helicopter was a private company aircraft which had been contracted out to review local flood defences. The complainant thanked the Army for its prompt response.

10.10 So there was, in effect, only one serious complaint arising from Army activity during this reporting period. However, it is the second year running that a military exercise has caused some distress to local residents.

11. MISCELLANEOUS

Road closures and land requisitions

11.1 There are powers in the JSA for the Secretary of State to close roads and requisition land in certain circumstances. These powers are set out in detail in paragraph 10.1 of the Seventh Report. An agency agreement was signed in 2011 between the Secretary of State and the DoJ which allows these powers to be exercised in relation to devolved matters by the DoJ on behalf of the Secretary of State. The purpose of these powers is-

- (a) to prevent attacks on public buildings and land;
- (b) to prevent public disorder (often connected to the parading season);
- (c) to prevent harassment of, and attacks on, different communities.

It is sad fact that alleyways and footpaths are used to harass residents in neighbouring communities and the restrictions imposed by these measures are, for the most part welcome by local residents. Belfast City Council has the power to close alleyways and footpaths.

11.2 There have been few developments in this reporting period. The DoJ has not authorised any new road closures but three road closures have been revoked. These closures had been in East Belfast and all related to interface violence.

- (a) on 21st May 2014 an alleygate was installed at Strand Walk close to the Newtownards Road to restrict the movement of individuals who intended to engage in interface violence and anti-social behaviour;
- (b) on 29th January 2015 the gaps between the raised planters in front of houses on the Albertbridge Road were fenced off to stop easy access for those attacking CNR homes;

(c) on 28th May 2015 alleygates were installed at Edgar Street, near Bryson Street, to restrict the movement of individuals who wished to engage in interface violence and anti- social behaviour.

The revocation of these road closures was technical. They were all made under section 32 which allows road closures in whole or in part if they are considered necessary for the preservation of the peace and maintenance of order. It is still necessary to restrict access to these areas because the threat of interface disturbances has not receded. The orders could be revoked because they had been replaced in two cases by gating orders made by Belfast City Councillor. In the other case the order was revoked because the Northern Ireland Housing Executive had extinguished the relevant right of way so the section 32 order was no longer needed to close off the area.

11.3 There was one land requisition made by the DoJ in relation to the site owned by Invest NI on the Springfield Road close to Workman Avenue. The purpose of this requisition was to facilitate the policing operation around the Whiterock Orange Order Parade. This order came into force at 0001 hours on Saturday 25th June 2016 and expired at midnight that day. There was no requisition of land at the apex of the Crumlin Road and Woodvale Road in connection with the 12th July parade in 2016 because the PSNI did not consider it necessary to have access to that land.

11.4 Road closures made on national security grounds remain the responsibility of the Secretary of State. A survey of the physical security measures around the Royal Courts of Justice and Laganside Courts was carried out in 2015. It concluded that the security threat to both buildings would not reduce in the foreseeable future and the road closure should remain in place. Extensive consultations took place in January 2016 on the road closure at Lower Chichester Street. Given the major impact which any attack in the area would have on the administration of justice it was decided that, despite the inconvenience caused to members of the legal community, the road closure should remain in place until further review in 2017. It was also decided in January 2016 that the road closure at Shore Road, Ballykilner should remain in place until further reviewed in 2017.

Views of consultees

11.5 In summary form the points made by consultees (and not covered elsewhere in this Report) are set out below. Some are more relevant than others to the use of JSA powers but they all have a connection to it.

11.6 The comments included -

- PCSPs are not effective in holding the PSNI to account;
- changes to community policing were not properly explained;
- loss of community police officers “sorely felt”;

- involvement of the TSG inevitably “sets things back”;
- people need to see “normal policing”;
- the PSNI should do more to deal with paramilitary beatings;
- some areas are beyond the reach of the PSNI;
- the PSNI is not adequately resourced and it has no resilience;
- morale in the lower ranks of the PSNI is low;
- the PSNI is not good at workforce planning;
- delays in the criminal justice system (in particular in relation to drug use and supply) encourage paramilitaries;
- the PSNI increasingly have to deal with underlying social issues which cause criminality; this stretches resources and PSNI gets blamed because it is the most visible service;
- as a result other agencies need to support the PSNI and work in partnership with them.

12. RECOMMENDATIONS

Response to recommendations in last Report

- 12.1 I made a number of recommendations in Chapter 15 of my last Report.
- 12.2 I have not received a formal response to the recommendation that the JSA should be amended to change the reporting cycle to one based on the calendar year or to the recommendation that the authorisation made under the JSA should remain in place, if confirmed by the Secretary of State, for up to 3 months instead of 14 days provided the security situation remains as it is and sufficient safeguards remain in place. Ultimately this will be a matter for Parliament when the JSA is next reviewed. I have not received any objection to the proposal for a 3 month authorisation period.
- 12.3 I have not received any objection to the recommendation that all the powers which the police and armed forces have under JSA should be retained so long as the current security situation continues.
- 12.4 The Army have confirmed that when they fail 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, was taken. They have also confirmed, once compensation is paid to a complainant by the MOD in London, 38(Irish) Brigade should be notified of the outcome and a record of it placed on the file.

- 12.5 The recommendation that the use of body worn cameras should be rolled out as soon as possible and that the PSNI should publish on an annual basis an assessment of the impact and benefits has met with a positive response. This is already happening (see paragraphs 6.26 to 6.32 above). Excellent progress has been made in rolling out this facility. This is becoming standard practice in many police forces in the UK and abroad and the PSNI would have taken this forward whether or not a recommendation had been made. Nevertheless it will be important to monitor the benefits and challenges on a regular basis because, although widely welcomed, this project is not straightforward and there will be lessons to be learned not only from PSNI experience in Northern Ireland but also from other jurisdictions.
- 12.6 My main recommendations were that the PSNI should place as much information as possible in the public domain about the use of the JSA powers. Some more information has been provided and this has been incorporated in the body of this Report. In particular –
- (a) an explanation of why arrests rates are low following a stop and search (paragraphs 6.7 to 6.14);
 - (b) an explanation of the TSG's role (paragraphs 6.33 to 6.42);
 - (c) statistics about how often munitions are found (paragraphs 6.7 to 6.14);
 - (d) how frequently the use of these powers is monitored (paragraphs 6.15 to 6.18);
 - (e) how the armed forces will be deployed in support of the PSNI when searching for or disposing of live ordnance (paragraph 10.4);
 - (f) an analysis of the Equality Monitoring Stop and Search Project (paragraph 8.1 to 8.7);
 - (g) a review of the use of repeat stops and searches (paragraphs 6.19 to 6.25);
 - (h) statistics about how many individuals stopped and searched under the JSA and TACT 2000 collect a copy of their stop/search record at their local police station (paragraph 7.1 to 7.4).

There has been a reasonable response from the PSNI but it is work in progress. No operational changes resulted from the review of repeat stops/searches. There was an initial reluctance to provide statistics about how often munitions were found following a search. It is not clear what the supervision of the use of the powers amounts to in practice or what the outcomes of that supervision have been. Only a small percentage of individuals who are stopped appear to be going to a local police station to collect a copy of their search record. Little progress has been made on Community Monitoring. On the other hand the TSG's engagement strategy is promising; there have been no further controversies about the deployment of the armed forces; and there has been good progress on the roll out of body worn cameras.

Further Recommendations

12.7 Further recommendations are –

(a) the PSNI should post a website dedicated to stop and search. It should be regularly updated and used, in particular, to correct inaccurate reporting of the use of JSA and TACT powers;

(b) all supervising officers should check the use of these powers every month to make sure that the powers are exercised not only legally but also fairly and in the most appropriate manner;

(c) consideration should be given to keeping an internal written record should of what triggered any decision to stop and search in all cases where an individual has been repeatedly stopped and searched and in all cases involving a stop and near a school or when the individual is accompanied by a child or young person at the time he is stopped and those records should be made available to the Independent Reviewer (paragraphs 6.18, 6.25 and 6.51);

(d) in the cases referred to in paragraph (c) above, the supervising officer should personally satisfy himself that the power was used appropriately (if necessary after interview with the officer concerned);

(e) the returns from each engagement event by the TSG should be made available annually to the Independent Reviewer and an evaluation of the engagement programme generally (including both positive and negative feedback) should be placed on the new website insofar as they relate to the use of JSA and TACT 2000 powers;

(f) the annual assessment of the use of body worn cameras should address, amongst others, the issues set out in paragraph 6.31 above;

(g) as soon as the PUMA system has been updated to record the reason why a stop and search record has been printed the PSNI should use that information to publish how many times these records are collected at police stations (paragraph 7.2);

(h) the PSNI should continue to work on an effective narrative about the disparity in the use of the powers as between different paramilitary groups (paragraphs 6.44 to 6.46).

General observations

12.8 The PSNI do an excellent job in the context of both public order policing and stop and search. However, they are reluctant to put information in the public domain even when it would be in their interests to do so. There are, of course, limitations on what can be said publicly particularly when there are ongoing inquiries, when the matter is

before the criminal courts or when there are national security or other interests to protect. People understand that. However, the overwhelming and clear message that I have received from many people including politicians, NGOs, community workers and people in both PUL and CNR communities, is that the PSNI could do a lot more to explain to the public what it is doing and why. There is a tendency to say as little as possible and to use formulaic responses which fail to offer any helpful explanation or reassurance. In one telling observation a senior police officer said “if you are explaining you are losing”.

12.9 There are a number of reasons why the PSNI should change this approach -

(a) although the PSNI have had these powers for many years it should not be forgotten that they are exceptional and intrusive and police forces in the rest of the UK do not have them so there is a very strong obligation on the PSNI to be as transparent as possible;

(b) although the PSNI maintain close and admirable contact with local politicians and community workers the PSNI/local community relationship is not all that matters - many people and institutions both inside and outside Northern Ireland have a legitimate interest in the proper and effective use of these powers in addition to those most closely involved;

(c) the use of these powers is subject to judicial review and the courts will scrutinize not only the formal powers and the legality of their use but also how they are used in practice and the safeguards that are in place;

(d) use of these powers has increased considerably in this reporting period and is liable to come under greater scrutiny and be increasingly exploited by those who oppose the police - so the police should not lose arguments by default;

(e) stop and search has come under much greater political scrutiny at the highest level in the rest of the UK in recent years and when these exceptional powers come to be reviewed by Parliament Ministers will need to explain to Parliament how they have been used and, if necessary, why they need to be retained;

(f) “policing by consent” presupposes confidence in the police which can only be retained and enhanced if the public fully understand the reasons for police use of JSA powers - in particular junior officers who have the difficult job of exercising these powers (sometimes in dangerous situations) need to know that their employer has done all it can to ensure that their difficult role in the community is fully understood;

(g) myths and misunderstandings left uncorrected or lack of information about the use of these powers will be exploited to encourage radicalism.

12.10 The recommendations in this Report should be approached by the PSNI with these considerations in mind. In the absence of a persuasive, detailed and ongoing narrative the vacuum will be filled with suspicion by those who do not support the police and with genuine concern by those who do.

ANNEX A- ACRONYMS

ACC - Assistant Chief Constable

CARA - Crumlin Ardoyne Residents Association

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

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

EU - European Union

GARC - Greater Ardoyne Residents Collective

IED - improvised explosive device

JSA - Justice and Security (Northern Ireland) Act 2007

MI5 - Security Service

MLA - Member of the Legislative Assembly

MoD - Ministry of Defence

MoJ - Minister of Justice

NGO - Non Governmental Organization

NIO - Northern Ireland Office

Ombudsman – Police Ombudsman for Northern Ireland

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

TACT 2000 - Terrorism Act 2000

TSG - Tactical Support Group

UVIED - under vehicle improvised explosive device

ANNEX B – ORGANIZATIONS 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

Claire Sugden MLA Minister of Justice

Ciaran Kearney PhD student

Coiste na n-Iarchimi (COISTE)

Committee for the Administration of Justice (CAJ)

Criminal Justice Inspectorate Northern Ireland (CJINI)

David Anderson QC (Independent Reviewer of Terrorism Legislation)

Department of Justice officials

Democratic Unionist Party (DUP)

Her Majesty's Inspector of Constabulary (HMIC)

HQ (38) Irish Brigade

The Rt Hon James Brokenshire MP Secretary of State for Northern Ireland

Jim Roddy MBE community representative Derry

John McBurney, solicitor, Independent Panel on the Disbandment of Paramilitary Groups in Northern Ireland.

MI5

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 for Northern Ireland

Police Superintendents Association of Northern Ireland

Professor Jonny Byrne, Ulster University

Professor Ben Bowling, King's College, London

Professor John Topping, Queen's University

Social Democratic and Labour Party (SDLP)

Sinn Fein

Ulster Political Research Group (West Belfast)

The Progressive Unionist Party (PUP) and the Ulster Unionist Party (UUP) were invited to contribute but did not respond on this occasion.

Annex C: Summary of Police Powers in the Justice and Security (Northern Ireland) Act 2007 (2007 Act) and Terrorism Act 2000 (TACT 2000)

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 a Superintendent or above) or written (from an Inspector 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 on the premises or anyone who enters the premises to remain on the premises. For example, movement within the premises may be restricted, or entry in certain areas of the premises not permitted. A person commits an offence 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>

Section	Power	Overview	Records
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.	<p>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.</p> <p>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.</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>
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.	<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>

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.</p> <p>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.</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, 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>

Section	Power	Overview	Records
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 – 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.

Northern Ireland Security Situation – July 2016

The Secretary of State for Northern Ireland (Theresa Villiers): This is the ninth statement on the security situation in Northern Ireland and the second statement to this Parliament. It covers the threat from Northern Ireland Related Terrorism, 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 six months since my statement on Northern Ireland's security situation, the same, relatively small and fractured, violent dissident republican groupings have persisted with their campaign of violence. Their activities are against the democratically expressed wishes of the people in Northern Ireland. They continue to seek relevance and inflict harm on a society that overwhelmingly rejects them. Their support is very limited. Northern Ireland's future will only be determined by democracy and consent. The Police Service of Northern Ireland (PSNI) and MI5 work diligently to limit the threat these groups 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.

The terrorist threat level in Northern Ireland from Northern Ireland related terrorism remains SEVERE (an attack is highly likely) and the need for vigilance continues. Violent dissident republicans retain access to a wide variety of terrorist material including firearms, ammunition and improvised explosive devices and remain committed to an agenda of violence.

The Police Service of Northern Ireland (PSNI), MI5 and their security partners continue to work tirelessly to counter the threat, often placing themselves at significant risk in order to keep people safe. Countless attacks are prevented in their early stages. So far this year, the PSNI have recovered terrorist items including firearms, ammunition and bomb making equipment. There have been 59 arrests, of which, 8 individuals have been charged for terrorist related offences.

The lethal nature of the threat posed by terrorist groupings was demonstrated in March when prison officer Adrian Ismay died as a consequence of injuries he sustained when an improvised explosive device functioned under his vehicle as he left his Belfast home for

work. Adrian Ismay's death is first and foremost a tragedy for his family and friends. But it also serves as a stark reminder of the ongoing risks faced by prison officers, police officers and members of the armed forces, some of whom have been very fortunate to escape injury in other terrorist attacks, both on and off duty.

Violent dissident republicans continue to try to injure and murder PSNI officers, prison officers and members of the armed forces. The main focus of dissident republican violence continues to be in Northern Ireland. However, on 1 May, the Home Secretary announced that MI5 had increased their assessment of the threat level in Great Britain from Northern Ireland-Related Terrorism from MODERATE (an attack is possible but not likely) to SUBSTANTIAL (an attack is a strong possibility). Violent dissident republicans have long aspired to carry out attacks in Great Britain to perpetuate their ongoing campaign of violence, and as a way to gain publicity for their wholly unjustifiable acts.

Republican and loyalist paramilitary organisations also regularly conduct brutal criminal assaults in an attempt to exert control over their communities. Between January and May of this year, there were 27 paramilitary-style attacks, 3 of which were fatal. It is unacceptable in Northern Ireland that there are still people who believe they are above the law. They are not and the PSNI is determined to pursue them and bring them to justice.

Our strategic response

Tackling terrorism, including Northern Ireland Related Terrorism, is the highest priority for this Government. This Government's first duty is to keep people safe and secure right across the United Kingdom. We are absolutely committed to ensuring that our security agencies, the police and others are equipped to deal with any threat we might face.

The Strategic Defence and Security Review made clear that we will maintain our investment in capabilities to keep the people of Northern Ireland safe. Over this Parliament, we will provide PSNI with £160 million of Additional Security Funding to tackle the threat in Northern Ireland. Cross-government spending on counter-terrorism as a whole will increase by 30% in real terms over this Parliament.

In the Republic of Ireland, An Garda Síochána (AGS) continue to play a significant role in countering the terrorist threat, having effected seizures of substantial amounts of explosives, ammunition and firearms. Joint working between PSNI, MI5 and the Garda remains crucial in the investigation and disruption of the violent dissident republican threat.

Tackling ongoing paramilitary activity

There was never any justification for paramilitary groups in Northern Ireland, and there is none today. This is a central theme of the Fresh Start Agreement of November 2015 between the UK Government, Northern Ireland's main political parties and the Irish government. It contains commitments to deal in a broadly based way with paramilitarism in Northern Ireland.

The Independent Panel Report on the Disbandment of Paramilitary Groups in Northern Ireland has shown there are individuals who use the real and perceived remnants of paramilitary structures to engage in serious criminality and violence, which can have a devastating effect on communities. In addition the assessment of Paramilitary Groups in Northern Ireland, which was commissioned by the UK Government last autumn, judged that individual members of paramilitary groups with a legacy of violent activity, are engaged in organised crime and still represent a threat to national security.

A joint agency task force has been set up to enhance existing efforts to tackle cross-jurisdictional organised crime and the Executive is developing an action plan to tackle paramilitary activity, in response to the recent recommendations made by the panel. By the end of 2016, we also intend to establish an Independent Reporting Commission which will report on progress to tackle ongoing paramilitary activity.

Conclusion

The SEVERE level of threat in Northern Ireland from violent dissident republicans will continue in the near future, and further potentially lethal attacks are highly likely. However, the PSNI, MI5 and An Garda Síochána will continue their outstanding work, exerting every effort to disrupt attacks and prosecute those responsible. 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.

Table 1: Police Service of Northern Ireland Summary Sheet

Justice and Security Act – 1st August 2015 - 31st July 2016

	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Total
1. JSA Section 21 - Number of persons stopped and questioned	119	221	212	157	188	283	397	602	177	171	107	223	2,857
2. JSA Section 23 - Power of Entry	1	1	0	0	0	0	0	0	0	0	0	0	2
3. JSA Section 24 (Schedule 3) - Munitions and Transmitters stop and searches													
No. of persons stopped and searched, public place:	339	645	554	518	407	534	664	1,573	495	562	482	715	7,488
No. of persons stopped and searched, private place:	16	29	29	25	21	16	26	57	18	17	9	37	300
Persons stopped and searched - total	355	674	583	543	428	550	690	1,630	513	579	491	752	7,788
JSA Section 24 (Schedule 3) - Searches of premises:													
No. of premises searched - Dwellings:	22	22	8	11	8	5	3	18	12	26	5	16	156
No. of premises searched - Other:	5	2	2	3	0	1	0	5	1	1	0	12	32
No. of occasions items seized or retained	1	1	0	4	1	1	0	1	0	2	1	1	13
JSA Section 24 (Schedule 3) Use of Specialists:													
Use of specialists - No. of occasions 'other' persons accompanied police:	6	1	0	1	1	1	0	1	0	0	0	1	12
4. JSA Section 26 (Schedule 3) - Search of Vehicles													
(1) (a) Vehicles stopped and searched under section 24	879	2,561	2,307	1,876	1,784	1,927	2,714	7,251	1,316	1,380	1,173	1,840	27,008
(1) (b) Vehicles taken to another location for search	0	1	1	1	0	3	0	5	1	2	1	1	16

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 1st August 2015 and 31st July 2016

TABLE 2A	
Section 21 – Stop and Question	
Year	Number of Persons Stopped and Questioned
2015	
August	119
September	221
October	212
November	157
December	188
2016	
January	283
February	397
March	602
April	177
May	171
June	107
July	223
August 15 - July 16	2,857

TABLE 2B	
Section 23 – Power of Entry	
Year	Number of Premises Entered
2015	
August	1
September	1
October	0
November	0
December	0
2016	
January	0
February	0
March	0
April	0
May	0
June	0
July	0
August 15 - July 16	2

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

TABLE 2C			
Section 24 (Schedule 3)			
Munitions and Transmitters Stops and Searches			
Year	Number of Persons Stopped and Searched by Police		
	Public	Private	Total
2015			
August	339	16	355
September	645	29	674
October	554	29	583
November	518	25	543
December	407	21	428
2016			
January	534	16	550
February	664	26	690
March	1,573	57	1,630
April	495	18	513
May	562	17	579
June	482	9	491
July	715	37	752
August 15 - July 16	7,488	300	7,788

TABLE 2D				
Section 24 (Schedule 3)				
Searches of Premises				
Year	Searches of Premises by Police			
	Dwellings	Other	Occasions items seized or retained	Occasions 'other' persons accompanied police
2015				
August	22	5	1	6
September	22	2	1	1
October	8	2	0	0
November	11	3	4	1
December	8	0	1	1
2016				
January	5	1	1	1
February	3	0	0	0
March	18	5	1	1
April	12	1	0	0
May	26	1	2	0
June	5	0	1	0
July	16	12	1	1
August 15 - July 16	156	32	13	12

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
2015		
August	879	0
September	2,561	1
October	2,307	1
November	1,876	1
December	1,784	0
2016		
January	1,927	3
February	2,714	0
March	7,251	5
April	1,316	1
May	1,380	2
June	1,173	1
July	1,840	1
August 15 - July 16	27,008	16

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 2015 – 31 July 2016

Persons stopped and searched under:	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug 15 -Jul 16
PACE / MDA / F Order**	1,792	2,375	2,991	2,200	1,939	2,079	2,287	2,193	1,610	1,558	1,443	1,812	24,279
TACT S43	15	34	27	19	20	18	16	23	13	38	13	14	250
TACT S43A	5	13	10	13	15	19	10	15	5	32	7	4	148
TACT S47A	0	0	0	0	0	0	0	0	0	0	0	0	0
JSA Section 21	119	221	212	157	188	283	397	602	177	171	107	223	2,857
JSA Section 24	355	674	583	543	428	550	690	1,630	513	579	491	752	7,788
Other Legislations***	3	12	9	8	11	1	2	14	2	10	2	23	97
Total (Powers Used)*	2,289	3,329	3,832	2,940	2,601	2,950	3,402	4,477	2,320	2,388	2,063	2,828	35,419

* 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, Article 23B of The Public Order (Northern Ireland) Order 1987 and the Psychoactive Substances Act 2016

Note: The above statistics for the period Apr16 – Jul16 are provisional and may be subject to minor amendment.

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	1,749	1,710	2,030	1,806	22,328
TACT S43	9	11	13	13	8	16	21	13	14	14	9	12	153
TACT S43A	4	3	3	2	0	8	14	6	10	4	4	5	63
TACT S47A	0	0	0	0	0	0	0	0	0	0	0	0	0
JSA Section 21	100	130	119	185	521	181	142	125	137	143	208	145	2,136
JSA Section 24	216	204	294	379	658	376	298	260	237	301	558	431	4,212
Other Legislations	11	2	17	14	12	18	4	1	8	6	12	11	116
Total (Powers Used)*	1,955	2,069	2,658	2,267	2,966	2,401	2,673	2,455	2,155	2,178	2,821	2,410	29,008

*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 ⁽¹⁾	2009/10 ⁽¹⁾	2010/11 ⁽¹⁾	2011/12 ⁽¹⁾	2012/13 ⁽¹⁾	2013/14 ⁽¹⁾	2014/15 ⁽¹⁾	2015/16 ⁽¹⁾
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	25,151
TACT - Section 84 ⁽²⁾	3,838	3,299	1,576									
- Section 89 ⁽²⁾	2,684	1,906	718									
- Section 44 ⁽³⁾		448	913	3,358	9,548	28,770	9,156					
- Section 43/43A ⁽⁴⁾				13	56	97	375	254	186	173	192	344
- Section 47A ⁽⁵⁾								0	0	70	0	0
JSA - Section 21 ⁽²⁾				28	112	5,285	5,355	3,511	2,803	2,350	1,922	2,812
- Section 24 ⁽²⁾				251	372	621	11,721	12,699	7,687	6,239	3,906	6,980
Other legislative powers ⁽⁶⁾									294	417	190	97
Total uses of each legislative power	20,956	21,689	19,381	19,012	30,099	58,763	49,392	37,210	31,880	33,677	28,399	35,384
Total no. of persons stopped/searched⁽⁷⁾	20,956	21,689	19,381	19,012	30,099	53,885	45,394	35,268	30,502	32,590	27,539	34,171
PACE / Misuse of Drugs Act / Firearms Order	69%	74%	83%	81%	66%	41%	46%	56%	66%	73%	78%	71%
All Terrorism Act Powers	31%	26%	17%	18%	32%	49%	19%	1%	1%	1%	1%	1%
All JSA Powers	0%	0%	0%	1%	2%	10%	35%	44%	33%	26%	21%	28%
Other legislative powers	0%	0%	0%	0%	0%	0%	0%	0%	1%	1%	1%	<0.5%
All Powers⁽⁸⁾	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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

- (1) Combinations of powers were not counted pre-08/09 therefore these figures are a count of the number of persons stopped. Figures from 08/09 are a count of the number of times each individual power was used.
- (2) Part VII of the Terrorism Act lapsed from midnight on the 31st July 2007. As a result Section 84 of TACT was replaced by Section 24 of the Justice and Security Act (JSA) and Section 89 of TACT was replaced by JSA Section 21 (power to stop and question).
- (3) Statistics Branch started collating TACT Section 44 data in July 2005. TACT Section 44 ceased on 7th July 2010.
- (4) Statistics Branch started collating TACT Section 43 and 43A during quarter 3 of 2007/08.
- (5) TACT Section 47A has been in place since March 2011 although the power has only been authorised for use during one period in May 2013.
- (6) On the 31st October 2012 changes were made to the PSNI's STOPS database to ensure that stop/searches conducted under less frequently used powers would be captured under an 'Other legislative powers' category. '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, Article 23B of The Public Order (Northern Ireland) Order 1987 and the Psychoactive Substances Act 2016.
- (7) The difference between total use of each power and total no. of persons stopped/searched will be due to persons stopped under combinations of powers being counted under each legislation used (i.e. someone stopped under JSA S21 and JSA S24 will have a count of one under each of these powers).
- (8) Percentages may not sum to 100% due to rounding.

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

EOD Call Outs: 1 August 2015 to 31 July 2016

DATE	IED	EXPLOSION	HOAX	FALSE	INCENDIARY	FINDS	TOTAL
August 2015	2	2	4	3	0	8	19
September 2015	1	2	5	4	0	10	22
October 2015	4	2	5	5	0	15	31
November 2015	7	1	6	5	0	7	26
December 2015	2	0	1	4	0	6	13
January 2016	2	0	4	1	0	7	14
February 2016	1	1	0	1	0	6	9
March 2016	6	4	5	12	0	10	37
April 2016	1	0	0	1	0	12	14
May 2016	1	0	1	3	0	10	15
June 2016	2	0	2	4	0	15	23
July 2016	6	0	9	2	0	6	23
TOTAL	35	12	42	45	0	112	246

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:**

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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	<input type="checkbox"/>	Map Attached	<input type="checkbox"/>
Specific Area	<input type="checkbox"/>	Map Attached	<input type="checkbox"/>

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).

--

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**.

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

<u>Point 2</u>	<p><u>Length of authorisation</u></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 maximum period for an authorisation is 14 days, and authorisations should not 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 must assure themselves that the Authority does not 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, 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.</p>
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<u>Point 4</u>	<p><u>Reason for exercising Para 4A, Schedule 3 powers</u></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

<u>Point 1</u>	<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>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.</p>
<u>Point 4</u>	<p><u>Assessment of the threat</u></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>
<u>Point 5</u>	<p><u>Information and/or circumstances over the recent period</u></p> <p>Authorising Officers should provide information relating to recent events that are specific to the authorisation. Under this section an Authorising Officer should identify any current situations where terrorist activity may have increased and there is evidence to suggest this.</p>
<u>Point 6</u>	<p><u>The use of Para 4A, Schedule 3 of the Justice & Security Act (Northern Ireland) 2007 rather than other powers of stop and search</u></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</p>

	<p>purposes of stopping and searching individuals for the purposes of preventing or detecting an act of terrorism before the use of the no suspicion powers under Para 4A, Schedule 3 are 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>
<u>Point 7</u>	<p><u>Description of and Reasons for Geographical Extent of an Authorisation</u></p> <p>Authorisations which cover all of Northern Ireland should not 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 limited 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>
<u>Point 8</u>	<p><u>Description of and Reasons for Duration of Authorisation</u></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 "No greater than necessary"</p>
<u>Point 9</u>	<p><u>Details of Briefing and Training provided to Officer using Para 4A, Schedule 3 Powers</u></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>
<u>Point 10</u>	<p><u>Practical Implementation of Powers</u></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>
<u>Point 11</u>	<p><u>Community engagement</u></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 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>
<p><u>Point 12</u></p>	<p><u>Policing Board engagement</u></p> <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>

