



House of Commons  
Northern Ireland Affairs  
Committee

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**Organised Crime in  
Northern Ireland**

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**Third Report of Session 2005–06**

***Volume I***

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

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## The Northern Ireland Affairs Committee

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

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### Contacts

All correspondence should be addressed to the Clerk of the Northern Ireland Affairs Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 2172/3; the Committee's email address is [northircom@parliament.uk](mailto:northircom@parliament.uk)

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## Summary

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Although our inquiry was conducted against a background of a Northern Ireland that has seen significant and far-reaching changes for the better in the last decade, it nevertheless demonstrated the damaging effect that organised crime continues to have on society and on the economy in Northern Ireland. The accounts we have received in private of individuals' personal experiences of organised crime have revealed the continued involvement of paramilitaries from both loyalist and republican sides in organised crime. We are concerned by the control which paramilitaries or former paramilitaries continue to exercise over communities; the fear that this creates, and the consequent under-reporting of crimes in which there is a paramilitary involvement. This involvement gives organised crime in Northern Ireland a unique dimension and means that it has a more damaging effect on society and the economy than organised crime has in other parts of the United Kingdom.

Paramilitary involvement presents additional challenges to the Police Service of Northern Ireland (PSNI) and other law enforcement agencies. We call on them to take every possible step to combat paramilitary organised crime and to adapt their approaches to ensure a sufficiently thorough response to this changing pattern of paramilitary activity.

Excise and tax frauds (including oils fraud and cigarette smuggling), intellectual property crime, extortion (intimidation and blackmail), drugs, armed robbery and cash in transit attacks, money laundering and illegal dumping have been identified as the major areas of organised criminal activity in Northern Ireland. There is also disturbing evidence that human trafficking is an emerging problem.

Organised crime is having a very damaging effect on businesses in Northern Ireland, many of which are targeted for extortion, and incur extra costs in securing their premises and obtaining insurance. Petrol retailers in Northern Ireland have come under particular pressure to accept cheaper smuggled fuel and face threats where they refuse to accept illicit fuel.

Many in the construction industry in Northern Ireland have also been subject to extortion demands from both loyalist and republican paramilitary organisations. We are concerned by the evidence that construction managers feel that they have no choice but to make protection payments such is the threat, and consequent fear of reprisals that follow a refusal to pay. Demands to pay protection money are also common in the licensed trade industry.

While HM Revenue and Customs has made progress combating oils fraud, the amount of illicit fuel sold in Northern Ireland remains at an unacceptably high level. We recommend that it review its systems for receiving information, particularly from officers on the

ground, and that it takes every possible step to encourage reports of suspicious activity.

We welcome the measures taken by the PSNI to strengthen its capacity to combat organised crime, but we stress that the fight against organised crime is a shared responsibility between the PSNI, the other law enforcement agencies, the Northern Ireland Departments and the community at large, especially its political leaders.

Gaining community support is vital to the fight against organised crime and to reducing the hold of paramilitaries. We are under no illusion that gaining that support will require patience and so we welcome the PSNI's commitment to increasing public confidence by improving its communications and by assuring communities that organised crime is being tackled.

We believe that the Assets Recovery Agency has made a positive start towards recovering the very substantial proceeds of organised crime in Northern Ireland. The Agency acknowledges that it has experienced a number of delays in progressing cases and that this has had an adverse impact on the total amount of assets realised to date. To speed up this process, amendments to the Proceeds of Crime Act 2002 are needed and we call on the Government to carry out a review of the Act.

Cross border cooperation is vital to defeating organised crime. We welcome the establishment of more arrangements for joint operations between the law enforcement agencies in Northern Ireland and those in the Republic of Ireland.

The involvement of 'professionals', including accountants, solicitors and estate agents is a further worrying attribute of organised crime in Northern Ireland. This area will require an ever vigilant approach by the agencies of the Organised Crime Task Force. They must remain alert to the problem and take every possible step to tackle it. It is also incumbent on professional bodies, such as the Law Society and the Institute of Chartered Accountants to satisfy themselves that their membership requirements are sufficiently exacting and that observance of them is carefully monitored.

There is also a perception that those found guilty of organised crime related offences are not given sentences commensurate with the severity of their crimes. If this perception continues it will have a damaging effect on confidence in the administration of justice in Northern Ireland. While we recognise the complexities of the situation, we recommend that a connection with organised crime be made an aggravating factor in sentencing in Northern Ireland.

Proper self-regulation and official licensing of industries are crucial parts of tackling organised crime. We welcome the Government's decision to establish a licensing regime for the petrol retail industry, but regret that it has taken so long to do so. We also welcome the official assurance that revised licensing legislation for the taxi trade will be in force by

March 2007. Northern Ireland does not have a properly licensed private security industry. We call on the Government to carry out its review of the industry, including the regulation of door supervisors, as a matter of priority.

We are disappointed by the delay in regulating charities in Northern Ireland. We heard much anecdotal evidence about paramilitary exploitation of “charities” for the misuse and laundering of funds.

It is clear that there is a perception in Northern Ireland that certain organised criminal activity, including intellectual property crime and fuel smuggling, is victimless. There is no such thing as a victimless crime; all of these criminal activities that we have examined have been accompanied by threats, or by violence. Moreover, all such crimes play a part in the financing of criminal gangs. Many of our witnesses stressed their fear that terrorist organisations are being replaced by such gangs, under similar leadership.



# 1 Introduction

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1. This Report on Organised Crime in Northern Ireland has occupied the Committee for more than six months and has necessitated a departure from normal Select Committee procedures. In most inquiries all the evidence that a select committee receives is heard in public session. This is a practice of which the Northern Ireland Affairs Committee thoroughly approves and a practice which it has itself followed in the past—and intends to follow in the future. However, in the early stages of our consideration of organised crime in Northern Ireland it became clear that we would not be able to gather the evidence on which we could base sensible conclusions and make firm recommendations unless we were prepared to grant some of our witnesses anonymity and others the opportunity to give some of their evidence in private session and without a detailed transcript being made. We have, therefore, in addition to the public evidence sessions, examined many of our official witnesses in private session at the conclusion of the public evidence taking. Other witnesses we have seen in private session, or met informally during visits to Northern Ireland. As the Report makes plain, the Committee is entirely satisfied of the *bona fides* of all of those who have cooperated with us. Again, as the report makes plain we have valued the information that we have gathered from these private sessions and informal meetings. We believe that it has been right to operate in this manner and are grateful to those who have so assisted us. We recognise that doing so has not always been easy for them.

2. The last year has seen significant progress in Northern Ireland. On 28 July 2005, the Provisional IRA announced that it was ceasing its military campaign. On 26<sup>th</sup> September, General John de Chastelain, head of the Independent International Commission on Decommissioning reported that there had been very significant Provisional IRA decommissioning. On 30 October, the Loyalist Volunteer Force (LVF) announced that it was standing down its members. Whilst some in Northern Ireland continue to have reservations about the manner and method and precise extent of the decommissioning that took place, there is no doubt that it did represent a significant step. In the case of the LVF, there has been no further major announcement and the Ulster Volunteer Force (UVF) has made it clear that it is not yet prepared to decommission. In addition, the continued activity of some dissident republican groups and the sporadic feuding between loyalist paramilitaries continue to cause concern. Nevertheless, the widespread paramilitary terrorist violence that has characterised much of Northern Ireland's recent history is no longer prevalent.

3. However, the legacy of the paramilitaries continues to cast a shadow over the economy and society of Northern Ireland. The Independent Monitoring Commission (IMC) reported in October 2005 that “because of [...] paramilitary involvement, organised crime is the biggest long term threat to the rule of law in Northern Ireland”.<sup>1</sup> The Committee accordingly decided on 26 October 2005 to undertake an inquiry into Organised Crime in Northern Ireland, specifically to examine:

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1 Seventh Report of the Independent Monitoring Commission, HC 546, paragraph 5.2.

“The nature of organised crime in Northern Ireland, the impact of organised crime on society and the economy in Northern Ireland, and the effectiveness of measures taken by the Government and relevant agencies to counter organised crime.”

4. In the course of the inquiry, we took formal evidence from the law enforcement agencies, meeting representatives from the Assets Recovery Agency, HM Revenue and Customs and the Police Service of Northern Ireland (PSNI). We are particularly grateful to Sir Hugh Orde, Chief Constable of the Police Service of Northern Ireland, and the officers of the PSNI for their ready cooperation at all stages of our inquiry. We also took formal evidence from organisations representing sectors of the economy in Northern Ireland affected by organised crime. We are grateful to the CBI Northern Ireland, the Federation of Small Businesses, the Freight Transport Association, the Road Haulage Association Limited and the Federation of the Retail Licensed Trade for giving oral evidence to the Committee in Westminster.

5. We discussed matters pertinent to organised crime with the Rt Hon Peter Hain, MP, the Secretary of State for Northern Ireland, on 26<sup>th</sup> October 2005 and 10<sup>th</sup> May, 2006.<sup>2</sup> We also took formal evidence from Mr Paul Goggins, MP, Parliamentary Under Secretary of State at the Northern Ireland Office with responsibility for Policing and Security, who is also the Chairman of the Organised Crime Task Force (OCTF).

6. In the course of the inquiry, we visited Dublin in January 2006 to assess the success of cross-border cooperation between law enforcement agencies in Northern Ireland and the Republic of Ireland. We are very grateful to Stewart Eldon, HM Ambassador to Dublin, for the warm welcome that he extended to the Committee and the support that the Embassy provided in arranging the visit. We held discussions with Mr Michael McDowell, TD, Minister for Justice, Equality and Law Reform, and Mr Dermot Ahern, TD, Minister for Foreign Affairs and we were particularly grateful to An Taoiseach, Mr Bertie Ahern TD for finding time to meet the Committee. We also met officers of An Garda Síochána, including the Criminal Assets Bureau, and officials of the Revenue Commission. We were impressed with the close cooperation at all levels between law enforcement agencies on either side of the border. We also received evidence from officers of the law enforcement agencies on both sides of the border of the cross-border nature of much organised crime. It was apparent that any measures to combat fuel and cigarette smuggling, and intellectual property crime in particular, must always be based on cooperation between the PSNI and An Garda Síochána. We note at paragraphs 65 to 68 that criminal links are not restricted to the island of Ireland, but extend across Europe and beyond. This requires close cooperation between the law enforcement agencies in all relevant countries and with international law enforcement agencies such as Europol and Interpol.

7. We have also made visits to Northern Ireland in the context of the inquiry, travelling to Newry, Newtownhamilton and Crossmaglen with officers of the Police Service of Northern Ireland, and have received briefings from PSNI officers at Knocknagoney, Belfast. We observed the difficulties facing policing in South Armagh, and commend the courage and dedication of the officers of the Police Service of Northern Ireland who are working hard to deliver normal policing in the area. Efforts to combat organised criminal activities are

particularly difficult in areas in which the police do not have the support (as a result of the influence of loyalist or republican paramilitaries) that they have the right to expect. It seemed clear to us following our visit to South Armagh that the lack of support from elected Sinn Fein councillors and Members of Parliament seriously hindered the efforts of the PSNI.

8. We also visited the distribution centre in Belfast of Bondelivery, which had suffered regular attacks by organised gangs and opportunistic criminals. We had been invited to Bondelivery by Mrs Val Smith, former National Chairman of the Road Haulage Association Limited and Manager of Bondelivery, when she gave formal evidence to the Committee. We appreciate the trouble taken by Mrs Smith and her staff to outline the nature of the threat faced by the distribution centre. Mrs Smith has subsequently provided the Committee with a copy of Bondelivery's log of the security incidents that have taken place involving her company's vehicles since December 2002 in amplification of her public and informal evidence.

9. We have held a number of private unrecorded sessions and informal meetings in the course of the inquiry. We met the IMC and representatives of the Petrol Retailers Association. We received a briefing from officers of the Serious Organised Crime Agency (SOCA). In Belfast we met a representative of the construction industry who briefed us privately on the levels and extent of extortion in the construction sector. We are also particularly grateful to the representatives of construction firms who met us informally in Westminster to give their accounts of their experiences of being threatened with extortion. In Belfast, we met members of families of victims of attacks by organised criminal gangs, in which paramilitaries had played a leading role.

10. We would like to thank all those who helped in the organisation of our visits, all those who gave evidence to us in formal session, those we met in private and those who submitted written evidence. Mr David Watkins, our Specialist Adviser, has given invaluable help throughout the inquiry, and we are much in his debt.

## 2 The nature and scale of organised crime in Northern Ireland

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### Nature of organised crime

11. Two key themes ran through the evidence we received in public, private and informal sessions. There was universal recognition that Northern Ireland had made significant progress in the last decade and is now much more peaceful than for many years. However, it is also clear that many of those paramilitaries who have been involved in perpetrating acts of terrorism continue to be involved, either as part of an organisation or as individuals, in organised criminality. Even the latest (April) and most encouraging IMC Report underlines this. It must be remembered that fresh in everyone's memories from the start of our inquiry was the massive bank robbery at the Northern Bank in December 2004 and the general acceptance of the PSNI assessment that the Provisional IRA was responsible for this.

### Paramilitary involvement

12. The Organised Crime Task Force (OCTF) reported in its 2005 Annual Report that *all* paramilitary organisations in Northern Ireland “are heavily involved in organised crime both as a means of raising finance for their organisations and for personal gain”.<sup>3</sup> The accounts that we have received during the course of our inquiry have confirmed this still to be the case. Since its inception, the IMC has regularly reported on the involvement of all paramilitary groups in organised crime. It has noted the specific areas of criminal activity on which paramilitary organisations tend to focus, including the tendency for republicans to predominate in cases of smuggling, armed robbery and fraud and for loyalists to specialise in drug crimes, intellectual property theft and extortion. It also believes that paramilitaries are involved in most types of organised crime.<sup>4</sup>

13. The involvement of paramilitaries in organised crime is not a recent phenomenon. In public evidence from HM Revenue and Customs, we were told that paramilitaries have needed funding throughout their history and have acquired that funding “through different forms of criminality”.<sup>5</sup> In its 2005 Annual Report, the OCTF noted the full range of fundraising activity that paramilitaries are involved in, including soliciting donations for so-called charitable organisations, using pubs and clubs to raise and launder money, providing unregulated “security” services, exploiting government grants, and counterfeiting documentation.<sup>6</sup> Mr Nigel Smyth, Director of CBI, gave us to understand that “in the four big areas” (fuel smuggling, armed robberies, extortion and intellectual property crime), “the perception certainly is that the vast majority of that is paramilitary or

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3 The Organised Crime Task Force, Annual Report 2005, Serious and Organised Crime in Northern Ireland, p 27

4 Third Report of the Independent Monitoring Commission, 4<sup>th</sup> November 2004, paras 5.5, 5.6 pp 27 and 28

5 Q 311

6 The Organised Crime Task Force, *Confronting the Threat*, Serious and Organised Crime in Northern Ireland (2005), p 3

ex-paramilitary”.<sup>7</sup> The Federation of Small Businesses, told us that the majority of extortion and racketeering was believed to be carried out by paramilitaries.<sup>8</sup>

14. We were told that paramilitary organised crime was operating in varying states of organisation and sophistication.<sup>9</sup> Sir Hugh Orde told us that republican crime was “more organised and more sophisticated than loyalist crime”, although the less organised crime of loyalist groups was “equally difficult to deal with”.<sup>10</sup> The Assets Recovery Agency told us that loyalist organisations had traditionally been “much more fragmented” and that the assets they derived from crime tended to be for personal, rather than organisational gain.<sup>11</sup> By contrast, republican paramilitaries were more organised and the proceeds they derived from crime, while often greater than loyalists, were less visible, making them more difficult to find.<sup>12</sup>

15. We heard reports in informal meetings about the unusual alliances between paramilitary organisations, including between republicans and loyalists, which were formed for certain specific, often drug related, organised criminal activity. Such alliances were *ad hoc* pragmatic arrangements.

16. We also heard how the traditional pattern of paramilitary organised crime was shifting. One witness described in private session the shift as being from “paramilitary terrorism to paramilitary crime”. It was becoming more difficult, given the changing political context, to establish whether the assets derived from organised crime by paramilitaries were being used for organisational purposes or for personal gain.<sup>13</sup> Sir Hugh told us:

“It is very hard to judge what is paramilitary crime and, in the current debate, what is ordinary crime being committed by paramilitaries for their own gain rather than the organisation’s gain, certainly in relation to the provisional IRA”.<sup>14</sup>

17. Mr Peter Sheridan, Assistant Chief Constable of the PSNI with responsibility for organised crime, shared this view and argued that this was an ever moving picture and that no single, stable pattern of paramilitary behaviour could be identified.<sup>15</sup> The IMC described a similar “complex and shifting” scene in its report of 26<sup>th</sup> April, 2006. It warned that:

“The process of paramilitary transition [...] may also create a situation of added turbulence from which paramilitaries can benefit and which some may exploit as they look for alternative ways of life and new means of funding lifestyles they have become used to.”<sup>16</sup>

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7 Q 34

8 Q 34

9 Q 173

10 Q 125

11 Q 195

12 Q 195

13 Qq 125, 163, 311

14 Q 125

15 Q 125

16 Tenth Report of the Independent Monitoring Commission, 26th April 2006, para 4.4 p 30

18. Mr Paul Goggins, MP, the newly appointed Minister for Policing and Security, was emphatic that the law enforcement agencies in Northern Ireland would continue to bear down on organised crime, paramilitary and non paramilitary.<sup>17</sup> In giving evidence on 7 June 2006, he expressed concern at the current shift in the pattern of paramilitary organised crime and the potential for paramilitary gangs to mutate into professional organised criminal enterprises. He acknowledged that this presented a new challenge and would require law enforcement agencies to continue to exert pressure on organised criminal activity.<sup>18</sup>

19. PSNI evidence detailed the considerable control that paramilitaries continue to have over communities and the deep rooted fear that this caused. They informed us that paramilitary groups use their “associations to exert control over communities in the belief that they can pursue their criminal activity with impunity”.<sup>19</sup>

20. The IMC’s April 2006 Report summarised the harm that paramilitary organised crime caused to communities:

“Paramilitaries have roots in some parts of the community which enable them to profit more readily from major crime. For example, they control outlets for illicit alcohol, fuel and tobacco and sell goods within those communities. There is thus often what is described as a symbiotic relationship between the paramilitary criminal and the community, the former supplying goods for which there is a public demand and the latter tending to view the illicit trade as both beneficial because of the lower prices it offers and as victimless. In addition—especially amongst loyalists—some paramilitaries deal in drugs...The damage inflicted in the case of drugs is self evident. Other activities undermine legitimate businesses, thus reducing the job opportunities and discouraging investment, and so harming the interests of the very communities the paramilitaries claim to protect.”<sup>20</sup>

**21. Paramilitary organised crime continues to threaten the stability of communities in Northern Ireland and poses a real threat to future political progress. We are deeply concerned by the control which paramilitary groups from both communities continue to exercise over those communities, the fear that this creates and the attendant negative consequences that this has for the reporting of organised crime.**

**22. We share the Independent Monitoring Commission’s (IMC) concern about the potential for the process of paramilitary transition to create an instability which is open to exploitation by organised criminals with paramilitary backgrounds. It is vital that the Police Service of Northern Ireland (PSNI) and other law enforcement agencies in Northern Ireland take every possible step to combat paramilitary organised crime. If this requires extra financial and logistical support, then we call upon the Government to provide it. Ministers should be in no doubt that their political efforts could be completely undermined by another Northern Bank robbery.**

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17 Q 484

18 Q 486

19 Ev 94

20 Tenth Report of the Independent Monitoring Commission 26<sup>th</sup> April 2006, paras 4.2 and 4.3 pp 29-30

## Main areas of organised crime

23. In its 2006 Annual Report, the Organised Crime Task Force (OCTF) identified the principal organised crime threats in Northern Ireland for 2006–07 as: excise and tax frauds (including oils fraud and cigarette smuggling); intellectual property crime; illegal dumping; armed robbery and cash-in-transit attacks; drugs; money laundering; and extortion (blackmail and intimidation).<sup>21</sup> Our inquiry makes it abundantly clear that this is indeed an accurate assessment.<sup>22</sup>

### Oils fraud

24. The 2001 Public Accounts Committee and the Northern Ireland Affairs Committee in both the 1997 and 2001 Parliaments expressed concern that the differential in fuel duty rates between Northern Ireland and the Republic of Ireland had led to a high level of legitimate cross-border fuel purchases and the smuggling of fuel from the Republic into Northern Ireland. We have been informed in private session by individuals connected with the petrol retail industry that between 1995 and 2000, as excise duty on petrol doubled in real terms in the UK, the amount of legal fuel sold in Northern Ireland declined by 50%. Despite a reported 30% increase in road traffic in Northern Ireland, the amount of legal fuel sold in Northern Ireland is still reported to be only 75–80% of the 1994 level of sales. It is estimated that in 2003, £350 million of revenue was lost in Northern Ireland due to cross-border shopping for road fuel and from oils frauds.<sup>23</sup> HM Revenue and Customs' latest estimate is that £245 million of revenue is lost each year.<sup>24</sup> This represents a reduction in the use of fuel on which UK duty had not been paid from 40% of the total market in 2002 to around 30%.

25. In its Report in 1999 on the Impact in Northern Ireland of Cross-border Fuel Price Differentials, the Northern Ireland Affairs Committee expressed concern that fuel smuggling “appears to have become a means of funding for paramilitaries and racketeers. It is therefore damaging the social fabric of Northern Ireland”.<sup>25</sup> The Committee recommended that consideration be given to a licensing system for all fuel retailers and bulk users in Northern Ireland.<sup>26</sup>

26. In 2002 the Public Accounts Committee also expressed concern at the smuggling of fuel and the misuse of rebated fuels in Northern Ireland and noted that “It is a scandal that in one part of the UK approximately half of all garages are selling only illicit fuel”.<sup>27</sup>

27. HM Revenue and Customs informed us that since 2000 it has implemented the UK Oils Strategy to tackle oils fraud, increasing the number of its officers engaged in

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21 Organised Crime Task Force *Annual Report and Threat Assessment 2006* Organised Crime in Northern Ireland p 54

22 Qq 1, 230, 319, 321, 230

23 Joint Customs-Industry Northern Ireland Oils Intelligence and Security Forum, Customs Northern Ireland Activity Reports 2005 (No. 1).

24 Q 321

25 HC (1998-99) 334, para 62

26 *Ibid.* para 39

27 Public Accounts Committee, *The Misuse and Smuggling of Hydrocarbon Oils*, HC (2001-02) 649 para 4

combating oils fraud in Northern Ireland from 25 to 160.<sup>28</sup> This strategy has entailed setting up a central intelligence unit to direct operational activity, making additional funding available for investigations and launching a publicity campaign to highlight the damage caused to car engines by the use of illegally laundered fuel.<sup>29</sup>

28. The OCTF's 2005 Annual Report noted that during 2003–04, there were 13 fuel laundering plants disrupted, 901 vehicles seized, and only two gangs apprehended and broken up.<sup>30</sup> During the same period, there were four convictions for oils fraud and the average sentence was 7 months. No confiscation orders were made. In 2004–05 HM Revenue and Customs detected 891 vehicles using illegal fuel, broke up 18 laundering plants and broke up or disrupted five gangs engaged in oils fraud.<sup>31</sup> They seized a total of 1.78 million litres of illegal fuel.<sup>32</sup>

29. Officials of HM Revenue and Customs described to us the “range of behaviour” of those who purchase illicit fuel, knowingly or unknowingly.<sup>33</sup> Some people purchase fuel from tanks at the side of the road well aware that the fuel is likely to have been illegally obtained; others go to what appears to be a legitimate petrol station but must still suspect that they are purchasing illicit fuel if it is at a particularly low price; others do pay the full price at a seemingly legitimate retailer and end up purchasing illegal fuel. We were told in private session that even though a petrol station may have a brand name, there is no guarantee that the fuel being sold is legitimate.

**30. While we note the progress HM Revenue and Customs are making in combating oils fraud, we believe that it must increase its efforts to counter this activity. The amount of illicit fuel sold in Northern Ireland remains at an unacceptably high level. Despite recent increases in the numbers of laundering plants disrupted and gangs broken up, much remains to be done.**

### *Misuse of rebated fuels*

31. An area of particular concern is the misuse of rebated fuels, that is fuels on which a reduced rate of duty is payable. The most common examples of misuse of which we heard are the use of rebated kerosene for dilution of either regular or rebated red diesel<sup>34</sup>, the production of a usable fuel by mixing kerosene with other oils, inappropriate use of rebated red diesel (including mixing it with regular diesel) and the laundering of rebated red diesel to remove the marker dye. The UK Oils Strategy established the Registered Dealers in Controlled Oils (RDCO) scheme that came into effect in April 2003 and required distributors of red diesel and kerosene to be authorised by HM Revenue and Customs and to provide them with information on those buying red diesel and kerosene. The scheme

28 Ev 132

29 *Ibid.*

30 The Organised Crime Task Force Annual Report 2005, Serious and Organised Crime in Northern Ireland, p 13.

31 Ev 164

32 The Organised Crime Task Force Annual Report and Threat Assessment 2006. Organised Crime in Northern Ireland, p 11.

33 Q 312

34 Red diesel is rebated diesel which is sold only for certain specified uses; it is marked with a red dye and chemical marker.

also required registered dealers to take reasonable steps to ensure that they did not sell red diesel or kerosene to those who did not have a legitimate need. HM Revenue and Customs have informed us that the illicit diesel market in Great Britain has declined by 33% since the start of the scheme and that revenue loss in Northern Ireland has reduced from 58% of the market in 2002 to 42% of the market in 2004.<sup>35</sup>

32. HM Revenue and Customs argue that the RDCO scheme has “made a critical contribution to the reduction in diesel fraud levels [...] because it has made it much harder to source red diesel and kerosene as the supply chain has become more transparent and the RDCO population as a whole is much harder to exploit”.<sup>36</sup> We were told in private session that the RDCO scheme had had a positive effect, but that, although progress had been made in reducing illegal supply of rebated oils in Northern Ireland, supply was being maintained by criminal gangs shipping rebated fuel from the Republic and then laundering it for illegal sale in Northern Ireland.

33. The Northern Ireland Affairs Committee in 2003 recommended the adoption of the system which operates in Denmark whereby all duty is paid at the point of sale and rebates are subsequently reclaimed or offset against VAT returns by approved users.<sup>37</sup> The Government response was that the Danish scheme was too complex to administer, but it was reported that a review of the practicalities of operating such a scheme would continue in the light of progress of the RDCO scheme.<sup>38</sup> Professor Goldstock, who was commissioned by the Government to inquire into the problem of organised crime in Northern Ireland, recommended in 2004 that diesel should be taxed at the full rate and “legitimate end users allowed to utilise a tax rebate on the fuel purchased”.<sup>39</sup>

34. We received briefings from the PSNI about the environmental impact of laundering of rebated fuels. Red diesel is treated by criminal operators with a range of chemicals, including concentrated acids to remove its red dye and chemical marker. The resulting toxic residue is then dumped, often in streams or rivers, with serious environmental consequences. HM Revenue and Customs announced on 11 May 2006 the dismantling of a fuel-laundering plant at Belleeks, County Armagh.<sup>40</sup> They noted that during the operation, more than four tonnes of highly toxic acid waste was removed from the plant, some of which had been found in a concrete slurry pit that showed signs of corrosion. Officers had noted evidence of leakage of this toxic waste into the surrounding area.

35. In addition to the environmental damage caused by irresponsible disposal of the by-products of laundering, the use by motorists of fuel that has been treated with acids or other chemicals or the use of fuels diluted with kerosene represents a significant risk of corrosion to car engines.<sup>41</sup>

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35 Ev 165

36 *Ibid.*

37 HC (2002-03) 271

38 HC (2002-03) 412

39 Organised Crime in Northern Ireland, A Report for the Secretary of State and Government Response, recommendation 5.

40 HM Revenue and Customs Press Notice, 11 May 2006.

41 Q 346

36. We asked HM Revenue and Customs what steps could be taken to improve the resilience of markers for rebated fuels to make laundering more difficult. We were told that they have a continuing programme of examining marker technology to make statutory markers more difficult to remove and to make identification of illegally laundered fuel more precise.<sup>42</sup>

**37. We are pleased to note the success of the Registered Dealers in Controlled Oils Scheme established under HM Revenue and Customs' Oils Strategy, although we are concerned that the import of rebated oils from the Republic threatens to replenish the illegal supply chain. We accordingly note the importance of cross-border cooperation in combating misuse of rebated fuels. We recommend that the Government reconsider its dismissal of the Danish model of payment of duty on rebated fuels at the point of sale as a matter of extreme urgency and that it give its conclusions when it replies to this Report.**

38. We wish to highlight the environmental and health and safety costs of laundering of rebated fuels. We also note that such laundering is causing substantial damage to the engines of many cars of drivers who, in good faith, have purchased diesel that has been diluted with kerosene or red diesel that has been treated with acid to remove its rebate marker.

39. It is clear that there is a perception in Northern Ireland that those guilty of the crimes with which we are dealing get off lightly because the crimes are regarded as "victimless". There is no such thing as a victimless crime and we welcome the Minister's emphatic agreement with this statement.<sup>43</sup> Society itself, and the reputation of Northern Ireland, are victims of these crimes. On a personal level, the extortion and intimidation that go with these crimes have countless individual victims, each of whom lives in a permanent state of fear. Those responsible for this mental cruelty, and those who benefit from the proceeds of crimes associated with it, should be treated with no degree of leniency, but rather with the utmost severity the law allows.

### **Cigarette smuggling**

40. The evidence we received indicated that cigarette smuggling is one of the major activities of organised criminals in Northern Ireland. The 2006 OCTF Annual Report and Threat Assessment noted that tobacco smuggling "continues to be one of the highest priority areas for HMRC criminal investigations in Northern Ireland" and that "organised criminals in Northern Ireland operate at the higher levels of UK cigarette smuggling".<sup>44</sup> HM Revenue and Customs (HMRC) officials also told us how criminal gangs based in Northern Ireland were "brokering the cigarette supply from the Far East" and supplying cigarettes to "middle level distributors" and "low level distributors across the whole of the UK".<sup>45</sup> Mr Donald Toon, Deputy Director of Criminal Investigations at HMRC, told us

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42 Ev 165

43 Q 497

44 Organised Crime Task Force *Annual Report and Threat Assessment 2006* Organised Crime in Northern Ireland pp 14, 32

45 Q 350

that the vast majority of cigarettes seized in Northern Ireland are not “destined for the Northern Ireland market”, but for distribution across the rest of the UK:

“We have quite a long history of significant consignments of cigarettes moving into the Republic [of Ireland] from mainland Europe going up from the Republic being either broken up, split up or simply having the method of transport slightly changed, over the border across into GB and then distributed into Scotland, to the north and north west of England as well as down to Essex and the London area”.<sup>46</sup>

41. When HMRC’s UK tobacco strategy was launched in 2000, the majority of cigarettes seized across the UK were of “UK manufactured origin”, but in recent years, the majority of cigarettes seized have been counterfeit.<sup>47</sup> HMRC informed us that in 2003–2004, 54% of cigarettes seized were counterfeit compared with only 15% in 2001–2002. Counterfeit cigarettes carry additional health risks because of increased levels of cadmium and lead, as well as increased levels of tar and nicotine.<sup>48</sup> Mr Paul Gerrard, Deputy Head of Enforcement and Compliance, HMRC, said that the vast majority of counterfeit cigarettes were being sold through “informal networks”, family circles, pubs and clubs, the work place and street corners.<sup>49</sup> During 2004–05, HMRC seized a total of 19.7 million cigarettes and 1,121 kilos of hand rolled tobacco in Northern Ireland.<sup>50</sup>

42. HMRC officials assured us that they had a very close working relationship with the PSNI and had carried out joint operations to disrupt cigarette smuggling activity.<sup>51</sup> Mr Philip Aiken, Head of Organised Crime Branch, PSNI, detailed one joint operation in Armagh in late 2005 which had led to the seizure of 15 million cigarettes, representing a potential revenue loss of approximately £3.5 million. HMRC argued that such operations demonstrated the involvement of “serious and organised criminality” in cigarette smuggling.<sup>52</sup> We were also told about the close working relationship that HMRC had with the Revenue Commissioners in the Republic of Ireland and An Garda Siochana, particularly the Criminal Assets Bureau.<sup>53</sup>

**43. Cigarette smuggling is a major and highly lucrative organised criminal activity in Northern Ireland. We acknowledge the efforts of HM Revenue and Customs in tackling what is a large scale, highly organised and complex problem. We welcome the close cooperation between HMRC, the PSNI, An Garda Siochana and the Revenue Commissioners in the Republic. We believe that this area of organised crime can be tackled effectively only through close cooperation with law enforcement agencies in those countries involved in this trade and with international law enforcement agencies such as Europol and Interpol. We note that the supply chains for counterfeit cigarettes and the smuggling of genuine cigarettes extend across Europe and far beyond.**

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46 Q 349

47 Ev 133

48 Q 330 Ev 96

49 Q 327

50 Q 349

51 Q 336 Ev 134

52 Ev 134

53 Q 353

### *Intellectual property crime*

44. The PSNI told us that intellectual property crime is a “major local problem”.<sup>54</sup> They also gave us the opportunity to examine counterfeit goods and currency seized by them in recent months. During 2005-06, the PSNI seized £9.9 million worth of counterfeit goods and equipment used to produce such goods such as CD burners.<sup>55</sup> We were told that counterfeit goods are distributed, often through local markets, and are a “multi-million pound business in Northern Ireland”.<sup>56</sup> Criminals in Northern Ireland had been using the internet in order to sell and distribute their counterfeit goods to a “wider audience”.<sup>57</sup> The PSNI explained that the harm caused by the sale of counterfeit goods was not only to legitimate manufacturers and traders, but also to the customer, who purchases “shoddy quality” or potentially dangerous counterfeit goods.<sup>58</sup> For example, counterfeit cigarettes seized in Northern Ireland had been found to contain 160% more tar, 80% more nicotine, five times the level of cadmium, and to generate 133% more carbon monoxide than legitimate cigarettes.<sup>59</sup> Assistant Chief Constable, Mr Peter Sheridan with responsibility for organised crime, asked “why people buy counterfeit cigarettes, why people buy counterfeit alcohol that is made up of part white spirit, why people buy perfume that has urine in it”. He suggested that they did so “because they think they are getting a bargain”.<sup>60</sup>

45. To tackle the problem, the PSNI has worked closely with HMRC and other members of the OCTF’s expert group on intellectual property crime. This expert group includes representatives from HMRC, the Assets Recovery Agency, the Federation Against Copyright Theft (FACT), and the UK Patent Office. It provides “a forum for exchanging ideas and good practice” and identifying barriers to investigation.<sup>61</sup> The group prepares a quarterly counterfeit products bulletin to inform front line PSNI officers of the most prevalent counterfeit products and emerging trends. It has also undertaken a “programme of education” to inform various organisations of the harm intellectual property crime causes the community and the economy, emphasising that it is not a victimless crime.<sup>62</sup> We are glad to note that the PSNI have recently closed Jonesborough Market in South Armagh which was known to sell a range of counterfeit goods. We understand, however, that alternative trading areas were being established close to the site of Jonesborough Market and so continued vigilance is essential.

**46. We welcome the measures taken by the PSNI in conjunction with the OCTF’s expert group and commend their efforts in tackling this major area of organised crime in Northern Ireland. We are deeply concerned by the effect which intellectual property crime is having on the local economy and the potentially hazardous effect which some counterfeit goods, including cigarettes and alcohol, have on the health of those who are**

54 Ev 96

55 Organised Crime Task Force *Annual Report and Threat Assessment 2006* Organised Crime in Northern Ireland p9

56 Ev 96

57 *Ibid.*

58 *Ibid.*

59 *Ibid.* Cadmium is a carcinogen which can cause lung, kidney and digestive tract damage.

60 Q 162

61 Ev 97

62 *Ibid.*

duped into buying them. We welcome the publicity that accompanied the launch by the Policing and Security Minister of the OCTF's 2006 Annual Report, highlighting the potential hazards of counterfeit goods and conveying the message that intellectual property crime is not victimless. We urge the Government to take every possible step to ensure that this message is conveyed to the whole community.

### *Illegal dumping*

47. During our visit to Belfast in October we received a briefing from officers of the PSNI on their work, in collaboration with An Garda Síochána in the Republic of Ireland in combating the problem of illegal dumping. This has been another area in which organised criminal gangs have become active and large sums of money are often involved. The PSNI Organised Crime Squad had been involved in a number of operations to combat the illegal smuggling of waste from the Republic of Ireland for dumping in Northern Ireland and Scotland.<sup>63</sup> The PSNI reported to us that one haulier had smuggled 28,000 tonnes of waste into Northern Ireland during an 18-month period, and had received payments in excess of €2.5 million.<sup>64</sup> The PSNI reported that they worked closely with the Environment and Heritage Service, which has formed a dedicated Environmental Crime Team, and with colleagues south of the border.<sup>65</sup> A number of joint operations have been carried out which have resulted in individuals being charged with money laundering and waste offences. We have also been given to understand that waste is also smuggled from Northern Ireland for dumping in the Republic.

48. Recent developments had included the maceration of waste, prior to smuggling into Northern Ireland, to make its origin more difficult to establish.<sup>66</sup> It was also reported that there has also been an increased trend in the importation of "green waste"<sup>67</sup> into Northern Ireland, for dumping in landfill sites.<sup>68</sup> The OCTF's 2005 Annual Report identified illegal dumping as a growing problem and noted that 40 illegal landfill sites had been detected in Northern Ireland. An estimated 250,000 tonnes of illegal waste from the Republic of Ireland, capable of generating profits of £25 million was included in this.<sup>69</sup> The Department acknowledged that the next estimate due later this year "is likely to be appreciably higher".<sup>70</sup> The 2006 OCTF Annual Report and Threat Assessment notes that there have been less frequent detections of large illegal dump sites and increasing use of "small sites where waste is buried at night for a short period of time". Waste is also hidden under development works.<sup>71</sup> In addition to the damage caused to the environment and the very substantial clean-up costs the Comptroller and Auditor General for Northern Ireland has

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63 Ev 100

64 Ev 105

65 *Ibid.*

66 *Ibid.*

67 Green Waste is garden waste.

68 Ev 105

69 The Organised Crime Task Force Annual Report 2005, Serious and Organised Crime in Northern Ireland, p 34

70 HC (2005-06) 928, page 40

71 The Organised Crime Task Force *Annual Report and Threat Assessment 2006* Organised Crime in Northern Ireland p 21

calculated that the cost in lost landfill tax revenue prior to 2004 was at least £5.6 million.<sup>72</sup> The PSNI has established formal arrangements for the exchange of intelligence with the Environment and Heritage Service (EHS).<sup>73</sup>

49. The PSNI expressed its frustration that the draft Waste and Contaminated Land (Amendment) (Northern Ireland) Order 2006 had not yet been brought into operation.<sup>74</sup> The proposed legislation would contain new powers to stop, search and seize vehicles suspected of involvement in the transportation of illegal waste.

**50. We note with satisfaction the work that the PSNI is doing to combat illegal dumping and welcome its close collaboration with An Garda Síochána and the Environment and Heritage Service. We urge the Government to introduce legislation, before the end of this Parliamentary Session, to give the police powers to detain vehicles suspected of transporting waste.**

### **Social Security Fraud**

51. The Social Security Agency (SSA) within the Department for Social Development (DSD) employs over 200 staff in the detection and investigation of social security benefit fraud and has a dedicated benefit fraud investigation unit.<sup>75</sup> The SSA has also undertaken work in examining identity fraud. Officials from DSD informed us that the Department had increased steps to verify identity in payments of benefits and had made substantial progress in combating identity fraud.<sup>76</sup> The process of issuing National Insurance numbers has become more thorough, and the ending of payments by order book has helped to reduce fraudulent payments. Officials had no evidence of any significant involvement by paramilitaries in social security fraud.<sup>77</sup> It was thought that, overall, the level of benefit fraud in Northern Ireland was comparable with rates in Great Britain, running at around 1% of expenditure.<sup>78</sup> Officials from DSD liaised closely with the Department for Work and Pensions on measures to combat fraud.<sup>79</sup>

52. In May 2006, Criminal Justice Inspection Northern Ireland published a report on the Social Security Agency's Benefit Fraud Investigation Unit<sup>80</sup>. The report highlighted a number of shortcomings and concluded that the Unit could make better use of available resources, information and intelligence to tackle benefit fraud<sup>81</sup>. It noted that only one in ten cases of fraud led to a formal caution, administrative penalty or prosecution.<sup>82</sup> Staff in

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72 Northern Ireland's Waste Management Strategy, Report by the Comptroller and Auditor General, HC 88, Session 2005-06, paragraph 1.6

73 *Ibid.*

74 Ev 105, 106

75 Organised Crime Task Force Annual Report 2005, Serious and Organised Crime in Northern Ireland, p 33

76 Q 464

77 Q 465

78 Q 467

79 Q 468

80 Inspection of the Benefit Investigation Service of the Social Security Agency, May 2006, Criminal Justice Inspection Northern Ireland

81 *Ibid.* p 13

82 *Ibid.* p 5

the Social Security Agency often viewed the Benefit Fraud Investigation Unit as a separate arm of the organisation, and providing the unit with valuable information to help identify suspected fraudulent activity tended to be given a lower priority than other work.

**53. While we welcome the steps being taken by the Social Security Agency to combat identity fraud and to improve the process of issuing national insurance numbers, we are concerned by the weaknesses identified by Criminal Justice Inspection Northern Ireland in the Agency's Benefit Fraud Investigation Unit. We urge the Benefit Fraud Investigation Unit to implement the recommendations of the Criminal Justice Inspection report without delay. Given the experience in Great Britain of organised criminal gangs operating benefit fraud, we urge the Department of Social Development to continue to give urgent attention to this.**

### **Armed Robbery**

54. According to the PSNI, levels of armed robbery and “cash in transit” robberies in Northern Ireland are not exceptionally high compared with levels in other police force areas in the United Kingdom.<sup>83</sup> The Policing and Security Minister, Mr Paul Goggins, MP, noted that the numbers of cash in transit robberies had gone down from 105 in 2003 to 64 in 2005.<sup>84</sup> In 2006, the number of armed robberies declined further to 58.<sup>85</sup> The Minister informed us that the PSNI policy of operating joint control rooms with banks' private security had been successful in combating cash in transit robberies.<sup>86</sup> It is however not just the number of robberies which is important, but the amounts involved. The reduced numbers in 2004 included the Northern Bank robbery.

### **Drugs**

55. We have noted in paragraph 15 the involvement of paramilitaries in drug trafficking – including collusion between republicans and loyalists. Nevertheless, the PSNI informed us that the illegal drugs market in Northern Ireland did “not reflect national trends in either the United Kingdom or the Republic of Ireland, but there are indicators and emerging trends which suggest that this could change”.<sup>87</sup> The PSNI reported signs of increasing demand for, and of the supply of, cocaine. However, cannabis and ecstasy remained the most commonly abused drugs in Northern Ireland.<sup>88</sup> Sir Hugh Orde acknowledged that the extent of the drugs problem in Northern Ireland was not comparable with that in the rest of the United Kingdom<sup>89</sup>.

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83 Q126

84 Q 517

85 Organised Crime Task Force *Annual Report and Threat Assessment 2006* Organised Crime in Northern Ireland p 15

86 Q 517

87 Ev 96

88 *Ibid.*

89 Q156

## Human Trafficking

56. While we were told that there is no evidence of “large scale” people smuggling operations in Northern Ireland, there is evidence that Northern Ireland is being used as “a ‘back door’ by those wishing to enter both Great Britain and the Republic of Ireland”.<sup>90</sup> Many attempting to do so are failed asylum seekers intending to “re-apply in a different jurisdiction or leave and re-enter the original jurisdiction but under a different identity and apply for asylum a second time”.<sup>91</sup> The majority of these persons “use Northern Ireland as a transit route in both directions between Great Britain and the Republic of Ireland”.<sup>92</sup> The Women’s Aid Federation in Northern Ireland, in formal evidence to the Joint Committee on Human Rights on 22 May 2006, reported anecdotal evidence that Northern Ireland is being increasingly used as a transit route to traffick women through to the UK from the Republic of Ireland and vice versa.<sup>93</sup> The Federation also said that it had anecdotal evidence of the involvement of paramilitaries in human trafficking.<sup>94</sup>

57. The Policing and Security Minister, Mr Paul Goggins, MP, told us that while human trafficking was a pressing issue, levels in Northern Ireland were lower than in the rest of the UK.<sup>95</sup> He said that there had been an increase in the number of female foreign nationals working in prostitution in Belfast.<sup>96</sup> He had not received evidence confirming paramilitary involvement in human trafficking.<sup>97</sup> The Minister was awaiting the results of Operation Pentameter, a UK-wide police-led operation to tackle the trafficking of women. The UK Immigration Service was in the process of setting up an office in Belfast with 6 enforcement officers.<sup>98</sup> He undertook to keep the situation under review. Victims of trafficking would be given all necessary support.<sup>99</sup>

## The use of the border

58. The use of the border was identified as a feature of organised crime in Northern Ireland that was unique for the United Kingdom. The PSNI told us that a significant number of organised criminals use the border with the Republic of Ireland to conceal and launder their assets:

“they seek to cover the money trail by transferring funds between accounts on either side of the border, purchasing assets, notably property, in the Republic of Ireland and

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90 Ev 100

91 *Ibid.*

92 Organised Crime Task Force *Annual Report and Threat Assessment 2006* Organised Crime in Northern Ireland p 42

93 HC 1127-I Q 2

94 HC 1127-I Q 5

95 Q 488

96 Q 489

97 Q 489

98 Q 489

99 Q 489

using parallel company structures passing money between businesses to make cash flows appear legitimate.”<sup>100</sup>

59. Mr Alan McQuillan, Director of the Assets Recovery Agency, told us that the border was used by criminal gangs to smuggle goods (exploiting duty differentials), to “frustrate law enforcement” in Northern Ireland by committing crimes in one jurisdiction and hiding evidence in the other, and to hide assets.<sup>101</sup> This view was shared by the Northern Ireland Office and the Northern Ireland Departments.<sup>102</sup>

60. The opportunities created by the border have necessitated close working relationships between the law enforcement agencies in Northern Ireland and those in the Republic of Ireland. During our visit to Dublin we were told about the regular liaison and joint cross border operations between An Garda Síochána, including the Criminal Assets Bureau; the PSNI, Assets Recovery Agency, and HM Revenue and Customs. Cross border cooperation is discussed further at paragraphs 172 to 177. We have been impressed by some of the examples of joint operations that have been outlined to us in private.

### Increasing sophistication

61. We received evidence that organised crime in Northern Ireland was becoming more sophisticated. Mr Donald Toon, Deputy Director of Criminal Investigations at HM Revenue and Customs (HMRC), told us that increased sophistication was inevitable because as law enforcement agencies become more expert and change their approaches to interventions, organised criminal gangs “use more complex mechanisms” and “tighter knit groupings” and move into slightly different areas of fraud.<sup>103</sup> According to Mr Mark Evans, Director of PSNI’s Analytical Services, organised criminal gangs are using “a wide range of more sophisticated ways to scam money out of people, including using the internet and techniques to withdraw money from cash machines”.<sup>104</sup> In particular, he told us that those with previous paramilitary connections were very “forensically aware” and “deploy techniques which are difficult for the police sometimes to deal with”.<sup>105</sup>

62. The PSNI told us that the increasingly sophisticated nature of organised crime required “a high level law enforcement response which is continually adapting to respond to new challenges”.<sup>106</sup> It has undertaken work to develop a “framework” compliant with the National Intelligence Model<sup>107</sup> to ensure that resources are focused on “the gangs which have the potential to cause the most significant harm to the community”. We were told

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100 Ev 97

101 Q 173

102 Ev 141

103 Q 310

104 Q 128

105 Q 128

106 Ev 94

107 The National Intelligence Model is a model for policing that ensures information is fully researched, developed, and analysed to provide intelligence which enables senior managers to: provide strategic direction; make tactical resourcing decisions about operational policing; and manage risk. The model is one which can be used for most areas of policing and offers the goal of integrated intelligence in which all forces and law enforcement agencies play a part.

that HMRC's overseas "fiscal liaison officer network" had been effective in responding to increased sophistication because the network provided "a particular set of information which is very useful and very effective in terms of detecting the criminality".<sup>108</sup>

**63. We welcome the initiatives taken by the law enforcement agencies, but, if public confidence is to be increased, it is essential that the public understand what is being done on its behalf and so those agencies must use plain language when they explain their work.**

**64. We gladly recognise the important steps taken by law enforcement agencies on both sides of the border to address the disturbing increase in the sophistication of organised crime. It is, however, of crucial importance that their investigations and response continue to be sufficiently robust to act as a deterrent. In this context, it is vital that more criminals are convicted; that the statutory penalties are adequate; and that sentences reflect the severity of the crime.**

### European and international links

65. We heard evidence that the activities of criminal gangs in Northern Ireland had both European and international dimensions. Ms Jane Earl, Director of the Assets Recovery Agency (ARA), told us that there were criminal gangs in Northern Ireland that attempted to conceal their assets by purchasing properties in other European counties "or even further afield".<sup>109</sup> She was certain that criminals operating in Northern Ireland had "outposts" elsewhere in the UK and adopted a business approach to their activities:

"[...] the types of people we are dealing with [...] will adopt a business-like approach to what they are doing, look at where the markets of their services are and where the weakest points are in order to be able to operate criminally and will go there".<sup>110</sup>

66. The PSNI informed us that many of the criminal gangs currently under investigation had established links outside Northern Ireland which were used to "source criminal commodities cheaply, avoid detection and increase profits".<sup>111</sup> We were told that gangs involved in intellectual property crime in Northern Ireland had links with groups in Turkey and Thailand. Drugs had been imported from Europe. Counterfeit currency manufactured in Northern Ireland had been recovered throughout Europe.<sup>112</sup>

67. HMRC officials explained how criminal gangs based in Northern Ireland were supplying cigarettes to "middle and low level distributors" across the whole of the UK".<sup>113</sup> Mr Donald Toon of HMRC believed that it was essential for the problem to be seen "as a large scale international fraud" and that examining the number of arrests and seizures in one area did not give a real picture of the nature and scale of the problem.<sup>114</sup> We were

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108 Q 310

109 Q 175

110 Q 175

111 Ev 95

112 *Ibid.*

113 Q 350

114 Q 350

informed that of four cigarette consignments seized by HMRC this year, two had originated in China and one in Malaysia.<sup>115</sup>

68. When we asked the Assets Recovery Agency whether Northern Ireland was being used as an “outpost” for eastern European criminals, Mr Alan McQuillan, Assistant Director of ARA, explained that the pattern of behaviour tended to be for Northern Ireland criminals to go “outside to source product” and to launder and conceal money in other jurisdictions, rather than for other groups to come in.<sup>116</sup> He acknowledged that when Northern Ireland criminals go abroad to purchase products they may buy them from “organised crime cartels in Turkey or eastern Europe”, but that by and large activity in Northern Ireland was led by “homegrown criminals”.<sup>117</sup>

### Involvement of ‘professionals’ in organised crime

69. In its 2005 Annual Report, the OCTF noted the tendency for “more sophisticated criminal enterprises” to seek the services of ‘professional’ advisers “to help them conceal their profits by means of investment in assets or the use of ‘cover’ companies to launder their money”.<sup>118</sup>

70. The PSNI informed us that in a small number of cases under investigation, ‘professional’ advisers, including accountants, independent financial advisers, and solicitors have “assisted and advised criminals to conceal assets and avoid attention”.<sup>119</sup> Under the Proceeds of Crime Act 2002, such advisers are subject to prosecution and failure to disclose their clients’ financial activities can result in severe penalties.<sup>120</sup> The PSNI have recently arrested a solicitor and estate agent as part of a serious crime investigation in Belfast.<sup>121</sup>

71. When we asked HMRC about the measures they were taking to tackle the involvement of ‘professionals’ in organised crime, Mr Donald Toon, HMRC, told us that while HMRC did not specifically target professionals, it would take “investigation and prosecution action against anyone who it is clear is involved in further criminality”.<sup>122</sup> He mentioned a recent case in which an accountant had been prosecuted and received a custodial sentence for his involvement in laundering the proceeds of oils fraud.<sup>123</sup> Mr Toon believed that the decision had had a significant impact on the perpetrator’s business and “his colleagues in the accountancy profession”.<sup>124</sup>

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115 Q 350

116 Q 176

117 Q 176

118 The Organised Crime Task Force Annual Report 2005 *Serious and Organised Crime in Northern Ireland*, p 27

119 Ev 97

120 *Ibid.*

121 Daily Ireland ‘Solicitor arrested’, Tuesday 9 May 2006 p 9

122 Q 354

123 Q 354

124 Q 354

72. The Law Society informed us of its commitment to “upholding the core values of the legal profession, including its independence of the state and the proper and lawful protection of client confidentiality”.<sup>125</sup> Where it receives evidence of the commission of a criminal offence, the matter is reported to the law enforcement agencies.<sup>126</sup> Where there is “cogent proof of criminality”, professional disciplinary proceedings will be brought before the independent Solicitors’ Disciplinary Tribunal, which may result in sanctions including the striking off of a solicitor.<sup>127</sup> The Law Society noted the work that it had undertaken to raise awareness and train solicitors in their legal obligations relating to money laundering. It also noted the meetings that it had held with the Assets Recovery Agency and the PSNI.

73. The Minister noted that the PSNI had been involved in training work with the Law Society on solicitors’ obligations in connection with alerting the law enforcement agencies to organised criminal activities.<sup>128</sup> Sir Stephen Lander, Chairman of the Serious Organised Crime Agency, had conducted a review of suspicious activity reports made to the law enforcement agencies by those engaged in financial services.<sup>129</sup> Further work would be undertaken to engage the financial services sector, underlining the responsibilities of accountants and legal advisers to combat organised crime.<sup>130</sup>

74. The reduction of financial crime is one of the Financial Services Authority’s statutory objectives.<sup>131</sup> The FSA works with firms in risk management and strengthening controls, and works with law enforcement agencies, the Government, trade associations and the Joint Money Laundering Steering Group to develop defences against money-laundering and fraud. The Agency announced in April 2004 that it was developing a more intelligence-led approach to its work in combating financial crime, including financial sector fraud and money-laundering, and that it was collaborating closely with law enforcement and other agencies.<sup>132</sup> During 2005–06 the finance expert group of the OCTF collaborated with the Financial Services Authority and the private sector to “introduce a number of initiatives to tackle financial crime”, including the introduction by all the major banks in Northern Ireland of the “account payee only” marking on their chequebooks to ensure that payments are only made to the payee of the cheque.<sup>133</sup>

**75. The involvement of ‘professionals’ is a further worrying attribute of organised crime. We suspect, given the evidence of increased sophistication, that ‘professional’ assistance is an important element in organised criminal activity. We commend the work that has been undertaken by the law enforcement agencies in conjunction with the Law Society and with the financial services sector. We believe that this area will require an ever vigilant approach by the agencies of the OCTF. They must remain alert to the problem and take all possible steps to bear down on it. It is also incumbent on the**

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125 Ev 160

126 *Ibid.*

127 *Ibid.*

128 Q 495

129 Q 495

130 Q 495

131 Financial Services and Markets Act 2000, section 6.

132 Financial Services Authority Annual Report 2004-05, page 23.

133 Organised Crime Task Force *Annual Report and Threat Assessment 2006* Organised Crime in Northern Ireland p 16

**professional bodies, such as the Law Society and the Institute of Chartered Accountants, to satisfy themselves that their membership requirements are sufficiently rigorous and that observance of them is carefully monitored.**

## The Scale of the problem

76. Many respondents acknowledged the difficulties in determining the scale of organised crime in Northern Ireland not least because it is subject to under reporting and therefore it is only those crimes that are reported that come to public notice. For example, we were told how businesses in Northern Ireland are seriously affected by extortion, but the high risks “in terms of personal security and business sustainability” mean that few of these crimes are reported.<sup>134</sup>

77. We were told that organised crime was continuing at high levels. Mr Tom Wilson, Manager of the Freight Transport Association, told us that organised crime was “difficult to quantify”, but that in the last ten years, there had been considerable organised criminal activity, “more so than ever before”.<sup>135</sup> Mrs Val Smith, former National Chairman of the Road Haulage Association Limited, went so far as to suggest that current levels of criminality are “worse than [...] during the troubles”.<sup>136</sup>

78. Mr Wilfred Mitchell, Chairman of the Federation of Small Businesses (FSB), believed that Northern Ireland was on the verge of having “two mini mafias” in place of competing terrorist organisations and that urgent action was required to tackle what he believed was a very serious problem.<sup>137</sup> Mr Nigel Smyth, Director of the Confederation of British Industry (CBI) in Northern Ireland, painted a mixed picture. He told us that extortion and racketeering were continuing “at a very high level”, that fuel smuggling and fuel laundering remained significant problems, and that counterfeiting continued “to get worse”. More positively, the number of armed robberies had declined, a result of extra security measures taken by businesses in Northern Ireland, and the increased resources of PSNI.<sup>138</sup>

79. Mr Paul Gerrard, Deputy Head of Enforcement and Compliance Operations at HM Revenue and Customs, confirmed that although there had been a 22% growth in the sale of legitimate fuel in Northern Ireland since 2000, fuel smuggling and fuel laundering were continuing at significant levels.<sup>139</sup> We also heard that counterfeit alcohol was “being produced on an alarming scale” and that illegal sales of alcohol from sources such as markets, ice cream vans, door to door sales and taxis was a “significant problem”.<sup>140</sup> We heard compelling and disturbing accounts of the prevalence of extortion within the construction industry.

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134 Q 4

135 Q 63

136 Q 63

137 Q 26

138 Q 6

139 Qq 319, 321

140 Q 230

80. Sir Hugh Orde, Chief Constable of the PSNI, stressed the importance of comparing levels of organised crime in Northern Ireland with that in the rest of the United Kingdom.<sup>141</sup> He believed that Northern Ireland did not suffer from a higher level of organised crime. He told us that in 2005, Northern Ireland averaged 1.2 “cash in transit” robberies per week which placed it fifth on the scale of armed robberies among police areas in the United Kingdom, behind forces including the Metropolitan Police, the Greater Manchester Police, and the West Midlands Police areas.<sup>142</sup> However, he acknowledged that Northern Ireland was “a major player” in terms of intellectual property crime and that last year the PSNI had “seized more counterfeit goods than the other 43 police forces put together”.<sup>143</sup> He believed nonetheless that the battle against organised crime was winnable.<sup>144</sup> Ms Jane Earl, Director of the Assets Recovery Agency (ARA), was also keen to stress that Northern Ireland did not necessarily have a more serious organised crime problem than the rest of the UK. However, she did emphasise the “severe harm” caused by long standing organised criminal activity and the serious impact it was having on communities in Northern Ireland.<sup>145</sup> Mr Alan McQuillan, Assistant Director of ARA, was keen to point out that the value of the average case the Agency deals with in Northern Ireland is “a third smaller” than the average value of cases in the rest of the UK.<sup>146</sup>

81. Mr Donald Toon, Deputy Director of Criminal Investigations at HMRC, recognised the difficulties in determining the scale of organised crime and told us that “serious and organised criminality in Northern Ireland is probably more significant and has a higher impact [...] than it would elsewhere in the United Kingdom”.<sup>147</sup> A number of respondents believed that it was more appropriate to measure the scale of organised crime in Northern Ireland in terms of the harm it causes to communities rather than attempting to develop precise figures. This was the view of the Serious Organised Crime Agency (SOCA).<sup>148</sup> We note that the core objective of SOCA’s work will be to reduce the harm caused to people and communities in the United Kingdom. This is the nub of the issue we have investigated and on which we now report to Parliament. Mr Paul Goggins, MP, the Policing and Security Minister, believed that quantifying the problem of organised crime was important, but measuring the harm that is being prevented as a result of the actions of the law enforcement agencies was even more important.<sup>149</sup> He said that more work was required to define what is meant by harm reduction.<sup>150</sup>

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141 Q 127

142 Q 126

143 Q 126

144 Q 126

145 Q 172

146 Q 173

147 Q 308

148 SOCA was formerly established on 1 April 2006. It incorporates the functions of the National Criminal Intelligence Service (NCIS), the National Crime Squad, elements of HM Revenue and Customs (including its investigative and intelligence work on serious drug trafficking and related criminal finances), and the UK immigration service’s work on organised immigration crime.

149 Q 481

150 Q 481

82. The Home Office is undertaking a study of the economic and social harm caused by organised crime in England and Wales and is due to publish its findings this autumn. It is also carrying out a separate study to assess the impact of organised crime on communities. When we asked the Minister what assessment the Northern Ireland Office will make of the Home Office study, he told us that the Home Office's study was very important and that any assessment of it would build on the already excellent work of the PSNI analytical centre.<sup>151</sup> The PSNI was undertaking pioneering work to link its operations to the reduction of harm caused by organised crime.<sup>152</sup>

83. The Organised Crime Task Force (OCTF) has, since 2000–01, published annual reports which provide assessments of the threat posed by criminal gangs in Northern Ireland and information about the scale of the main areas of organised crime. In its 2006 Annual Report, the Task Force noted that during 2005–06 there had been 58 armed robberies, which was down from 64 in 2004–05 and 113 in 2002–03.<sup>153</sup> It reported that 18 fuel laundering plants were disrupted during 2004–05 which was up from 13 in 2003–04, and 1.78 million litres of illicit fuel had been seized.<sup>154</sup> Cigarette smuggling is tackled through a national strategy and the OCTF's figures are therefore for the UK as a whole. In 2004–05, for the first time since the introduction of HMRC's tobacco strategy, more cigarettes were seized overseas (1,060 million) than in the UK (960 million), and 68 gangs involved in tobacco smuggling were disrupted.<sup>155</sup> In the course of our inquiry, we heard evidence that cigarette smuggling was continuing at a high level and that during 2004–05, 19.7 million cigarettes were seized in Northern Ireland.<sup>156</sup> We also received compelling evidence that criminal gangs in Northern Ireland were playing a significant role in supplying cigarettes to the rest of the UK and further afield.<sup>157</sup> The 2006 OCTF report also identifies illegal dumping as one of its priorities and notes that in 2004 the Public Prosecution Service investigated 1256 cases of illegal dumping and 1167 in 2005.<sup>158</sup>

84. The Minister acknowledged that there was a need to gain a better understanding of the organised crime market in Northern Ireland.<sup>159</sup> He believed that the focus of law enforcement activities should be on targeting criminal gangs in Northern Ireland, and not the "commodities" of crime.<sup>160</sup>

**85. It is clear from the evidence that we received that organised crime in Northern Ireland is subject to significant under reporting and that many of its victims fear intimidation or reprisal. In the absence of any firm statistical data on the size of the problem, the vast majority of respondents relied on direct personal experiences and**

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151 Q 481

152 Q 481

153 The Organised Crime Task Force Annual Report and Threat Assessment 2006, Organised Crime in Northern Ireland, p15

154 *Ibid.* p 11

155 *Ibid.* p 14

156 Q 349

157 Q 349

158 Organised Crime Task Force *Annual Report and Threat Assessment 2006* Organised Crime in Northern Ireland p 46

159 Q 480

160 Q 480

anecdotal evidence. This applies to all types of crime on which we took evidence. Because of the political history of Northern Ireland, its recent terrorist past and the continuing involvement of paramilitaries, organised crime is of a different nature and consequently has a more damaging impact on communities than it does in other parts of the UK.

86. We welcome the Policing and Security Minister's acceptance that there is a need for an enhanced understanding of organised crime in Northern Ireland. Understanding its nature and the gangs and networks involved is vital in order to ensure a wholly effective and robust response by the law enforcement agencies. We welcome the Minister's assurance that the focus of the law enforcement agencies will be on targeting organised criminal gangs. We are encouraged by Sir Hugh Orde's assertion that the battle against organised crime is "winnable". His putting it in these terms, however, shows that it has yet to be won.

87. We note the Minister's willingness to engage with the Home Office on its work on reducing the harm caused by organised crime, and his belief that this work is particularly appropriate for Northern Ireland.<sup>161</sup> **A comprehensive assessment measuring the economic and social harm caused by organised crime in Northern Ireland would demonstrate how great the problem is. The time for determined new initiatives has come.**

## 3 The impact of organised crime on different sectors of the economy and society

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### The business community

88. Mr Nigel Smyth, Director of CBI, told us that the illegal sale of cigarettes, alcohol, and other goods was having a serious impact on legitimate traders, making it “difficult, if not impossible” for them to “abide by the law” and to stay in business.<sup>162</sup> He argued that businesses incurred extra costs in ensuring that their premises were adequately secure such as the threat of attack by organised criminal gangs. He also said that businesses sometimes incurred extra “welfare costs” where their employees had been victims of armed robbery or other violent crime.<sup>163</sup>

89. We were also informed that certain retailers had decided not to locate their businesses in particular areas known to be affected by organised crime. The potential for a business to be targeted for extortion coupled with the risks of being undermined by illicit sales of alcohol, tobacco, or other goods, meant that for some businesses it was not deemed profitable to operate in certain areas of Northern Ireland.<sup>164</sup>

90. The Federation of Small Businesses (FSB) gave evidence to show that levels of inward investment were “restricted” because of what they described as “the risk factors” and “control”.<sup>165</sup> The Federation was keen to stress the impact extortion was having on businesses, particularly small to medium sized enterprises.<sup>166</sup> It believed that extortion was a growing problem which was extending across Northern Ireland “into new locations outside the historical Belfast area”.<sup>167</sup> The view of the CBI was that extortion “was continuing at a very high level”.<sup>168</sup> The FSB stressed to us “the sheer pressure” which extortion placed on businesses, particularly small retailers.<sup>169</sup> One of the most disturbing aspects of extortion (emphasised in private session) was the fear that it engenders in communities and the consequent willingness of those threatened to pay up and to keep quiet.

91. Both the FSB and CBI expressed concern about PSNI’s response to crime affecting businesses. The view of the FSB was that the PSNI were not “making much of an effort to engage with the business community”.<sup>170</sup> It emphasised the low level of confidence that

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162 Ev 90

163 *Ibid.*

164 Q 37

165 Q 35

166 Q 4

167 Q 4

168 Q 6

169 Q 11

170 Q 8

businesses had in the ability of the police “to actually catch the criminals” and referred to the results of an FSB survey which showed that 36% of all businesses in Northern Ireland believed that they would “not achieve anything by reporting incidents”.<sup>171</sup> The CBI felt that the PSNI was “extremely stretched in terms of its resources” and that some of the PSNI’s intelligence was “not as good as it was some years ago”.<sup>172</sup>

92. The PSNI assured us that they were taking all possible steps to tackle organised crime, including extortion. Sir Hugh Orde acknowledged that convincing a small businessman paying £100 a week in extortion to report the matter to the police was difficult.<sup>173</sup> However, he stressed the importance of small businesses organising themselves through their associations in a more “holistic” way so that they could, similar to large retailers, increase their strength.<sup>174</sup> In response to the business community’s concerns about the adequacy of police intelligence, Sir Hugh told us that the PSNI had centralised its intelligence function and had reviewed all the informants under its control. He was convinced that the review had not resulted in any loss of intelligence and was confident that the PSNI had “a very good” intelligence picture of paramilitary activity.<sup>175</sup>

### ***The road haulage industry***

93. During our inquiry, we visited the distribution centre in Belfast of Bondelivery, managed by Mrs Val Smith, former National Chairman of the Road Haulage Association. Mrs Smith had told us in public evidence session that the distribution centre had been “substantially” affected by organised crime in terms of hijacking incidents, extra security and insurance costs, particularly over the last few years.<sup>176</sup> She told us that her company delivered high value goods across Northern Ireland and the risk of hijacking in “some parts of Northern Ireland” meant that it was essential for her drivers to be accompanied by an extra member of staff as well as a security escort.<sup>177</sup> In 2005, her company suffered seven attacks and between 15 and 20 attacks in 2004.

94. During our visit in May 2006, Mrs Smith gave further details of a recent incident in which one of her vehicles that had been delivering cigarettes was hijacked in west Belfast. She told us that the security escort was stabbed in the chest with a screwdriver and “guns were put to the head” of two of her employees.<sup>178</sup> Her employees were then forced to drive to an area where the cigarettes were unloaded from the vehicle. The police were contacted and the cigarettes were recovered, (as a result, Mrs Smith believed, of the company’s own security arrangements), however, no one was arrested. The three employees involved in the incident were absent from work for a considerable period as a result of the trauma they had experienced. She described another incident where a company vehicle had been hijacked close to the border with the Republic of Ireland. Mrs Smith told us that the threat of

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171 Qq 19, 8

172 Q 11

173 Q 129

174 Q 129

175 Q 132

176 Q 63

177 Q 65

178 Q 65

hijacking was such that it was no longer safe for her company to transport high-value goods directly across the border, and goods were now transported from Belfast to England and then to Dublin.<sup>179</sup>

95. Mrs Smith indicated that this type of organised criminal activity was “hurting businesses in Northern Ireland”.<sup>180</sup> Her company incurred extra security costs, had its own control room (which we visited) to track and monitor the precise location of all its vehicles, and full time members of staff to accompany certain deliveries and track vehicles.<sup>181</sup> She also told us that her insurance costs were high and that it was proving more difficult to get insurance.<sup>182</sup> Because of the risk of hijacking, her distribution staff were paid at a higher rate than those performing similar duties in the rest of the UK.<sup>183</sup>

96. The haulage industry representatives who gave evidence to us were concerned by what they believed was an inadequate response by law enforcement agencies to the organised crime problems suffered by the haulage industry. Mr Tom Wilson, Regional Policy Manager of the Freight Transport Association, described incidents in which members of his Association had provided information to HMRC about illegal fuel use which he believed had not been acted on.<sup>184</sup> This had led to deep frustration among some of the Association’s members. Mrs Smith considered that the PSNI did not have sufficient resources “to defeat organised crime”.<sup>185</sup> She believed that it was essential for the communities in Northern Ireland to see that the measures being taken by the law enforcement agencies were leading to arrests and convictions.<sup>186</sup> She argued that this was not the case at present.

**97. We are concerned by the significant though unquantified effect organised crime is having on businesses in Northern Ireland and the consequential impact on the economy. We are concerned too by the evidence that parts of the business community do not have sufficient confidence in the PSNI. We welcome the assurances by the PSNI that all possible steps are being taken to tackle extortion. However, we urge the PSNI to do everything possible to convince the communities in which the problem is rife, and the victims of extortion, that if they do not report incidents the police will not be able to help them eradicate the fear that this creates. This will involve creating a climate in which the victim will feel safer by reporting a crime than by remaining silent. Elected politicians at all levels have a crucial role, alongside the PSNI, in creating such a climate.**

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179 Q 85

180 Q 65

181 Qq 86, 87

182 Q 111

183 Q 107

184 Q 73

185 Qq 91, 97

186 Q 117

## Impact on Petrol Retailers

98. The differential in fuel prices between Northern Ireland and the Republic of Ireland is currently at around 18 pence per litre of unleaded petrol and 24 pence per litre of diesel. The higher cost of fuel in Northern Ireland is the reason behind very substantial levels of legal cross-border purchases. We were told at an informal meeting that there were more petrol stations in the small town of Muff, just across the border from Londonderry, than there were in the city of Londonderry itself. More alarmingly, smuggling of fuel from the Republic for sale north of the border is also driven by the price differential.

99. We also learned that the number of legitimate petrol retail outlets in Northern Ireland had fallen from around 790 in 1994 to around 350 at present. This had been, in small part, a function of over-supply of petrol forecourts and of normal competitive pressures, but was primarily an indicator of the impact of cross-border shopping and fuel smuggling on legitimate petrol retailers. We were also told in private session that over 50% of filling stations in Northern Ireland sold some quantity of illegal fuel; most of these illegal sales took place from regular petrol forecourts rather than from private premises. We heard reports, in informal meetings, detailing not just the economic pressure on retailers to accept cheaper smuggled fuel, to avoid being undercut by competitors, but also of threats made against petrol retailers and their families who refused illegal supplies. We learned of paramilitary involvement in cross-border smuggling and laundering of rebated fuels, and were given harrowing examples of intimidation of petrol retailers involving threats to their families. We were also informed that the effect of illegal gains from oils fraud was distorting the price of housing in some areas of Northern Ireland.

100. The Northern Ireland Affairs Committee in 2003 called on the Government to “implement a separate lower rate of fuel (petrol and diesel) duty in Northern Ireland, by derogation if necessary; to consult with the Government of the Republic of Ireland to ensure that duty rates move broadly in line in order to achieve greater harmonisation”.<sup>187</sup> The Committee also concluded that the “existence of a significant cross-border road fuel price differential, combined with the difficulty of carrying out normal law enforcement within Northern Ireland, is helping terrorism and organised crime to sustain itself and indeed to increase its influence”.<sup>188</sup>

101. The Road Haulage Association argued that “fuel smuggling between Northern Ireland and the Republic is primarily caused by the significant differential between rates of excise duty applied to fuel in the UK and in Ireland”.<sup>189</sup> Mr Ray Holloway, Director of the Petrol Retailers Association, argued in a recent newspaper interview that the tax differential had led to fuel smuggling, and that “gangland” smuggling had had an impact on the decisions by Esso, BP and Shell to sell their filling stations in Northern Ireland.<sup>190</sup> Professor Goldstock also recommended in 2004 that fuel duty in Northern Ireland should be aligned

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187 HC (2002-03) 105, para 58

188 *Ibid.* para 35

189 Ev 93

190 *Daily Telegraph*, Tuesday 31 January 2006.

with tax rates in the Republic of Ireland to “remove the financial incentive for smuggling fuel”.<sup>191</sup>

102. We suggested to officials from HM Revenue and Customs that the harmonisation of fuel duty on the island of Ireland would go some way towards solving the problem. We were told that such a move would certainly stop cross-border smuggling of fuel, but it would not stop oils fraud.<sup>192</sup> It was argued that criminal gangs would move operations from cross-border smuggling to misuse of rebated fuels instead. The Government has also previously expressed opposition to this suggestion on the grounds that it would require an application for a derogation from the EU Mineral Oils Directive which does not provide for a Member State to introduce a reduced duty rate in one region.<sup>193</sup> A reduced duty rate for Northern Ireland would also compromise the established principal of unitary taxation.<sup>194</sup>

**103. We recognise that levels of taxation are not within the remit of this Committee, and we understand that the harmonisation of tax rates between one region of a Member State and another Member of the European Union is no easy matter. However, we must put it on record that it was a widely shared opinion of witnesses in public sessions, and amongst those we met informally, that if the United Kingdom and the Republic of Ireland could agree a common regime for fuel duty in Northern Ireland and the Republic, they would deliver a fatal blow to those involved in this area of organised crime. We are concerned at the scale of the problem and that law-abiding members of the public may unwittingly be helping to feed the illegal market. We therefore urge the Government to give urgent further consideration to the desirability of introducing a differential rate for fuel duty in Northern Ireland.**

## Construction industry

104. During our inquiry we heard disturbing anecdotal accounts, in informal meetings and private session, of the serious and damaging impact extortion was having on the construction industry in Northern Ireland. We were informed that extortion was affecting building projects across Northern Ireland and that it was a highly organised criminal activity with heavy paramilitary involvement. We heard that construction managers were visited on building sites by members of paramilitary organisations, normally at the early stage of a development, and would be asked whether they required “security services” to protect the site. Both republican and loyalist paramilitaries were involved, depending on the location of a building project. However, all paramilitary groups adopt similar tactics. If the offer of security is refused, a range of savage reprisals will follow, including serious damage to buildings on the site, threats to personal security, and theft of vital building equipment. Many felt that it was much easier to accept the offer of “security services” from paramilitaries and to make payments to them than to proceed with the constant threat of attack. The amounts of security payments detailed to us varied from £450 to £750 per

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191 Organised Crime in Northern Ireland, A Report for the Secretary of State and Government Response, recommendation 4.

192 Q 333

193 HC (2002-03) 412

194 *Ibid.*

week, always paid in cash. We were told that at particular ‘holiday’ periods of the year, including the summer months and December, building sites would be targeted for lump sum payments of several thousands of pounds which were dressed up as donations to holiday or Christmas charities. We heard that over the course of a year a number of payments had been, including a significant six figure sum to PIRA and a significant five figure sum to the UVF.

105. Although there is a deep fear of reporting such incidents to the police, some builders do report incidents. We were told that although the police are aware of the problem, there had been limited success in arresting those involved. Some of the construction managers we met felt that the Assets Recovery Agency could do more to recover the proceeds of organised criminal activity and that they should be given greater resources to do so.

106. During a lengthy private session with individuals connected with the construction industry, it was clear that construction managers were not yet sufficiently aware of the existence of the PSNI’s dedicated helpline for those who had been victims of extortion. **We recommend at paragraph 220 that the PSNI should take further steps to publicise its confidential helpline. These steps must include measures targeted at those sectors of the economy in which extortion is a particular problem.**

107. We are aware that Professor Goldstock, who had been appointed by the Government in 2002 to examine organised crime in Northern Ireland, recommended the use of Independent Private Sector Inspector Generals (IPSIGs) within the construction industry to enhance internal controls and ensure compliance with those controls.<sup>195</sup> The Department informed us that a pilot project within public sector construction contracts was being taken forward by the Department for Finance and Personnel and that a report of the pilot was due to be published in 2006.<sup>196</sup> The Head of the Northern Ireland Civil Service told us that there were currently six pilot projects in public sector housing and education construction contracts. He believed that the projects had proved to be “positive” and that none of the construction projects that were part of the pilot programme had been approached by paramilitaries.<sup>197</sup> He said that the pilot would be extended to cover other public sector construction contracts, including health and transport, with a view to developing a model which could be used in grant aided construction projects in the voluntary sector.<sup>198</sup>

**108. Although anecdotal, the reports we heard were based on direct personal experiences of extortion within the construction industry and were given by individuals of whose bona fides the Committee was completely satisfied. We were both deeply concerned and disturbed by the evidence that builders simply felt they had no choice but to make protection payments such was the overt threat and fear of reprisals that would follow a refusal to pay. We were left in no doubt about the damaging impact that this was having on construction businesses, in terms of the substantial amounts of**

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195 An IPSIG is an independent, private sector firm with legal, auditing, investigative, research, analytical, management and loss prevention skills, employed by an organisation to ensure compliance with relevant law and regulations and to deter, prevent, uncover and report unethical and illegal conduct by, within and against the organisation.

196 Ev 145

197 Q 521

198 Q 521

money that were having to be paid for “protection” and of the fear that this despicable activity was causing. It is also inevitable that costs to business in extortion payments are passed on, at least in part, to the customer.

109. Combating extortion requires the closest of confidential links between business and the police and also widespread confidence that these crimes will be vigorously pursued. We are in no doubt that the PSNI is treating this very seriously. We acknowledge the difficulties in reporting this type of incident to the police, but without such reports, no action can be taken. We note later the seriousness with which the courts are treating extortion by paramilitaries. This scourge on society can only be combated by close cooperation between those who are threatened and the police. It is also essential that the courts have adequate powers and appropriate procedures to impose appropriately severe penalties on the convicted.

110. We welcome official assurance that the Independent Private Sector Inspector Generals pilot projects are proving to be effective. We are glad to note that these projects are being extended with a view to developing a model for potential use in other sectors.

## Licensed Trade

111. The IMC noted that paramilitary groups “own, control or make use of licensed premises” as they could provide a source of income and opportunities to launder money and dispose of illegal goods.<sup>199</sup> We received convincing evidence from Mrs Nicola Carruthers, Chief Executive of the Federation of the Retail Licensed Trade Northern Ireland about the effect on the licensed trade of organised criminal activity.<sup>200</sup> She indicated that requirements to pay protection money or make “donations” to certain charities were widespread in the licensed trade, and that organised criminal gangs were involved in running “shebeens”, or illegal drinking venues, the distribution of alcohol in taxis and ice-cream vans, the production and distribution of counterfeit alcohol and in pressurising licensed venues to employ certain individuals as door supervisors.<sup>201</sup> It is clear to us that members of all paramilitary groups would appear to be involved in these activities.

112. Mrs Carruthers reported a “flourishing” level of illegal sales of alcohol in Northern Ireland.<sup>202</sup> It was her “perception” that organised criminality was involved in this trade, although evidence was anecdotal.<sup>203</sup> The PSNI had reportedly had some success in clamping down on illegal sales of alcohol through minicabs.<sup>204</sup> Trading Standards officers were also reported to have achieved success in combating sales of counterfeit alcohol in pubs; counterfeit alcohol was however still widely available through markets and other informal forms of distribution, as indicated by Mrs Carruthers.<sup>205</sup>

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199 Fifth Report of the Independent Monitoring Commission HC (2005-05) 46, para 6.9

200 Ev 127

201 *Ibid.*

202 Q 230

203 Q 231

204 Q 250

205 Q 253

113. Mrs Carruthers drew our attention to the dangers of consumption of counterfeit alcohol, saying that “you simply don’t know what is in it”.<sup>206</sup> She noted that consignments had been identified containing methanol, which would have serious health consequences if consumed.<sup>207</sup> During our visit to Belfast, officers from the PSNI Organised Crime Squad showed us some examples of counterfeit vodka bottles seized from a market.

114. Mrs Carruthers noted the anecdotal evidence that licensed retailers faced threats of extortion and demands for “donations”, noting that racketeering was “something which everyone in the trade is aware goes on”.<sup>208</sup> She offered to undertake a survey of her members on behalf of the Committee to ascertain the extent to which retailers are victims of extortion or are subject to threats of extortion. Although the response of 40 retailers does not provide for any accurate statistical analysis, we are grateful to the Federation for undertaking this work on our behalf.<sup>209</sup> The fact that so few responded tells its own story of apprehension. The results were also indicative of some of the problems facing the trade and law enforcement agencies in Northern Ireland. 11 out of 40 respondents had been offered alcohol from questionable sources; only three out of 40 had been offered counterfeit alcohol for sale but none of these three had reported the approach to the PSNI; 18 out of 31 respondents believed that distribution of illegal alcohol via shebeens, taxis and markets was common to extremely common. Two retailers in the Belfast area reported being victims of extortion; one had been asked for £2,000 to cover a 12 month period and the other had been asked for £100 per week. One of the two had reported the case to the PSNI, and stated that no action was taken; the other had not seen any point in reporting his case to the police.

**115. We note that trading standards officers have had success in ensuring that the licensed trade serves only legitimate alcohol and we also note the substantial costs to businesses of measures to combat counterfeiters. But we remain extremely concerned at the widespread distribution of illegal alcohol, and at the many serious implications of this including particularly dangers to public health and sales to children. We therefore urge the Government to mount a publicity campaign to highlight the dangers of consumption of counterfeit alcohol and to make it clear to consumers that they are taking a serious personal risk as well as supporting organised criminal activity by purchasing such alcohol. Alcohol fraud can not be seen as a victimless crime. We are glad to note that, after we raised these issues with the Minister, he gave prominence to them in the release of the Organised Crime Task Force’s Annual Report for 2006.**

**116. Where members of the licensed trade have been victims of threats of extortion, we believe that there is an onus on them to report these threats to the police, and on the police to have in place liaison arrangements to support those seeking their help. But they must be able to feel that their complaints will be vigorously pursued and that they will be offered whatever protection is necessary.**

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206 Q 264

207 Q 264

208 Ev 127

209 Ev 128

### *Proposals to change licensing legislation*

117. The Department for Social Development issued a consultation paper on licensing in October 2005.<sup>210</sup> The main provisions of the proposals are to transfer the administration of liquor licensing and registration of clubs from the courts to seven new district councils which would replace the existing 26. These proposals have yet to be enacted, but the district councils are expected to come into operation in 2009 on completion of the Review of Public Administration. This would therefore be the provisional date for legislation transferring licensing responsibility from the courts to the district councils.<sup>211</sup> The district councils will take over responsibility for regulation and enforcement. Each district council would be required by law to demonstrate that “it was addressing the six underwriting objectives” of licensing.<sup>212</sup> In England and Wales, responsibility for licensing transferred to local authorities under the terms of the Licensing Act 2003. The PSNI is supportive of the proposed changes as they will make licensing a “more representative system”.<sup>213</sup> The Department for Social Development states that licensing is a local issue and the licensing authority should be accountable and accessible to affected residents.<sup>214</sup> The Head of the Northern Ireland Civil Service noted that statutory guidance would be in place to ensure that district councils met their obligations with regard to the operation of the licensing system.<sup>215</sup>

118. The proposals also entail the abolition of the “surrender” requirement which insists that an existing licence for a licensed premise be surrendered before a new one can be granted by a court. Under the proposed scheme, district councils would make determinations on applications for new licences. Removing the surrender requirement would remove the cap on the total number of liquor licences in Northern Ireland. Mrs Carruthers believed that abolishing it “could legitimise some of the illegitimate sources out there, or simply just make it easier for others to enter the trade and to launder money”.<sup>216</sup> She told us that none of the Northern Ireland political parties was in favour of the change.<sup>217</sup>

119. However, officials from the Department for Social Development believed that the package of measures in the proposals could “make it more difficult for organised crime to enter the licensed trade”.<sup>218</sup> Before reaching a decision on a licence, a district council would be required to seek the views of responsible authorities and interested parties such as the PSNI, local residents and local businesses, all applications for a licence would be open to

210 Liquor Licensing The Way Forward: Government Proposals to Reform Liquor Licensing in Northern Ireland.

211 *Ibid.*

212 Q 399 and Q 423; the six underwriting objectives are “promotion of public health; promotion of public safety; prevention of crime and disorder; prevention of public nuisance; protection of children from harm; and fair treatment for all stakeholders” (Liquor Licensing The Way Forward: Government Proposals to Reform Liquor Licensing in Northern Ireland).

213 Liquor Licensing The Way Forward: Government Proposals to Reform Liquor Licensing in Northern Ireland, page 13

214 *Ibid.*

215 Q 530

216 Q 243

217 Q 298

218 Q 360

objection and a licence could be reviewed, revoked or suspended at any time.<sup>219</sup> Under the proposed changes, an individual applying for a premises licence would have to apply to the local authority with an operating plan which would need to set out how the business would be run, including reference to crime prevention measures, and how door security would be operated.<sup>220</sup> A prospective licensee would also require a personal licence proving that he or she had “the skills and knowledge to run a licensed business and [...] was a fit and proper person to run that business”.<sup>221</sup> We were assured that the proposed system would in some respects be more rigorous than the system in place in England where a licence was awarded unless there was an objection.<sup>222</sup>

120. Officials argued that Ministers had received no evidence that abolishing the surrender requirement would increase the potential for individuals associated with organised crime to obtain licences.<sup>223</sup> They also noted that the PSNI supported the proposed changes.<sup>224</sup> By removing the overall cap on the number of licences, it would bring to an end the existing “market” in liquor licences in which prospective licensees had to purchase a surrendered licence. We were told that the current market price for a licence was around £140,000.<sup>225</sup> Officials estimated that approximately 180 licences were sold in this way each year.<sup>226</sup>

121. If this transition is to be effected within a willing trade, it is important that the potential plight of individual licensees is recognised. There is a clear case for treating the individual licensee differently from the multiples. There is surely a case for taking appropriate steps that would safeguard the future of individual businesses whose idiosyncrasy is an important element of community life in Northern Ireland. The Committee put this point to the Policing and Security Minister, Mr Paul Goggins, MP, in formal evidence, suggesting that many small licensees regarded the market value of their licence as a personal pension plan. The Minister said that he would give this matter further consideration.<sup>227</sup>

122. The second principal concern of the Federation of the Retail Licensed Trade is the proposal to repeal the Registration of Clubs (Accounts) Regulations (Northern Ireland) 1997 which place accounting requirements on licensed clubs.<sup>228</sup> Mrs Carruthers acknowledged that the vast majority of registered clubs were “run perfectly well and properly” but she argued that the Regulations had been brought in to “try to stop money being laundered through the clubs”.<sup>229</sup> The Regulations had been introduced at the request

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219 Ev 136

220 Q 364

221 Q 364

222 Q 395

223 Q 362

224 Q 387

225 Q 362

226 Q 397 Ev 139

227 Q 533

228 Q 243

229 Q 243

of the police to tackle perceived financial mismanagement in some clubs.<sup>230</sup> At the pre-consultation stage of the licensing review, the Organised Crime Task Force questioned the merit of the proposal to relax the accounting regulations, suggesting instead that the requirements be extended to all licensees.<sup>231</sup>

123. However, the Department for Social Development informed us that it had discussed the matter with the Interdepartmental Group on Organised Crime, the Northern Ireland Office, the Office of the First Minister and Deputy First Minister and the PSNI, and the PSNI confirmed that they did support the lifting of the regulations and that they did not need to be extended to other licensees.<sup>232</sup> Officials told us that the PSNI had reported no prosecutions for breaches of the regulations in the last five years.<sup>233</sup> The Northern Ireland Federation of Clubs also explained to us that the proposal to relax the club accounting regulations came from the PSNI.<sup>234</sup> Officials quoted the PSNI response to the consultation that

“The Registration of Clubs (Accounts) Regulations (Northern Ireland) 1997 were introduced to help the Police Service tackle financial mismanagement in clubs. Taking cognisance of the now existing improved accounting arrangements, we have since 2004 been promoting less prescriptive and burdensome arrangements. We therefore support the proposal to revoke the financial controls and accounts formats and introduce best practice guidance in their place.”<sup>235</sup>

**124. The implementation of these proposals will coincide with the transformation and reorganisation of local government in Northern Ireland and the emergence of much larger district councils. It is important that these councils recognise the needs of individual communities which they serve.**

**125. We note the importance of careful oversight of licensing in a cash-based industry to prevent infiltration by those intent on using such businesses as a means of laundering money. We note that statutory guidance will be in place to ensure that district councils meet their obligations under the new licensing provisions. However, any licensing system is only as effective as the level of its enforcement and we accordingly ask the Government to provide reassurance both to the Committee and to the people of Northern Ireland that provisions for oversight of district councils’ exercise of their licensing functions will be thorough.**

**126. Having taken careful note of the evidence received, we believe that a totally convincing case for these changes has still to be made. We are disturbed by the financial loss that would be suffered by individuals whose retirement plans took account of the value of their licences should these changes be implemented. In our opinion there is a**

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230 Department for Social Development ‘Liquor Licensing – the Way Forward’ Reform of Liquor Licensing Law in Northern Ireland, Consultation Document, October 2005 p 32

231 Ev 135

232 *Ibid.*

233 Ev 138

234 Ev 156

235 Q 412

**strong case for giving urgent consideration to the possibility of making compensatory payments which recognise the loss of legitimate expectations.**

## 4 Measures taken by law enforcement agencies

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### The Organised Crime Task Force

127. The Organised Crime Task Force (OCTF) was set up in September 2000 by the Rt Hon Peter Mandelson MP, the then Secretary of State for Northern Ireland. Its purpose was “to provide strategic direction for a multi agency approach to tackling organised crime”.<sup>236</sup> Following a review in 2005, the OCTF now operates at three levels: a stakeholder group chaired by the Policing and Security Minister, Mr Paul Goggins, MP; a smaller strategy group chaired by a senior Northern Ireland Office official and made up of senior representatives of the law enforcement agencies; and eight work “streams”<sup>237</sup> divided into two categories, enabling and coordination, and criminal enterprises.

128. We were told that the stakeholder group meets twice yearly “to advise and monitor progress in achieving cross cutting objectives to combat Northern Ireland organised crime”.<sup>238</sup> It is made up of: the PSNI; HM Revenue and Customs; the Assets Recovery Agency; the Serious Organised Crime Agency (SOCA); the Home Office; the Head of the Northern Ireland Civil Service; the Northern Ireland Office; the Northern Ireland Policing Board; the Confederation of British Industry (CBI); the Federation of Small Businesses (FSB); and the Northern Ireland Chamber of Commerce and Industry. The Minister was prepared to consider extending the membership of the OCTF’s stakeholder group to include other key industries, including petrol retail and road haulage, and to increasing the regularity of the group’s meetings.<sup>239</sup> He was also prepared to consider reviewing the membership of the stakeholder group, but was concerned that an extension of membership could make it unwieldy and could hamper progress.<sup>240</sup> He was also prepared to consider increasing the number of meetings of the stakeholder group.<sup>241</sup>

129. The strategy group, made up of senior representatives of the law enforcement agencies and chaired by a Northern Ireland Office official, meets bi-monthly and its aim is to “develop an improved shared understanding of the nature of organised crime in Northern Ireland” and to “identify the barriers to tackling organised crime and developing strategies to overcome them”.<sup>242</sup>

130. The work of the “enabling and co-ordination stream” focuses on the public sector, identifying necessary policy and legislative changes, and improving public awareness of

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236 Northern Ireland Office, Statistics and Research Branch, Views on Organised Crime in Northern Ireland: Findings from the January Omnibus Survey, Research and Statistical Bulletin 11/2005 p 1

237 A work stream can be defined as a team of staff working across a number of departments and organisations on a particular issue.

238 Ev 139

239 Q 499

240 Q 501

241 Q 500

242 Ev 140

organised crime.<sup>243</sup> It is supported by the Head of the Northern Ireland Civil Service, who chairs an interdepartmental group with the aim of “promoting awareness in the Northern Ireland Departments and the wider public sector of the threat of organised crime” and “to maintain the momentum behind the current initiatives to tackle it”, including examining how best legislation can be used to combat organised crime.<sup>244</sup> The “criminal enterprise stream” covers specific organised crime threats, including oils fraud, alcohol smuggling, drugs, armed robbery and criminal finance. Both “streams” are supported by “sub and expert” groups which examine certain aspects of organised crime.

131. A key role of the OCTF is to “raise awareness of the dangers of organised crime”.<sup>245</sup> To this end, it publishes Annual Reports which set out its assessment of the nature and scale of organised crime, gives press briefings and publishes a quarterly magazine. Where appropriate, the Policing and Security Minister also makes public statements on operational successes.<sup>246</sup>

132. The strength of the OCTF lay in its multi agency approach which brought together “all the main agencies” responsible for tackling organised crime, facilitating increased coordination.<sup>247</sup> Sir Hugh Orde explained that the OCTF was “a unique structure” in the UK which regularly brought together the main agencies.<sup>248</sup> He argued that it had enabled the PSNI to identify a number of “serious organised criminal gangs” and to work with the other agencies in targeting those gangs.<sup>249</sup> He also pointed to the sophistication of people within the OCTF who were “very good at following money”.<sup>250</sup> Ms Jane Earl, Director of the Assets Recovery Agency said that she was “very pleased” about the way the OCTF was developing and that the Agency was working hard with the other law enforcement agencies to examine ways of increasing the number and quality of referrals made to the Agency.<sup>251</sup> Mr Anthony Kennedy, Head of Legal Services, Assets Recovery Agency, told us that the OCTF was in the process of developing an asset recovery strategy which would “join up” the asset recovery work of the responsible agencies, including the public prosecution service.<sup>252</sup> The Minister was keen to stress that the strategy was extremely important because financial probing should be at the heart of every criminal investigation.<sup>253</sup> He said that the benefit of the strategy was that it brought together the key agencies, all of whom had expertise in financial investigations.<sup>254</sup>

133. Mr Glyn Roberts, Parliamentary Officer for the FSB, welcomed the fact that the FSB together with the CBI and Chamber of Commerce had recently been asked to become

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243 *Ibid.*

244 Ev 140

245 *Ibid.*

246 *Ibid.*

247 Q 43

248 Q 128

249 Q 128

250 Q 134

251 Q 199

252 Q 199

253 Q 502

254 *Ibid.*

members of the OCTF's stakeholder group.<sup>255</sup> He acknowledged that the OCTF had had "initial successes", and had been "very successful in tackling the "godfathers"", but argued that it needed to concentrate its efforts on tackling paramilitary organisations.<sup>256</sup> Mr Wilfred Mitchell, Chairman of the FSB, was critical of the approach taken by Government, arguing that no serious attempt had been made by it to tackle the problem of extortion in the business community.<sup>257</sup> He suggested that this be made a priority of the OCTF.<sup>258</sup> Mrs Nicola Carruthers, Chief Executive of the Federation of the Retail Licensed Trade, told us that the OCTF did not have a high enough profile in Northern Ireland and that until recently, she had not been aware of its work.<sup>259</sup>

134. Mr Nigel Smyth, Director of CBI, considered that extra resources were required to ensure that enforcement agencies continued to give priority to combating organised crime. He believed that "educational campaigns", highlighting the damage caused by organised crime were necessary in order to change the perception that organised crime was victimless.<sup>260</sup>

**135. We welcome the review of the Organised Crime Task Force structures undertaken by the Northern Ireland Office in 2005. All structures need to be overhauled from time to time and that is particularly so when the threat from organised crime constantly evolves and mutates. It is essential that the agencies of the OCTF remain as alert to the threat as organised crime gangs are to the opportunities.**

**136. We welcome the fact that the CBI and the Federation of Small Businesses are now represented on the OCTF's stakeholder group, but are concerned that its membership does not include representatives of specific key industries affected by organised crime, including road haulage, the licensed trade and construction industries. We recommend that membership of the stakeholder group is extended to include key specific industries; that it meets quarterly rather than twice a year; and that its work is given wider publicity within the community at large.**

## **The Police Service of Northern Ireland**

137. Sir Hugh Orde told us that in order to ensure that the PSNI was "fit for purpose", it had reorganised its organised crime structures in March 2004, creating a new Crime Operations Department with a dedicated Organised Crime Branch, 1,200 police officers, and a centralised intelligence function under the command of an Assistant Chief Constable, Mr Peter Sheridan.<sup>261</sup> Mr Philip Aiken, Detective Chief Superintendent and head of the Organised Crime Branch, said that the reorganisation had changed PSNI's approach to tackling organised crime and that it had led to "considerable success" and

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255 Q 43

256 Q 42

257 Q 4

258 Q 4

259 Q 295

260 Q 51

261 Q 125

“impact”.<sup>262</sup> He also indicated that PSNI had ensured that it had police officers with the expertise to deal with the full range of organised crime and that there had been particular success in the area of economic crime “leading to major criminals being arrested” and brought before the courts.<sup>263</sup>

138. The PSNI uses an assessment framework compliant with the National Intelligence model, “to provide a clear strategic focus” to its organised crime work.<sup>264</sup> The framework uses a nationally accredited problem solving model “to examine the attributes of organised crime gangs” which are then used to prioritise investigations and operations.<sup>265</sup> We were also told about “a joint intelligence cell” which allows the PSNI to make intelligence available to the Assets Recovery Agency so that it can “speedily process” its cases through the courts.<sup>266</sup> Sir Hugh considered that centralisation of intelligence had meant that the police had a “far better” intelligence picture and he was confident that it still had “a very good picture” of paramilitary activity.<sup>267</sup> However, he acknowledged that while intelligence was much better, the PSNI did not have the “whole picture”.<sup>268</sup>

139. Sir Hugh was keen to stress that the PSNI had had “some substantial successes” against “highly organised and highly dangerous gangs”.<sup>269</sup> Between April and December 2005, the PSNI’s Drugs Squad seized illegal drugs with a street value of £6.5 million.<sup>270</sup> The number of cash seizures made by PSNI almost doubled between 2004 and 2005.

140. However, several witnesses told us of a reluctance to report incidents to the police because of a perception that no action would be taken. Mrs Nicola Carruthers, Chief Executive of the Federation of the Retail Licensed Trade, said that one of the Federation’s members had claimed that “the police were not interested”.<sup>271</sup> She believed that many people did not report organised crime incidents because of a belief that the perpetrators would “never get caught” and it would “take up their business time” waiting for a crime officer to reach the crime scene.<sup>272</sup> We also heard about the low level of confidence that the business community had in the police’s ability to tackle the problem effectively.<sup>273</sup> Mr Nigel Smyth, Director of CBI, felt that greater priority should be given in the annual policing plan to how crime was affecting businesses.<sup>274</sup>

141. The PSNI explained that it had a “reassurance strategy” which aims to “raise public confidence by improving communications, managing public expectations and assuring

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262 Q 125

263 Q 125

264 Q 151

265 Ev 94

266 Q 155

267 Q 132

268 Q 133

269 Q 133

270 Ev 96

271 Q 292

272 Q 292

273 Q 8

274 Q 16

local communities that crime is being addressed”.<sup>275</sup> It was keen to stress that it would continue to consult with communities, and would “use community-focused policing to target crime and disorder”.<sup>276</sup> Sir Hugh was also keen to stress that combating organised crime was not the sole responsibility of the PSNI, but rather the shared responsibility of the police, the business community and all communities in Northern Ireland.<sup>277</sup> He acknowledged that the PSNI could increase its partnerships with “agencies who are the victims of crime” who feel unable, because of paramilitary involvement in organised crime, to engage with the police.<sup>278</sup> The PSNI had a “substantial witness protection scheme” and Sir Hugh noted that he had no record of witnesses being attacked after having given information to the police about threats of extortion.<sup>279</sup>

142. Mr Sheridan, Assistant Chief Constable with responsibility for organised crime, considered that the shift in paramilitarism where the “strategic intention” was now money and not “bombings and murders”, meant that PSNI’s attention would have to shift to examining economic crime in depth.<sup>280</sup>

**143. We welcome the measures taken by PSNI to strengthen its capacity to combat organised crime. We are in no doubt about the seriousness with which they treat their responsibilities in combating this problem. The pattern of paramilitary organised crime is changing and the potential for paramilitaries to use their expertise and skills to mutate into professional criminal enterprises is high. We welcome PSNI’s commitment to adapt its approach in response to the changing pattern of organised criminal activity, and its assurance that its intelligence picture has strengthened.**

**144. Combating organised crime is not the sole responsibility of the PSNI, but the shared responsibility of the PSNI, the other law enforcement agencies and indeed all Government Departments. We strongly believe that a partnership approach, under which responsibility is accepted by all these bodies will have a much more direct and significant bearing on organised crime, particularly paramilitary crime.**

**145. We are under no illusions that gaining the community support that is essential in tackling organised crime and reducing the hold of the paramilitaries will require time, patience and strenuous effort. We therefore welcome the PSNI’s commitment to assure local communities that organised crime is being addressed. This vital work must be given high priority.**

**146. We recognise, however, that the success of the police in tackling organised crime will be significantly limited so long as one of the major political parties, Sinn Fein, withholds its support for, and recognition of the legitimacy of, the PSNI—and continues to encourage its supporters to follow this lead. Comprehensive and**

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275 Ev 106

276 *Ibid.*

277 Q 124

278 Q 129

279 Q 129

280 Q 135

thoroughly effective policing requires the recognition and support of all communities and particularly of the leaders of those communities.

147. The Committee has received conflicting reports in private on schemes for community restorative justice. While it is clear that there are schemes which act in the wider interests of the community and in constructive cooperation with the PSNI, there are other schemes that purport to be an alternative police force. Nothing must be done to give the latter further encouragement. We go further and urge that every possible step be taken to ensure that any future schemes are not infiltrated or controlled by paramilitaries. We recommend the adoption of clear and firm requirements which will apply to all such schemes. We further recommend that any community restorative justice group should only qualify for funding if it cooperates with the PSNI. We will therefore assess carefully the guidelines which the government has promised to issue to satisfy ourselves that they are adequate for their purpose.

### HM Revenue and Customs

148. HM Revenue and Customs (HMRC) informed us that since 2000 it had taken “a new strategic approach to tackling indirect tax fraud” across the UK.<sup>281</sup> It had a “developing strategy” to tackle oils fraud which involved increasing the number of its officers engaged in tackling oils fraud in Northern Ireland from 25 to 160, introducing a regulatory regime to control the sale of rebated fuel, setting up a central intelligence unit to direct all operational activity, and launching a publicity campaign to highlight the damage caused to motor engines by illegal fuel use.<sup>282</sup>

149. HMRC also told us that its strategy for tackling cigarette smuggling involved increasing the number of officers engaged in tackling the trade by almost 1000 in the UK and overseas, and introducing “a national network of x-ray scanners, working closely with tobacco manufacturers to suppress the availability of UK manufactured cigarettes to smugglers abroad”.<sup>283</sup> The strategy now includes improved memoranda of understanding with UK manufacturers to restrict the availability of cigarettes to smugglers as well as the deployment of 200 staff to tackle the smuggling of hand-rolling tobacco.<sup>284</sup>

150. Mr Paul Gerrard, Deputy Head of Enforcement and Compliance Operations at HMRC, believed that the best measure of HMRC’s success in tackling oils fraud was the fact that there had been a 22% increase in the sale of legitimate fuel over the last four years.<sup>285</sup> He attributed this increase to a range of interventions by HMRC, including fuel seizures, imposed assessments, and successful control of the supply chains of red diesel and kerosene. Mr Gerrard informed us that over the last two years, HMRC had carried out more roadside checks in Northern Ireland than it had “ever done before”.<sup>286</sup> He was

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281 Ev 131

282 Ev 132

283 Ev 133

284 *Ibid.*

285 Q 323

286 Q 338

confident that HMRC could do more to make the legitimate market in Northern Ireland healthier.<sup>287</sup>

151. In terms of cigarette smuggling, HMRC told us that the supply chain for cigarettes had become stronger and “more heavily organised” in the last few years.<sup>288</sup> Mr Donald Toon, Deputy Director of Criminal Investigations, HMRC, informed us that the nature of organised criminal gangs dealing in illegal cigarettes had changed from mainly “smaller scale importers and distributors” to “very large, complicated and very organised networks of criminals”.<sup>289</sup> In 2004–05 HMRC had seized 19.7 million cigarettes in Northern Ireland and that it had already seized more cigarettes in 2006 than it had in 2005 and 2004.<sup>290</sup>

152. Mr Tom Wilson, Manager of the Freight Transport Association, believed that HMRC were “only scraping the surface”.<sup>291</sup> He said that people from the transport industry had provided HMRC with relevant information about illegal activity, but that this had not led to closures of illegal operations:

“Customs have used their best endeavours with the resources available to them. They are frustrated with being unable to strike these people off the map. There is a combination in there of a lack of will and a lack of resource. The information is being fed through, businesses are being damaged and are very frustrated that the good information they are giving has not resulted in what they want to see”.<sup>292</sup>

153. When we asked HMRC about suggestions that it was not acting on information it received about illegal operations, Mr Gerrard was emphatic that there was not a “lack of will” to tackle the problem. He acknowledged that the information HMRC received through its confidential hotline was still at “relatively small levels” and that more could be done to get more information.<sup>293</sup> He also accepted that information gathered on the ground by officers did not “always get through” to HMRC headquarters.<sup>294</sup> Mr Toon emphasised that HMRC was dealing with “very long term criminality” which required time and substantial effort.<sup>295</sup> He was also keen to emphasise the “very high” level of cooperation HMRC had with the PSNI, the Assets Recovery Agency, and the Criminal Assets Bureau and Revenue Commissioners in the Republic of Ireland.

**154. Our inquiry has shown that oils fraud and tobacco fraud are significant and sophisticated areas of organised crime in Northern Ireland which require a vigorous law enforcement response. We welcome the steps taken by HMRC through its strategies to tackle both areas. We are encouraged by the increase in the sale of legitimate fuel in**

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287 Q 323

288 Q 328

289 Q 328

290 Q 349

291 Q 70

292 Q 74

293 Q 336

294 Q 336

295 Q 336

Northern Ireland, HMRC's commitment to ensure further growth in the legitimate market, and its determination to continue to bear down on tobacco fraud.

155. However, we are deeply concerned by the evidence that crucial information about illegal activity is not always reaching HMRC headquarters. This situation cannot be allowed to continue. Receiving reports of illegal activity is critical to HMRC's capacity to tackle the problem effectively and timeously. We recommend that it review its systems for receiving information, particularly from officers working on the ground, and takes every possible step to encourage reports of suspicious activity, including wider publicising of its confidential telephone service<sup>296</sup>.

156. The HMRC has wide responsibilities none of which it can neglect. We welcome the particular attention it is giving to its customs and excise responsibilities in assisting the fight against organised crime. Nonetheless, diligent examination of individuals' tax affairs also has a very important role to play. It follows that the approach to thresholds adopted in the rest of the UK for examining an individual's tax affairs is not necessarily appropriate in Northern Ireland. There it is essential to target key members of organised crime gangs and those who may sponsor or protect them and such targeting inevitably necessitates a more flexible approach.

### Assets Recovery Agency

157. The Assets Recovery Agency (ARA) was established by the Proceeds of Crime Act 2002 and became operational in February 2003. It was set up "to disrupt criminal enterprises through the recovery of criminal assets".<sup>297</sup> Its remit is to reduce crime by: initiating 'civil recovery' proceedings in the High Court to recover the proceeds of unlawful conduct; investigating cases leading to post-conviction confiscation orders, and enforcing confiscation orders; using powers of taxation where there is income, gains, or profits chargeable to the relevant tax and which have resulted from criminal conduct; and supporting police, customs and other agencies in financial investigations, by providing specialist training and advice. **Although UK wide, the Assets Recovery Agency has an assistant director and an office in Belfast specific to Northern Ireland. It has a total staff complement of approximately 200 and a Home Office budget of £15.5 million. The Belfast office has 47 staff and a budget of £3.59 million. We are bound to question whether this is an adequate distribution of resources, bearing in mind the importance of the issues on which this Report focuses.**

158. Ms Jane Earl, Director of the Agency, explained that the Agency did not initiate its own cases but acted on referrals from other law enforcement agencies, including the PSNI and HMRC. She said that, as awareness of the Agency's role had grown, so too had the number of referrals to the Agency.<sup>298</sup> She told us that the Agency worked "very hard" with the referring organisation to ensure the "best possible exchange" of information from initial referral to initiating proceedings.<sup>299</sup>

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296 This number is given at paragraph 216

297 [www.assetsrecovery.gov.uk](http://www.assetsrecovery.gov.uk)

298 Q 177

299 Q 179

159. Mr Nigel Smyth, Director of the CBI, told us that there was an impression among members of the CBI that the Criminal Assets Bureau in the Republic of Ireland appeared to be more pro active and appeared to be having a greater effect than the Assets Recovery Agency. We were also told in informal meetings that the Agency was not being as pro active as it should be. When we asked about how the Agency's performance compared with the Criminal Assets Bureau (CAB), Ms Earl was keen to stress that the Bureau operated under a different statutory regime and had been functioning since 1996 whereas the Agency had only been established since 2003.<sup>300</sup> She acknowledged that the process for granting a recovery order by the High Court was a much longer process than she had imagined. She said that so far this year the Agency had achieved three recovery orders and in each case settlements had been reached and the total value of assets recovered was £350,000 in the 2006-07 financial year and a further £450,000 resulting from cases in the financial year 2005-06. Mr Anthony Kennedy, Head of Legal Services at the Belfast office, explained that 70% of the CAB's income was derived from the use of taxation powers while the majority of the Agency's cases go through civil recovery proceedings. He argued that the Bureau's taxation regime for criminal assets was "more efficient and effective" and that Part 6 of the Proceeds of Crime Act 2002 should be amended to bring the Agency's taxation regime into line with that operated by the Bureau.<sup>301</sup>

160. Since taking evidence from the Assets Recovery Agency, it has published its Annual Report for 2005–06. The Agency acknowledges that it has experienced a number of delays in progressing cases through the civil legal aid system and that this has had an adverse impact on the total amount of assets realised in final recovery orders.<sup>302</sup> The Agency regrets that it did not meet its targets for final recovery orders and emphasises that the targets were set in "good faith and on the best available knowledge at the time of producing the Business Plan for 2005–06".<sup>303</sup> The Agency has worked with colleagues in the Home Office, the Department for Constitutional Affairs and the Attorney General's Office to identify what further steps can be taken to "speed up case progress".<sup>304</sup> The Agency did, however, disrupt 21 criminal enterprises during 2005-06 using its powers of early restraint and taxation. The assets involved come to some £15.9 million against a target of £6 million.<sup>305</sup>

161. Mr Paul Goggins, MP, the Minister for Policing and Security, was keen to stress that in the relatively short period since its creation, the Assets Recovery Agency had made significant progress.<sup>306</sup> He said that the Agency was governed by a different framework from the Criminal Assets Bureau, and that the Government was "looking very closely at asset recovery in general" and the Agency itself with a view to making further improvements.<sup>307</sup> He acknowledged that there were currently obstacles which were hampering the process of translating assets into cash and that the government was keen to

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300 Q 180

301 Q 182

302 Assets Recovery Agency Annual Report 2005–06 p 3 and p 8

303 *Ibid.* p 4

304 Assets Recovery Agency Annual Report 2005–06 p 4

305 Organised Crime Task Force Annual Report 2006, page 17.

306 Qq 503, 504

307 Qq 503

examine the Agency's proposals to make the Proceeds of Crime Act 2002 work more effectively.<sup>308</sup> He believed this was essential in building public confidence in the Agency.<sup>309</sup>

162. **The Assets Recovery Agency also suggested that Part 5 of the 2002 Act required “a number of small amendments”.**<sup>310</sup> **We agree that such amendments would improve the Agency's efficiency and effectiveness. We ask the Government to undertake an urgent review of the legislation.** It told us that a change to the limitation period in Section 27A of the Limitation Act 1980, currently 12 years, would allow the recovery of properties purchased with the proceeds of drug trafficking in the early 1990s which are “currently beyond the reach of civil recovery proceedings”.<sup>311</sup> It argued that “international mutual legal assistance” arrangements should be created for civil recovery investigations and proceedings; such arrangements apply only to criminal investigations, prosecutions, and related confiscation proceedings. It believed that such international assistance was vital “where assets have been moved through a number of jurisdictions in an attempt to make the money trail more difficult for investigators to follow”.<sup>312</sup> The Agency suggested that provision could be made for such assistance in relevant domestic legislation or through agreements, multilateral or bilateral conventions that provide a legal basis for such assistance.<sup>313</sup> The Agency provided us with details of their proposals which we print in the appendices to this report.<sup>314</sup>

163. We were informed that of the 95 referrals received by the Agency between 2003-2006, 31 had “criminal” links, 29 had loyalist links, 16 had “organised crime group links, 14 had republican links, and 5 were not specified.<sup>315</sup> When we asked about the reason for the lower number of referrals with a republican link, we were told that the Agency would only designate a case as having a paramilitary link if they had been given “specific intelligence by law enforcement that there was a paramilitary link”.<sup>316</sup> Mr Alan McQuillan, Assistant Director of the Assets Recovery Agency, stressed that the Agency had pursued every viable case and that the figures reflected “the products of the viable cases” referred to the Agency.<sup>317</sup> He said that a case ceased to be viable only where the Agency had insufficient evidence of criminality or there were insufficient assets. The ARA could encourage referrals by talking to other law enforcement agencies, but could not “control the process”.<sup>318</sup> Ms Earl emphasised that the Agency acted on referrals and gave “an absolute assurance” that the Agency had not failed to act on any referral “because of the background

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308 Qq 507, 509

309 Q 507

310 Ev 115

311 *Ibid.*

312 *Ibid.*

313 *Ibid.*

314 *Ibid.*

315 Ev 110

316 Q 191

317 Q 193

318 Q 196

of the body”.<sup>319</sup> The disparity in referrals may reflect the greater sophistication of republican organisations.

164. The Agency explained that “issues surrounding the provision of legal aid” had led to “considerable delays in progressing the litigation of civil recovery proceedings in Northern Ireland”.<sup>320</sup> We were told that following a recent amendment to legal aid legislation, defendants were now able to apply to the High Court for the release of frozen assets which can be used to “fund legal expenses reasonably incurred” in connection with the defence of proceedings.<sup>321</sup> This means that the actual assets finally realised by the Agency may be significantly reduced once a portion of the assets have been used to fund a defendant’s legal costs. When we asked the Minister about this development, he said that the amendment to the legal aid legislation had only been in force since January 2006 and the Government intended to keep the situation under review.<sup>322</sup> He said, however, that the Agency has power to challenge a decision by the High Court to release frozen assets to fund a defendant’s legal costs and to reduce the amount of disbursement down to 65% of what was requested by the defendant.<sup>323</sup>

165. Ms Earl told us that the Agency had an active communications policy. She explained that when the Agency felt it could legitimately inform the public about the action it was taking on their behalf, it did so at the earliest opportunity.<sup>324</sup> The Agency’s market research demonstrated that the Agency had a 80% recognition rate among the public in Northern Ireland.<sup>325</sup>

166. In February 2004, the Home Office announced a new police incentive scheme to be introduced in 2004-05 that would allow police forces in England and Wales and the PSNI to receive a share of the total criminal assets recovered in the year following their recovery. In February 2005, the Home Office announced that the scheme would be extended from 2006-07 to asset recovery agencies, including the ARA, HMRC, and the Serious Organised Crime Agency. The agencies and police forces will be able to receive 50% of the assets they recover.

167. Ms Earl told us that because the Assets Recovery Agency is dependent on organisations to refer cases, it had taken the policy decision when the incentive fund was extended to asset recovery bodies, to share the assets recovered by the Agency with the referring organisation, normally on a 50/50 basis.<sup>326</sup> She argued that this would help foster “goodwill and relationships”, and demonstrate that assets recovery is “a partnership activity”.<sup>327</sup> She hoped that the Agency would also be able to use its share of the assets to

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319 Q 185

320 Ev 113

321 *Ibid.*

322 Q 513

323 Q 513

324 Q 208

325 Q 209

326 Q 210

327 Q 212

resource further investigations and lawyers so that the Agency could take on additional cases.<sup>328</sup>

168. The Assets Recovery Agency has been operating for only three years. We believe that within that relatively short period of time, the Agency has made a positive start towards recovering the very substantial proceeds of organised criminality in Northern Ireland. We welcome the growing number of referrals to the Agency, and the Agency's assurance that it pursues all viable cases referred to it, regardless of whether the cases have a loyalist or republican link. We cannot stress enough the importance of the law enforcement agencies in Northern Ireland continuing to refer cases they believe can be pursued by the Agency. We also note from the Agency's latest Annual Report that the costs of its operations to date far exceeds the value of assets it has recovered. We must express concern at this, particularly in light of the much greater financial success of the Criminal Assets Bureau in the Republic.

169. We welcome the Agency's decision to give 50% of the assets recovered in a particular case to the referring organisation. We share the view that this will help foster goodwill and strengthen joint working arrangements between the law enforcement agencies.

170. We also welcome the Minister's willingness to carry out a review of the Proceeds of Crime Act 2002. We heard strong evidence that the taxation powers of the Assets Recovery Agency would be more effective if they were equivalent to those of the Criminal Assets Bureau (CAB) in the Republic of Ireland. The CAB has the power to initiate cases without having to wait for a referral. We do of course recognise that the CAB is an integral part of An Garda Síochána. Whilst we advocate increased powers for the Assets Recovery Agency, we recognise that actions initiated by them must not prejudice wider police investigations.

171. We have also received disturbing reports that, as a result of changes in legal aid legislation, criminals have been able to use the proceeds of their crime to fund their defence costs. We hold firmly to the view that those accused of crimes are innocent in law until proven guilty, but anyone found guilty in these circumstances should receive a sentence that reflects the illicit use of ill-gotten gains. We recommend that the Government keep this matter under close review.

## Cross border cooperation

172. During our visit to Dublin and in public evidence sessions, we heard evidence about the considerable cross border cooperation to tackle organised crime. During meetings in Dublin, we were told how the arrangements for joint cross border investigations between An Garda Síochána and the PSNI had become more formalised and how representatives of the Criminal Assets Bureau (which is an integral part of An Garda Síochána) met regularly with officers from both the PSNI and HM Revenue and Customs (HMRC), and the Assets Recovery Agency. There were effective exchanges of intelligence, and in cross border cases

of organised crime, operational orders and manpower arrangements were agreed between the main law enforcement agencies.

173. We were also told that “systematic cooperation” between HMRC and the Revenue Commissioners in the Republic of Ireland had developed relatively recently and was proving to be effective. Co-operation was taking the form of exchanges of intelligence and joint working on cross border cases.

174. Mr Alan McQuillan, Assistant Director of the Assets Recovery Agency, believed that cross border relations had strengthened over the last three years.<sup>329</sup> He told us that in some cases, the Agency was running joint operations with An Garda Síochána, coordinating their approach on both sides of the border and sharing as much evidence as possible.<sup>330</sup> He also told us that 80% of the Agency’s investigators had spent at least a week on secondment to the Criminal Assets Bureau which had been “hugely beneficial” during the Agency’s first few years of operation and had helped establish “very strong personal relationships between investigators in the Agency and CAB”.<sup>331</sup> Mr Paul Gerrard confirmed that HMRC had a good working relationship with the Revenue Commissioners in the Republic of Ireland. He also pointed out that HMRC had a fiscal liaison officer based in Dublin who worked with all the main law enforcement agencies, including the Criminal Assets Bureau.<sup>332</sup> The Assistant Chief Constable of the PSNI with responsibility for organised crime, Mr Peter Sheridan, told us that he had regular meetings with Garda officers in the Republic of Ireland during which joint work on targeting particular gangs was discussed, progress was recorded and information and intelligence were exchanged.<sup>333</sup>

175. The Northern Ireland Office informed us that there was regular liaison between the two jurisdictions at both ministerial and official level “to discuss policy and legislative issues relating to organised crime”.<sup>334</sup> Since 2003, an annual cross border organised crime seminar has been organised jointly by the Northern Ireland Office and the Department of Justice, Equality and Law Reform in the Republic of Ireland.<sup>335</sup> The seminars were designed to allow representatives of law enforcement agencies and public sector bodies in both jurisdictions to improve “the existing shared understanding of cross border organised crime” and to evaluate progress made in tackling it. At the 2004 seminar, An Garda Síochána and PSNI published the first joint, cross border organised crime assessment to focus the efforts of the law enforcement agencies on both sides of the border. The 2004 assessment focused on key cross border areas of organised crime, including oils, tobacco and alcohol fraud, intellectual property crime, drugs and money laundering.

**176. We welcome the growth in cross border cooperation in tackling organised crime and the establishment of more formal arrangements for joint operations. This cooperation is vital to the fight against organised crime.**

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329 Q 174

330 Q 174

331 Q 200

332 Q 353

333 Qq 144, 145

334 Ev 141

335 *Ibid.*

177. We believe that if Northern Ireland is to complete its transition to a normal society, it is crucial that the main law enforcement agencies on both sides of the border continue to give priority to combating organised crime and that they have a clearly understood long term strategic approach. Given the association between some political parties and those engaged in organised crime, we welcome the Minister's recognition that the successful combating of organised crime is central to sustaining political progress in Northern Ireland.

### The Serious Organised Crime Agency

178. The creation of a Serious Organised Crime Agency (SOCA) was a key commitment in the Home Office white paper "One Step Ahead" published in March 2004. The Agency was formally established on 1 April 2006. Its remit covers the whole of the UK and brings together the functions of the National Criminal Intelligence Service, the National Crime Squad, elements of HM Revenue and Customs, including its investigative and intelligence work on serious drug trafficking and related criminal offences, and the UK Immigration Service's work on organised immigration crime. Its key functions are to prevent and detect serious organised crime, contribute to its reduction, and gather, store, analyse and disseminate information on crime. As we noted at paragraph 81, its core objective is reducing the harm caused to UK citizens by organised crime.

179. In its first Annual Plan (2006–07), the Agency notes that it has agreed to work in partnership with law enforcement agencies in Northern Ireland in order to secure an effective and coherent response to organised crime in Northern Ireland. The Agency has therefore become a member of the Organised Crime Task Force. During an informal meeting with officials of the Agency, we were told that memoranda of understanding between SOCA and the PSNI and the other law enforcement agencies were not yet in place, but would be prepared over the coming months. We expect these memoranda of understanding to be produced before the summer recess and trust that the Agency will find ways of working effectively with the law enforcement agencies in Northern Ireland and take every possible step to establish comprehensive systems for the efficient exchange of intelligence and operational information.

## 5 Additional measures to combat organised crime

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### Sentencing

180. The Committee was told in public session and in a number of informal meetings that there was widespread concern at the leniency of sentences in Northern Ireland for offences connected with organised crime, such as extortion, intellectual property crimes, money laundering, smuggling and oils fraud. The Northern Ireland Bankers' Association alluded to the "weak sentence policy of courts".<sup>336</sup> Sir Hugh Orde, Chief Constable of the Police Service of Northern Ireland, noted that the level of deterrent in Northern Ireland is often perceived as lower in Northern Ireland than in the rest of the United Kingdom.<sup>337</sup>

181. Sir Hugh welcomed a substantial increase in recent years in average sentences passed down for extortion from 18–36 months to 7–8 years, and he noted that the most recent sentencing guidelines for an individual found guilty of extortion in a defended case were for a sentence of 10–14 years.<sup>338</sup> However, he told us that it was his perception that sentences were lower in Northern Ireland than in Great Britain, and he called for a comparative review of sentencing in Northern Ireland and Great Britain and for a review of the appropriateness of legislation available to prosecute for organised crime offences.<sup>339</sup>

182. A number of witnesses were particularly concerned at the apparent leniency of sentences for fuel smuggling and other revenue crimes. Mr Tom Wilson, Manager of the Freight Transport Association Ireland argued that in the context of fuel laundering and smuggling, "penalties do not fit the crime",<sup>340</sup> and Mrs Val Smith, former National Chairman of the Road Haulage Association Ltd and Manager of Bondelivery Northern Ireland believed that "derisory sentences" were handed down to those convicted of fuel smuggling.<sup>341</sup>

183. Officers of HM Revenue and Customs expressed concern at sentences handed down to those convicted of revenue frauds<sup>342</sup>; they told us that on a number of occasions officers had expected custodial sentences to be passed but suspended sentences were handed down and that sentences in Northern Ireland are lighter than for comparable offences in England and Wales. A number of individuals, in both Dublin and Westminster, suggested to us in informal meetings that the problem lay with sentencing policy; some of the statutory provisions were very severe, but there was a tendency for the courts to feel that if a crime was not violent, this should be reflected in a lesser sentence. Accordingly, those convicted

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336 Ev 154

337 Q 168

338 Q 124

339 Q 168 Ev 101

340 Q 70

341 Q 119

342 Q 357

of serious revenue offences, such as oils frauds, might receive only a fine or a suspended sentence.

184. The Minister for Policing and Security, Mr Paul Goggins, MP, believed that sentencing in Northern Ireland was “on a par” with practice in England and Wales.<sup>343</sup> He welcomed the recent examples of what he saw as more appropriate sentences being passed down for crimes connected with organised crime in Northern Ireland.<sup>344</sup>

**185. We endorse Sir Hugh Orde’s call for a comparative study to be conducted into sentences in Great Britain and Northern Ireland. It is only on the basis of such a study that an assessment can be made as to whether the perception that sentences are more lenient on average in Northern Ireland is valid.**

186. Sir Hugh welcomed the fact that he could ask the Attorney General to appeal against a lenient sentence, but asked that this right be extended to appealing against sentences in “either way offences”, cases triable either in a magistrates court or a crown court. The Criminal Justice Act 1988 gives the Attorney General the power to seek leave to refer a sentence to the Court of Appeal for reconsideration if he believes it to be unduly lenient. The Attorney General informed us that the power of review is not intended to limit the exercise of a judge’s discretion, but is designed to catch those sentences where a judge has failed to exercise his or her discretion within the correct range.<sup>345</sup> The Attorney General also noted that there was no significant difference between sentencing guidance applicable in Northern Ireland and that applicable in England and Wales.<sup>346</sup>

187. The Attorney General noted his decision in 2004 to refer a sentence passed in the case of Thomas Potts, arraigned for blackmail.<sup>347</sup> Mr Potts, an individual with a loyalist paramilitary background, was arrested following a police operation to uncover suspected extortion in relation to the development of a retail site in North Belfast. He was sentenced to three years in custody and two years probation. The sentence was increased by the Court of Appeal to one of seven years. The Court of Appeal’s judgment noted that blackmail was a “particularly grave crime in Northern Ireland” and noted the “threat that paramilitaries in general and blackmail carried out in their name particularly, pose to the peace and good order of our society”.<sup>348</sup>

188. In its judgment the Court of Appeal reiterated the terms of a previous judgment in a case referred by the Attorney General that

“so long as paramilitary violence continues in our society [...] those convicted of offences associated with that type of violence should receive more severe sentences,

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343 Q 534

344 *Ibid.*

345 Ev 158

346 *Ibid.*

347 Attorney General’s reference (number 5 of 2004) Thomas Potts; Neutral Citation no. [2004] NICA 27.

348 *Ibid.* para 17

as a general rule, than those whose crimes are committed in a non-terrorist context.”<sup>349</sup>

189. The Minister welcomed the fact that the courts currently did take into account whether a crime was connected with organised crime when passing sentence, but questioned whether a requirement for connection with organised crime to be made an aggravating factor in sentencing needed to be written into law.<sup>350</sup>

190. The previous Committee endorsed the sentence based approach to dealing with the problem of hate crime in Northern Ireland implicit in the draft Criminal Justice (No. 2) (Northern Ireland) Order 2004.<sup>351</sup> It hoped that the provisions for Courts to impose heavier sentences when an offence was aggravated by hostility based on the victim’s actual or presumed religion, race or sexual orientation, would signal that there should be no tolerance of “hate crime”. In his response to a suggestion that equivalent legislative provision could be made to impose heavier sentences for offences connected with organised crime, the Lord Chief Justice said that he did not think that this was necessary because he thought that it was a factor which judges in Northern Ireland already took into account when sentencing offenders, and that this was implicit in sentencing guidelines.<sup>352</sup> The Lord Chief Justice was also concerned that there could be practical difficulties in drafting an adequate definition of organised crime whilst remaining sufficiently flexible to address very different circumstances.<sup>353</sup> In fully respecting the independence of the judiciary and in recognising the dangers of commenting on specific cases, we acknowledge that it is no easy matter always to categorise a particular crime.

**191. The Committee holds strongly to the view that politicians should not criticise individual judges and takes most seriously the points made by the Lord Chief Justice to the Committee. Nevertheless, the Attorney General himself has expressed a clear interest in these matters, as the senior Law Officer of the Crown. He is of course a Member of the Government, and it is the Committee’s duty to hold the Government to account. We recognise the clear perception that exists in Northern Ireland that those found guilty of so-called “victimless” crimes (about which we have previously expressed our opinion) are not given sentences commensurate with the seriousness of their crimes. If this perception continues, it will have a detrimental effect on confidence in the administration of justice and on the process of upholding and enforcing the law in Northern Ireland. We welcome the exercise by the Attorney General of his right to appeal against unduly lenient sentences and recommend that his right to appeal against a lenient sentence be extended to appealing against sentences in “either way offences”.**

**192. We note the judgment of the Court of Appeal that those convicted of offences connected with paramilitary violence should receive more severe sentences. We also note that paramilitaries are not just engaged in violent activities; they are also clearly**

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349 *Ibid.* para 19

350 Q 536

351 Northern Ireland Affairs Committee, “Hate Crime”: the Draft Criminal Justice (Northern Ireland) Order 2004, HC (2003-04) 615, para 9

352 Ev 162

353 Ev 162

involved in other crimes including oils and revenue fraud. While recognising the complexities that might be involved, and noting the *caveat* entered by the Lord Chief Justice in his Principal Private Secretary's letter to the Committee, we nevertheless feel bound to recommend that careful consideration be given to making connection with organised crime an aggravating factor in sentencing in Northern Ireland.

## Regulation and licensing

### *Licensing for petrol retailers*

193. The Northern Ireland Affairs Committee recommended in 2002 a licensing regime for petrol retailers with sanctions for breaching licence conditions, including the revocation of a licence.<sup>354</sup> The Independent Monitoring Commission also recommended that “the Governments of the UK and Ireland should introduce licensing regimes which would enable the closure of businesses which have been engaged in the illicit fuel trade, and would keep out of the industry all those shown to have been involved in that illicit trade”.<sup>355</sup> The IMC noted that a robust licensing system would prevent “the transfer of licences from people or business deemed unfit to their associates who are apparently unblemished”.<sup>356</sup> We were also told in informal meetings with individuals connected with the petrol retail industry that licensing was the only effective way to address the problem, making retailers accountable for malpractice. It was suggested that a robust licensing system would make retailers better able to resist the pressure of criminal gangs.

194. Officials from HM Revenue and Customs called for an inter-agency approach to dealing with oils fraud<sup>357</sup>, speaking not only of the role for trading standards in petrol retail but also of the health and safety implications of illegal fuel deliveries which are accompanied by none of the standard safety procedures used for delivery of a very hazardous product. The officials told us that in Great Britain “it is very difficult for someone to get illegal fuel into legitimate retail sites because those sites are licensed”.<sup>358</sup>

195. HM Revenue and Customs welcomed the announcement by the Department of Enterprise, Trade and Investment on 25 April of a consultation exercise on proposals for the licensing of fuel retail sites, with the Health and Safety Executive for Northern Ireland assuming responsibility for petrol licensing.<sup>359</sup> They believed that a more effective licensing regime would help to tackle supply of illicit oils. A system requiring comprehensive and auditable records of deliveries, stock and sales would assist HM Revenue and Customs in identifying illegal fuel as they would be able to carry out reconciliations of deliveries (and identify off-record deliveries), track individual deliveries and apply sanctions based on documentary evidence. Retailers who had been identified as contravening the conditions of their licence would be reported to the licensing authority who could take action.

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354 HC (2002-03) 105, paras 71-73

355 Seventh Report of the IMC, October 2005, p38

356 *Ibid.*

357 Q314

358 Q 314

359 HC Deb, 25 April 2006, cols 38-40 WS.

196. We welcome the Government's decision to establish a licensing regime for the petrol retailing industry, but regret that it has taken so long to implement a recommendation made by the Northern Ireland Affairs Committee in 2003. We give notice that we intend to keep the implementation and operation of the proposed licensing scheme high on our agenda and we urge the law enforcement agencies to give sufficient priority to the licensing scheme to ensure that it is enforced.

197. Throughout the evidence that we have received on this subject, and indeed on others, the inability of trades to regulate and discipline their own members was all too apparent. Fundamental to combating crime of this nature is the agreement of Codes of Conduct which are rigorously enforced. But no organisation will feel able to introduce disciplinary measures unless it feels absolute confidence in the determination of the police to pursue criminals and the knowledge that the police has the unreserved support of all elected politicians, at all levels, in Northern Ireland.

### *Licensing of taxis*

198. The Independent Monitoring Commission (IMC) drew attention to the use that has been made by paramilitaries of legitimate businesses, such as taxi and security firms, to fund their activities.<sup>360</sup> The IMC believed that such businesses “provide opportunities to move significant quantities of cash, including in parallel with but outside the normal accounts” and that such businesses had their roots in local communities, thus “securing a measure of protection”.<sup>361</sup> It noted that although a licence is required to drive a taxi lawfully, none is needed to operate a taxi business.<sup>362</sup> It believed that paramilitaries controlled some businesses, and while the taxi drivers themselves may not be members of the paramilitary organisation “they may find themselves obliged to undertake tasks which benefit the paramilitaries such as the delivery of drugs or illicit tobacco”.<sup>363</sup> Drivers were also often prevented from moving to work for other firms. The IMC argued that this activity raised questions about the need for regulation of taxi businesses and drivers “so as to increase the pressure on paramilitary groups by reducing, and ideally preventing, the opportunities they have to operate illegally in the normal economy”.<sup>364</sup>

199. The Head of the Northern Ireland Civil Service told us that a consultation on revised taxi licensing legislation would start later in June 2006 and it was hoped that new legislation would be in force by March 2007.<sup>365</sup> The legislation is expected to provide for operator licensing and enhanced enforcement powers.

200. **We are extremely concerned by the reports of the Independent Monitoring Commission on the involvement of paramilitaries in the taxi trade. While we welcome the official assurance that revised licensing legislation will be brought forward, this**

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360 Fifth Report of the Independent Monitoring Commission, 24<sup>th</sup> May 2005, paragraph 6.8.

361 *Ibid.* para 6.8

362 *Ibid.* para 6.14

363 *Ibid.* para 6.14

364 *Ibid.* para 6.15

365 Q 527

legislation is long overdue. We will continue to take an interest in this area and will examine the proposals closely.

### *Door supervisors*

201. Northern Ireland does not come within the remit of the Security Industry Agency, and it is therefore up to local councils in Northern Ireland to regulate door supervisors through the entertainments licence. The Federation of the Retail Licensed Trade noted that licensees could come under pressure to employ particular individuals with paramilitary or other organised criminal links.<sup>366</sup> In the absence of any equivalent of the Security Industry Agency, it was argued that this pressure was often very difficult to resist.

202. Mrs Nicola Carruthers, Chief Executive of the Federation of the Retail Licensed Trade, reported that North Down Borough Council had set up a local committee of licensees, the council and the police to vet door supervisors, check their references and decide on registration of individuals.<sup>367</sup> However, she reported that the majority of local councils operated no form of registration.<sup>368</sup> The system in Belfast required police checks to be made of door supervisors, but it was then up to the licensee to determine whether the result of the police check should be a bar to employing that individual. It was argued that this system still left the licensee liable to pressure as the judgment on the suitability of an individual was left to their discretion. Other local councils operated no form of registration. Mrs Carruthers said that there was merit in taking the decision as to whether an individual door supervisor was suitable for employment away from the licensee and referring it to a third party.<sup>369</sup> The Federation called for compulsory training and compulsory registration of door supervisors.<sup>370</sup> In its Annual Report for 2006, the Northern Ireland Office notes that it is currently reviewing existing legislation governing the private security industry (door supervisors and security guards).<sup>371</sup> It intends to introduce legislation within the next two years.

**203. We recommend the establishment of a system for training and registration of door supervisors. We note that the Northern Ireland Office is currently reviewing legislative provisions governing the private security industry, including door supervisors, in Northern Ireland. The Policing and Security Minister acknowledged that Northern Ireland did not have a properly licensed, well regulated, private security industry.<sup>372</sup> We urge the Government to ensure that this review is carried out as a matter of priority.**

### *Regulation of Charities*

204. In its November 2004 Report, the IMC highlighted its concerns about the limited controls on charities on both sides of the border, and noted allegations that paramilitary

366 Ev 127

367 Q 267

368 Q 267

369 Q269

370 Q 270

371 Northern Ireland Office Departmental Report 2006, Cm6836, para 5.53

372 Q 520

groups illicitly used funds raised for ostensibly charitable purposes, and used charities to divert money obtained from criminal activities.<sup>373</sup> The IMC was concerned that “charitable status is abused by some, and that it may be a channel for the misuse of paramilitary funds”.<sup>374</sup> The Department for Social Development reported on its assessment of paramilitary involvement in charities.<sup>375</sup> Some organisations associated with paramilitary groups had charitable purposes recognised under current legislation. However, anecdotal evidence indicated that funds from some charities with associations with paramilitary groups had been spent on matters not consistent with the charitable purpose and the proceeds of informal collections had not reached the named intended recipient. Police investigations had also highlighted cases in which bank accounts in the names of charitable organisations associated with paramilitaries had been used to launder money obtained from criminal activities.

205. Charities in Northern Ireland are not subject to the same degree of oversight as charities in England and Wales. There is no Charity Commission for Northern Ireland and no Register of Charities. The Department for Social Development has powers to certify to the Attorney General that legal proceedings should be considered in relation to a charity and to require records to be submitted where it has grounds to believe that charity property may have been concealed or misapplied, and powers to apply to the Courts in the event of an alleged breach of a charitable trust.<sup>376</sup> It does not have powers analogous to those of the Charity Commission in England and Wales. Under the present system, an organisation can obtain charitable status from HM Revenue and Customs purely on the basis of its stated aims. It can then declare itself to be a registered charity.

206. Professor Goldstock noted that there was no system of compulsory registration of charities in Northern Ireland and recommended that the Independent Private Sector Inspector Generals (IPSIGs) programme would be well-suited to augment oversight and regulation functions.<sup>377</sup> Officials from the Department for Social Development argued that the IPSIG model was not applicable to the charities sector on the grounds that the victims of malpractice included public sector bodies, such as HM Revenue and Customs, and the charitable sector was very fragmented.<sup>378</sup>

207. The PSNI does not keep information on the numbers of cases of fraud involving charities or the sums of money obtained from criminal activities.<sup>379</sup> However, the Department for Social Development highlighted ways in which criminals had sought to exploit charities, including sham charities that had been set up to avoid Stamp Duty and a

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373 Third Report of the Independent Monitoring Commission HC (2004-05) ??, para

374 *Ibid.* para 5.21

375 Ev 137

376 Charities (Northern Ireland) Act 1964.

377 Goldstock Report recommendation 21; the Independent Private Sector Inspector General (IPSIG) is an independent private sector firm with legal, auditing, investigative, research, analytical, management and loss prevention skills that is employed by an organisation to ensure compliance with the law and deter, prevent or uncover unethical or illegal conduct.

378 Q 438

379 Ev 137

charity that had been set up to receive large gifts of shares, attracting tax relief for the donor.<sup>380</sup>

208. The Government has announced its intention to introduce new charities legislation in Northern Ireland to establish a Charity Commission for Northern Ireland and a Northern Ireland Register of Charities.<sup>381</sup> The legislation is intended to provide a regulatory framework for all charities, make information on what charities do with their money available to the public, restrict opportunity for abuse by criminals and provide for better exchange of information between other regulators in the UK and Ireland and with the PSNI and HM Revenue and Customs.<sup>382</sup> It is expected that the Department for Social Development will publish a consultation on a proposal for a draft Order between May and August, and lay an Order in Council before both Houses in October.<sup>383</sup>

209. Officials from the Department argued that, under the proposed legislation, charities will be more tightly regulated than in the rest of the United Kingdom.<sup>384</sup> They said that the legislation would be more comprehensive in its coverage of charities than the equivalent legislation in England and Wales; it would also require more thorough accounting standards of charities and a public interest test would be required for registration of a charity.

**210. We are astounded that it has taken so long to come to a sensible decision on the regulation of charities in Northern Ireland and we urge that there be no further delay in bringing forward the appropriate legislation. The Committee would be glad to play its part in the framing of such legislation, and in monitoring its implementation. We also believe that there is a case for the use of Independent Private Sector Inspector Generals (IPSIGs) in the charitable sector; we ask the Government to review its policy on this point.**

### **Road Haulage Licensing**

211. The Transport Operator Licensing System, which is in force in England and Wales, requires road haulage operators to apply for a licence. An operator who has fallen foul of the law (for example by using illegal fuel) can be brought before a Traffic Commissioner who has power to revoke their licence. This system does not, however, extend to Northern Ireland. The Head of the Northern Ireland Civil Service, told us that proposals for an “identical” licensing regime would be published for consultation in 2007.<sup>385</sup>

**212. Although we welcome the assurance that proposals for a licensing regime for the road haulage industry will be brought forward in 2007, we are disappointed by the delay in bringing forward the proposals, given that a road haulage licensing regime has been operating in England and Wales since 2000. We cannot stress too highly the**

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380 Ev 137

381 *Ibid.*

382 *Ibid.*

383 Ev 136, 137

384 Q 453

385 Q 526

**importance of providing appropriate licensing and regulatory frameworks for key industries in Northern Ireland.**

### **Crime proofing**

213. In its 2004 organised crime report, Europol makes the point that it is important to take steps to ensure that new or amended legislation, products and services are “proofed” – in other words tested to ensure that they do not have loopholes and therefore create yet further opportunities to commit crimes. Proofing of legislation in this way can make a significant contribution to combating organised crime. Under Section 75 of the Northern Ireland Act 1998, public authorities in Northern Ireland have a duty to have due regard to the need to promote equality of opportunity when carrying out their functions, and a duty to promote good relations. These duties have led to a comprehensive “proofing”, or testing, of the policies of public authorities. **We believe that it would be helpful to establish a “crime proofing” test of all policy initiatives and future legislation by both the Northern Ireland Office and Northern Ireland Departments. This would help ensure that they were not open to exploitation by those involved in organised crime. In this context, we welcome the creation of the Northern Ireland Civil Service Interdepartmental Group, the aim of which is to promote awareness of the threat from organised crime both in Government Departments and throughout the public sector. We recommend that this Group, in consultation with the Northern Ireland Office and the PSNI, take every necessary step to ensure that policy initiatives and proposed legislation are thoroughly examined to ensure that they are not capable of exploitation by criminal elements.**

### **Reporting of organised crime**

214. Much of the evidence that we have received concerning the extent of organised criminal activity has been anecdotal. In communities dominated by paramilitary and other organised criminal gangs, one of the largest obstacles facing the police can be a reluctance of victims to come forward to report crimes. The Federation of the Retail Licensed Trade noted one of the respondents to their survey, who had been a victim of extortion, had not reported the crime complaining “what would be the use?—absolutely no protection available from the police”.<sup>386</sup> Witnesses from the CBI and the Federation of Small Businesses were, at best, lukewarm in their expressions of confidence in the police to deal with crimes, such as extortion, that were experienced by their members.

215. Mr Nigel Smyth, Director of CBI Northern Ireland, called for a dedicated telephone line to be set up by the PSNI to advise businesses that were victims of such crimes.<sup>387</sup> Sir Hugh Orde told us that the police needed to work in partnership with business and that it was also the responsibility of the business community to work with the police.<sup>388</sup> He told us that “every time we get a complaint we make arrests and we convict people for extortion”.<sup>389</sup> He also noted the increase in average sentences being handed down for

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386 Ev 128

387 Q 23

388 Q 124

389 Q 124

extortion.<sup>390</sup> **We note that the PSNI announced the opening of a new dedicated telephone line for the reporting of incidents of extortion on 15 May 2006; the helpline 028 90 92 22 67 will be open on Mondays to Fridays from 8 a.m. to 4 p.m. The decision to open this line was made in response to the Committee's questions at the beginning of this inquiry. We are grateful for this prompt response but emphasise that this initiative needs wider publicity.**

216. HM Revenue and Customs noted that the volume of information that was received through its Customs Confidential Hotline, on 0800 595 000, was still at relatively low levels.<sup>391</sup> Obtaining more information on criminal activities such as fuel smuggling from those in the petrol retail industry in particular was a priority for the organisation.

217. Mr Michael Laurie, Chief Executive of Crimestoppers, informed us that in 2004 38.7% of calls that they received related to crimes traditionally perceived to be associated with organised crime; in 2005 the figure was 50.7% of calls.<sup>392</sup> He noted that “the fear and knowledge of reprisal is well known and well documented thereby all sections of the community are aware of the consequences of it being known that they have helped the authorities”.<sup>393</sup> This placed an additional responsibility on Crimestoppers call-handlers to ensure that the anonymity of callers was preserved from the outset. We note the impressive record of Crimestoppers in contributing to the arrests of 75 individuals in Northern Ireland for crimes connected with organised criminal activity during 2005, a 31% increase on the previous year.<sup>394</sup> We also note the very substantial contribution made by Crimestoppers to recovery of property and drug seizures in Northern Ireland; property to the value of £282,405 was recovered, and drugs to the value of £443,574 were seized following calls to Crimestoppers in 2005 .

218. Mr Laurie noted that it was commonly, but erroneously, perceived that Crimestoppers were part of the police, and stressed that the organisation was an independent charity that worked in partnership with the police. The organisation had recently secured funding for a publicity campaign to focus on its charitable status, its independence from the police and the guarantee of anonymity given to all callers.<sup>395</sup>

**219. We commend the work of Crimestoppers and commend their initiative in mounting a publicity campaign to highlight their independence from the police and the anonymity that they offer to callers.**

**220. We urge the PSNI and HMRC to take further steps to publicise their confidential telephone lines.**

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390 Q 124

391 Q 336

392 Ev 157

393 *Ibid.*

394 Ev 158

395 Ev 157

## Provision for Non-Jury Trials

221. Fear of reprisals is also a factor discouraging individuals from giving evidence in trials for crimes associated with organised crime. Since 1973, Northern Ireland has had Diplock courts which provide for trial for scheduled offences before a judge and without a jury where there is a perceived threat to witnesses. The Government intends to review the operation of these courts and will consult the Committee on its proposals. The Criminal Justice Act 2003 contains UK wide provisions for a trial to be conducted without a jury in a case “where there has been intimidation, or attempted intimidation, of any person who is likely to be a witness in the trial”.<sup>396</sup> To date, these provisions have not been brought into force.

**222. We believe that it is essential that adequate provision for non-jury trials for appropriate offences in Northern Ireland is maintained. It is only by maintaining them that many witnesses will feel able to give evidence against organised crime gangs. We therefore urge the Attorney General to assess with the prosecuting authorities whether the use of such trials would encourage more witnesses to give evidence.**

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<sup>396</sup> Criminal Justice Act 2003, section 44 (6) (c)

## 6 Conclusion

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223. In the introductory paragraph of this Report we made reference to the regrettable necessity of taking evidence in private session and for having informal meetings with those who had suffered at the hands of organised criminal gangs. A reading of this report will make it plain how much information we derived from such evidence and informal testimony. It is our earnest hope that this report will draw attention to the particular and peculiar nature of organised crime in Northern Ireland and that it will help persuade all sections of the community that it is essential for the running of a democratic society that the rule of law should be universally acknowledged and upheld, especially by those who occupy positions of leadership and authority. It is also our hope that if and when this committee, or its successor in a subsequent parliament, decides to return to this subject it will be against a very different background and that, therefore, the need for so much of the evidence to be taken in private, will not pertain.

## Conclusions and recommendations

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1. Paramilitary organised crime continues to threaten the stability of communities in Northern Ireland and poses a real threat to future political progress. We are deeply concerned by the control which paramilitary groups from both communities continue to exercise over those communities, the fear that this creates and the attendant negative consequences that this has for the reporting of organised crime. (Paragraph 21)
2. We share the Independent Monitoring Commission's (IMC) concern about the potential for the process of paramilitary transition to create an instability which is open to exploitation by organised criminals with paramilitary backgrounds. It is vital that the Police Service of Northern Ireland (PSNI) and other law enforcement agencies in Northern Ireland take every possible step to combat paramilitary organised crime. If this requires extra financial and logistical support, then we call upon the Government to provide it. Ministers should be in no doubt that their political efforts could be completely undermined by another Northern Bank robbery. (Paragraph 22)
3. While we note the progress HM Revenue and Customs are making in combating oils fraud, we believe that it must increase its efforts to counter this activity. The amount of illicit fuel sold in Northern Ireland remains at an unacceptably high level. Despite recent increases in the numbers of laundering plants disrupted and gangs broken up, much remains to be done. (Paragraph 30)
4. We are pleased to note the success of the Registered Dealers in Controlled Oils Scheme established under HM Revenue and Customs' Oils Strategy, although we are concerned that the import of rebated oils from the Republic threatens to replenish the illegal supply chain. We accordingly note the importance of cross-border cooperation in combating misuse of rebated fuels. We recommend that the Government reconsider its dismissal of the Danish model of payment of duty on rebated fuels at the point of sale as a matter of extreme urgency and that it give its conclusions when it replies to this Report. (Paragraph 37)
5. We wish to highlight the environmental and health and safety costs of laundering of rebated fuels. We also note that such laundering is causing substantial damage to the engines of many cars of drivers who, in good faith, have purchased diesel that has been diluted with kerosene or red diesel that has been treated with acid to remove its rebate marker. (Paragraph 38)
6. It is clear that there is a perception in Northern Ireland that those guilty of the crimes with which we are dealing get off lightly because the crimes are regarded as "victimless". There is no such thing as a victimless crime and we welcome the Minister's emphatic agreement with this statement. Society itself, and the reputation of Northern Ireland, are victims of these crimes. On a personal level, the extortion and intimidation that go with these crimes have countless individual victims, each of whom lives in a permanent state of fear. Those responsible for this mental cruelty, and those who benefit from the proceeds of crimes associated with it, should be

treated with no degree of leniency, but rather with the utmost severity the law allows. (Paragraph 39)

7. Cigarette smuggling is a major and highly lucrative organised criminal activity in Northern Ireland. We acknowledge the efforts of HM Revenue and Customs in tackling what is a large scale, highly organised and complex problem. We welcome the close cooperation between HMRC, the PSNI, An Garda Síochána and the Revenue Commissioners in the Republic. We believe that this area of organised crime can be tackled effectively only through close cooperation with law enforcement agencies in those countries involved in this trade and with international law enforcement agencies such as Europol and Interpol. We note that the supply chains for counterfeit cigarettes and the smuggling of genuine cigarettes extend across Europe and far beyond. (Paragraph 43)
8. We welcome the measures taken by the PSNI in conjunction with the Organised Crime Task Force's (OCTF) expert group and commend their efforts in tackling this major area of organised crime in Northern Ireland. We are deeply concerned by the effect which intellectual property crime is having on the local economy and the potentially hazardous effect which some counterfeit goods, including cigarettes and alcohol, have on the health of those who are duped into buying them. We welcome the publicity that accompanied the launch by the Policing and Security Minister of the OCTF's 2006 Annual Report, highlighting the potential hazards of counterfeit goods and conveying the message that intellectual property crime is not victimless. We urge the Government to take every possible step to ensure that this message is conveyed to the whole community. (Paragraph 46)
9. We note with satisfaction the work that the PSNI is doing to combat illegal dumping and welcome its close collaboration with An Garda Síochána and the Environment and Heritage Service. We urge the Government to introduce legislation, before the end of this Parliamentary Session, to give the police powers to detain vehicles suspected of transporting waste. (Paragraph 50)
10. While we welcome the steps being taken by the Social Security Agency to combat identity fraud and to improving the process of issuing national insurance numbers, we are concerned by the weaknesses identified by Criminal Justice Inspection Northern Ireland in the Agency's Benefit Fraud Investigation Unit. We urge the Benefit Fraud Investigation Unit to implement the recommendations of the Criminal Justice Inspection report without delay. Given the experience in Great Britain of organised criminal gangs operating benefit fraud, we urge the Department of Social Development to continue to give urgent attention to this. (Paragraph 53)
11. We welcome the initiatives taken by the law enforcement agencies, but, if public confidence is to be increased, it is essential that the public understand what is being done on its behalf and so those agencies must use plain language when they explain their work. (Paragraph 63)
12. We gladly recognise the important steps taken by law enforcement agencies on both sides of the border to address the disturbing increase in the sophistication of organised crime. It is, however, of crucial importance that their investigations and

response continue to be sufficiently robust to act as a deterrent. In this context, it is vital that more criminals are convicted; that the statutory penalties are adequate; and that sentences reflect the severity of the crime. (Paragraph 64)

13. The involvement of ‘professionals’ is a further worrying attribute of organised crime. We suspect, given the evidence of increased sophistication, that ‘professional’ assistance is an important element in organised criminal activity. We commend the work that has been undertaken by the law enforcement agencies in conjunction with the Law Society and with the financial services sector. We believe that this area will require an ever vigilant approach by the agencies of the OCTF. They must remain alert to the problem and take all possible steps to bear down on it. It is also incumbent on the professional bodies, such as the Law Society and the Institute of Chartered Accountants, to satisfy themselves that their membership requirements are sufficiently rigorous and that observance of them is carefully monitored. (Paragraph 75)
14. It is clear from the evidence that we received that organised crime in Northern Ireland is subject to significant under reporting and that many of its victims fear intimidation or reprisal. In the absence of any firm statistical data on the size of the problem, the vast majority of respondents relied on direct personal experiences and anecdotal evidence. This applies to all types of crime on which we took evidence. Because of the political history of Northern Ireland, its recent terrorist past and the continuing involvement of paramilitaries, organised crime is of a different nature and consequently has a more damaging impact on communities than it does in other parts of the UK. (Paragraph 85)
15. We welcome the Policing and Security Minister’s acceptance that there is a need for an enhanced understanding of organised crime in Northern Ireland. Understanding its nature and the gangs and networks involved is vital in order to ensure a wholly effective and robust response by the law enforcement agencies. We welcome the Minister’s assurance that the focus of the law enforcement agencies will be on targeting organised criminal gangs. We are encouraged by Sir Hugh Orde’s assertion that the battle against organised crime is “winnable”. His putting it in these terms, however, shows that it has yet to be won. (Paragraph 86)
16. A comprehensive assessment measuring the economic and social harm caused by organised crime in Northern Ireland would demonstrate how great the problem is. The time for determined new initiatives has come. (Paragraph 87)
17. We are concerned by the significant though unquantified effect organised crime is having on businesses in Northern Ireland and the consequential impact on the economy. We are concerned too by the evidence that parts of the business community do not have sufficient confidence in the PSNI. We welcome the assurances by the PSNI that all possible steps are being taken to tackle extortion. However, we urge the PSNI to do everything possible to convince the communities in which the problem is rife, and the victims of extortion, that if they do not report incidents the police will not be able to help them eradicate the fear that this creates. This will involve creating a climate in which the victim will feel safer by reporting a

crime than by remaining silent. Elected politicians at all levels have a crucial role, alongside the PSNI, in creating such a climate. (Paragraph 97)

18. We recognise that levels of taxation are not within the remit of this Committee, and we understand that the harmonisation of tax rates between one region of a Member State and another Member of the European Union is no easy matter. However, we must put it on record that it was a widely shared opinion of witnesses in public sessions, and amongst those we met informally, that if the United Kingdom and the Republic of Ireland could agree a common regime for fuel duty in Northern Ireland and the Republic, they would deliver a fatal blow to those involved in this area of organised crime. We are concerned at the scale of the problem and that law-abiding members of the public may unwittingly be helping to feed the illegal market. We therefore urge the Government to give urgent further consideration to the desirability of introducing a differential rate for fuel duty in Northern Ireland. (Paragraph 103)
19. We recommend at paragraph 220 that the PSNI should take further steps to publicise its confidential helpline. These steps must include measures targeted at those sectors of the economy in which extortion is a particular problem. (Paragraph 106)
20. Although anecdotal, the reports we heard were based on direct personal experiences of extortion within the construction industry and were given by individuals of whose bona fides the Committee was completely satisfied. We were both deeply concerned and disturbed by the evidence that builders simply felt they had no choice but to make protection payments such was the overt threat and fear of reprisals that would follow a refusal to pay. We were left in no doubt about the damaging impact that this was having on construction businesses, in terms of the substantial amounts of money that were having to be paid for “protection” and of the fear that this despicable activity was causing. It is also inevitable that costs to business in extortion payments are passed on, at least in part, to the customer. (Paragraph 108)
21. Combating extortion requires the closest of confidential links between business and the police and also widespread confidence that these crimes will be vigorously pursued. We are in no doubt that the PSNI is treating this very seriously. We acknowledge the difficulties in reporting this type of incident to the police, but without such reports, no action can be taken. We note later the seriousness with which the courts are treating extortion by paramilitaries. This scourge on society can only be combated by close cooperation between those who are threatened and the police. It is also essential that the courts have adequate powers and appropriate procedures to impose appropriately severe penalties on the convicted. (Paragraph 109)
22. We welcome official assurance that the Independent Private Sector Inspector Generals pilot projects are proving to be effective. We are glad to note that these projects are being extended with a view to developing a model for potential use in other sectors. (Paragraph 110)
23. We note that trading standards officers have had success in ensuring that the licensed trade serves only legitimate alcohol and we also note the substantial costs to

businesses of measures to combat counterfeiters. But we remain extremely concerned at the widespread distribution of illegal alcohol, and at the many serious implications of this including particularly dangers to public health and sales to children. We therefore urge the Government to mount a publicity campaign to highlight the dangers of consumption of counterfeit alcohol and to make it clear to consumers that they are taking a serious personal risk as well as supporting organised criminal activity by purchasing such alcohol. Alcohol fraud can not be seen as a victimless crime. We are glad to note that, after we raised these issues with the Minister, he gave prominence to them in the release of the Organised Crime Task Force's Annual Report for 2006. (Paragraph 115)

24. Where members of the licensed trade have been victims of threats of extortion, we believe that there is an onus on them to report these threats to the police, and on the police to have in place liaison arrangements to support those seeking their help. But they must be able to feel that their complaints will be vigorously pursued and that they will be offered whatever protection is necessary. (Paragraph 116)
25. The implementation of these proposals will coincide with the transformation and reorganisation of local government in Northern Ireland and the emergence of much larger district councils. It is important that these councils recognise the needs of individual communities which they serve. (Paragraph 124)
26. We note the importance of careful oversight of licensing in cash-based industry to prevent infiltration by those intent on using such businesses as a means of laundering money. We note that statutory guidance will be in place to ensure that district councils meet their obligations under the new licensing provisions. However, any licensing system is only as effective as the level of its enforcement and we accordingly ask the Government to provide reassurance both to the Committee and the people of Northern Ireland that provisions for oversight of district councils' exercise of their licensing functions will be thorough. (Paragraph 125)
27. Having taken careful note of the evidence received, we believe that a totally convincing case for these changes has still to be made. We are disturbed by the financial loss that would be suffered by individuals whose retirement plans took account of the value of their licences should these changes be implemented. In our opinion there is a strong case for giving urgent consideration to the possibility of making compensatory payments which recognise the loss of legitimate expectations. (Paragraph 126)
28. We welcome the review of the Organised Crime Task Force structures undertaken by the Northern Ireland Office in 2005. All structures need to be overhauled from time to time and that is particularly so when the threat from organised crime constantly evolves and mutates. It is essential that the agencies of the OCTF remain as alert to the threat as organised crime gangs are to the opportunities. (Paragraph 135)
29. We welcome the fact that the CBI and the Federation of Small Businesses are now represented on the OCTF's stakeholder group, but are concerned that its membership does not include representatives of specific key industries affected by

organised crime, including road haulage, the licensed trade and construction industries. We recommend that membership of the stakeholder group is extended to include key specific industries; that it meets quarterly rather than twice a year; and that its work is given wider publicity within the community at large. (Paragraph 136)

30. We welcome the measures taken by PSNI to strengthen its capacity to combat organised crime. We are in no doubt about the seriousness with which they treat their responsibilities in combating this problem. The pattern of paramilitary organised crime is changing and the potential for paramilitaries to use their expertise and skills to mutate into professional criminal enterprises is high. We welcome PSNI's commitment to adapt its approach in response to the changing pattern of organised criminal activity, and its assurance that its intelligence picture has strengthened. (Paragraph 143)
31. Combating organised crime is not the sole responsibility of the PSNI, but the shared responsibility of the PSNI, the other law enforcement agencies and indeed all Government Departments. We strongly believe that a partnership approach, under which responsibility is accepted by all these bodies will have a much more direct and significant bearing on organised crime, particularly paramilitary crime. (Paragraph 144)
32. We are under no illusions that gaining the community support that is essential in tackling organised crime and reducing the hold of the paramilitaries will require time, patience and strenuous effort. We therefore welcome the PSNI's commitment to assure local communities that organised crime is being addressed. This vital work must be given high priority. (Paragraph 145)
33. We recognise, however, that the success of the police in tackling organised crime will be significantly limited so long as one of the major political parties, Sinn Fein, withholds its support for, and recognition of the legitimacy of, the PSNI—and continues to encourage its supporters to follow this lead. Comprehensive and thoroughly effective policing requires the recognition and support of all communities and particularly of the leaders of those communities. (Paragraph 146)
34. The Committee has received conflicting reports in private on schemes for community restorative justice. While it is clear that there are schemes which act in the wider interests of the community and in constructive cooperation with the PSNI, there are other schemes that purport to be an alternative police force. Nothing must be done to give the latter further encouragement. We go further and urge that every possible step be taken to ensure that any future schemes are not infiltrated or controlled by paramilitaries. We recommend the adoption of clear and firm requirements which will apply to all such schemes. We further recommend that any community restorative justice group should only qualify for funding if it cooperates with the PSNI. We will therefore assess carefully the guidelines which the government has promised to issue to satisfy ourselves that they are adequate for their purpose. (Paragraph 147)
35. Our inquiry has shown that oils fraud and tobacco fraud are significant and sophisticated areas of organised crime in Northern Ireland which require a vigorous

law enforcement response. We welcome the steps taken by HMRC through its strategies to tackle both areas. We are encouraged by the increase in the sale of legitimate fuel in Northern Ireland, HMRC's commitment to ensure further growth in the legitimate market, and its determination to continue to bear down on tobacco fraud. (Paragraph 154)

36. However, we are deeply concerned by the evidence that crucial information about illegal activity is not always reaching HMRC headquarters. This situation cannot be allowed to continue. Receiving reports of illegal activity is critical to HMRC's capacity to tackle the problem effectively and timeously. We recommend that it review its systems for receiving information, particularly from officers working on the ground, and takes every possible step to encourage reports of suspicious activity, including wider publicising of its confidential telephone service. (Paragraph 155)
37. The HMRC has wide responsibilities none of which it can neglect. We welcome the particular attention it is giving to its customs and excise responsibilities in assisting the fight against organised crime. Nonetheless, diligent examination of individuals' tax affairs also has a very important role to play. It follows that the approach to thresholds adopted in the rest of the UK for examining an individual's tax affairs is not necessarily appropriate in Northern Ireland. There it is essential to target key members of organised crime gangs and those who may sponsor or protect them and such targeting inevitably necessitates a more flexible approach. (Paragraph 156)
38. Although UK wide, the Assets Recovery Agency has an assistant director and an office in Belfast specific to Northern Ireland. It has a total staff complement of approximately 200 and a Home Office budget of £15.5 million. The Belfast office has 47 staff and a budget of £3.59 million. We are bound to question whether this is an adequate distribution of resources, bearing in mind the importance of the issues on which this Report focuses. (Paragraph 157)
39. The Assets Recovery Agency also suggested that Part 5 of the 2002 Act required "a number of small amendments". We agree that such amendments would improve the Agency's efficiency and effectiveness. We ask the Government to undertake an urgent review of the legislation. (Paragraph 162)
40. The Assets Recovery Agency has been operating for only three years. We believe that within that relatively short period of time, the Agency has made a positive start towards recovering the very substantial proceeds of organised criminality in Northern Ireland. We welcome the growing number of referrals to the Agency, and the Agency's assurance that it pursues all viable cases referred to it, regardless of whether the cases have a loyalist or republican link. We cannot stress enough the importance of the law enforcement agencies in Northern Ireland continuing to refer cases they believe can be pursued by the Agency. We also note from the Agency's latest Annual Report that the costs of its operations to date far exceeds the value of assets it has recovered. We must express concern at this, particularly in light of the much greater financial success of the Criminal Assets Bureau in the Republic. (Paragraph 168)

41. We welcome the Agency's decision to give 50% of the assets recovered in a particular case to the referring organisation. We share the view that this will help foster goodwill and strengthen joint working arrangements between the law enforcement agencies. (Paragraph 169)
42. We also welcome the Minister's willingness to carry out a review of the Proceeds of Crime Act 2002. We heard strong evidence that the taxation powers of the Assets Recovery Agency would be more effective if they were equivalent to those of the Criminal Assets Bureau (CAB) in the Republic of Ireland. The CAB has the power to initiate cases without having to wait for a referral. We do of course recognise that the CAB is an integral part of An Garda Síochána. Whilst we advocate increased powers for the Assets Recovery Agency, we recognise that actions initiated by them must not prejudice wider police investigations. (Paragraph 170)
43. We have also received disturbing reports that, as a result of changes in legal aid legislation, criminals have been able to use the proceeds of their crime to fund their defence costs. We hold firmly to the view that those accused of crimes are innocent in law until proven guilty, but anyone found guilty in these circumstances should receive a sentence that reflects the illicit use of ill-gotten gains. We recommend that the Government keep this matter under close review. (Paragraph 171)
44. We welcome the growth in cross border cooperation in tackling organised crime and the establishment of more formal arrangements for joint operations. This cooperation is vital to the fight against organised crime. (Paragraph 176)
45. We believe that if Northern Ireland is to complete its transition to a normal society, it is crucial that the main law enforcement agencies on both sides of the border continue to give priority to combating organised crime and that they have a clearly understood long term strategic approach. Given the association between some political parties and those engaged in organised crime, we welcome the Minister's recognition that the successful combating of organised crime is central to sustaining political progress in Northern Ireland. (Paragraph 177)
46. We endorse Sir Hugh Orde's call for a comparative study to be conducted into sentences in Great Britain and Northern Ireland. It is only on the basis of such a study that an assessment can be made as to whether the perception that sentences are more lenient on average in Northern Ireland is valid. (Paragraph 185)
47. The Committee holds strongly to the view that politicians should not criticise individual judges and takes most seriously the points made by the Lord Chief Justice to the Committee. Nevertheless, the Attorney General himself has expressed a clear interest in these matters, as the senior Law Officer of the Crown. He is of course a Member of the Government, and it is the Committee's duty to hold the Government to account. We recognise the clear perception that exists in Northern Ireland that those found guilty of so-called "victimless" crimes (about which we have previously expressed our opinion) are not given sentences commensurate with the seriousness of their crimes. If this perception continues, it will have a detrimental effect on confidence in the administration of justice and on the process of upholding and enforcing the law in Northern Ireland. We welcome the exercise by the Attorney

General of his right to appeal against unduly lenient sentences and recommend that his right to appeal against a lenient sentence be extended to appealing against sentences in “either way offences”. (Paragraph 191)

48. We note the judgment of the Court of Appeal that those convicted of offences connected with paramilitary violence should receive more severe sentences. We also note that paramilitaries are not just engaged in violent activities; they are also clearly involved in other crimes including oils and revenue fraud. While recognising the complexities that might be involved, and noting the caveat entered by the Lord Chief Justice in his Principal Private Secretary’s letter to the Committee, we nevertheless feel bound to recommend that careful consideration be given to making connection with organised crime an aggravating factor in sentencing in Northern Ireland. (Paragraph 192)
49. We welcome the Government’s decision to establish a licensing regime for the petrol retailing industry, but regret that it has taken so long to implement a recommendation made by the Northern Ireland Affairs Committee in 2003. We give notice that we intend to keep the implementation and operation of the proposed licensing scheme high on our agenda and we urge the law enforcement agencies to give sufficient priority to the licensing scheme to ensure that it is enforced. (Paragraph 196)
50. Throughout the evidence that we have received on this subject, and indeed on others, the inability of trades to regulate and discipline their own members was all too apparent. Fundamental to combating crime of this nature is the agreement of Codes of Conduct which are rigorously enforced. But no organisation will feel able to introduce disciplinary measures unless it feels absolute confidence in the determination of the police to pursue criminals and the knowledge that the police has the unreserved support of all elected politicians, at all levels, in Northern Ireland. (Paragraph 197)
51. We are extremely concerned by the reports of the Independent Monitoring Commission on the involvement of paramilitaries in the taxi trade. While we welcome the official assurance that revised licensing legislation will be brought forward, this legislation is long overdue. We will continue to take an interest in this area and will examine the proposals closely. (Paragraph 200)
52. We recommend the establishment of a system for training and registration of door supervisors. We note that the Northern Ireland Office is currently reviewing legislative provisions governing the private security industry, including door supervisors, in Northern Ireland. The Policing and Security Minister acknowledged that Northern Ireland did not have a properly licensed, well regulated, private security industry. We urge the Government to ensure that this review is carried out as a matter of priority. (Paragraph 203)
53. We are astounded that it has taken so long to come to a sensible decision on the regulation of charities in Northern Ireland and we urge that there be no further delay in bringing forward the appropriate legislation. The Committee would be glad to play its part in the framing of such legislation, and in monitoring its implementation.

We also believe that there is a case for the use of Independent Private Sector Inspector Generals (IPSIGs) in the charitable sector; we ask the Government to review its policy on this point. (Paragraph 210)

54. Although we welcome the assurance that proposals for a licensing regime for the road haulage industry will be brought forward in 2007, we are disappointed by the delay in bringing forward the proposals, given that a road haulage licensing regime has been operating in England and Wales since 2000. We cannot stress too highly the importance of providing appropriate licensing and regulatory frameworks for key industries in Northern Ireland. (Paragraph 212)
55. We believe that it would be helpful to establish a “crime proofing” test of all policy initiatives and future legislation by both the Northern Ireland Office and Northern Ireland Departments. This would help ensure that they were not open to exploitation by those involved in organised crime. In this context, we welcome the creation of the Northern Ireland Civil Service Interdepartmental Group, the aim of which is to promote awareness of the threat from organised crime both in Government Departments and throughout the public sector. We recommend that this Group, in consultation with the Northern Ireland Office and the PSNI take every necessary step to ensure that policy initiatives and proposed legislation are thoroughly examined to ensure that they are not capable of exploitation by criminal elements. (Paragraph 213)
56. We note that the PSNI announced the opening of a new dedicated telephone line for the reporting of incidents of extortion on 15 May 2006; the helpline 028 90 92 22 67 will be open on Mondays to Fridays from 8 a.m. to 4 p.m. The decision to open this line was made in response to the Committee’s questions at the beginning of this inquiry. We are grateful for this prompt response but emphasise that this initiative needs wider publicity. (Paragraph 215)
57. We commend the work of Crimestoppers and commend their initiative in mounting a publicity campaign to highlight their independence from the police and the anonymity that they offer to callers. (Paragraph 219)
58. We urge the PSNI and HMRC to take further steps to publicise their confidential telephone lines. (Paragraph 220)
59. We believe that it is essential that adequate provision for non-jury trials for appropriate offences in Northern Ireland is maintained. It is only by maintaining them that many witnesses will feel able to give evidence against organised crime gangs. We therefore urge the Attorney General to assess with the prosecuting authorities whether the use of such trials would encourage more witnesses to give evidence. (Paragraph 222)

# Proceedings of the Committee relating to the Report

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## Wednesday 14 June 2006

Members present:

Sir Patrick Cormack, in the Chair

Mr David Anderson  
Mr Gordon Banks  
Mr Gregory Campbell  
Rosie Cooper  
Mr Christopher Fraser  
Mr John Grogan

Mr Stephen Hepburn  
Meg Hillier  
Lady Hermon  
Dr Alasdair McDonnell  
Mr Stephen Pound  
Mr Sammy Wilson

The Committee deliberated.

[Adjourned till Wednesday 21 June at half past Two o'clock.

## Wednesday 21 June 2006

Members present:

Sir Patrick Cormack, in the Chair

Mr Gordon Banks  
Mr Gregory Campbell  
Mr Stephen Hepburn  
Lady Hermon

Dr Alasdair McDonnell  
Mr Stephen Pound  
Mr Sammy Wilson

The Committee deliberated.

[Adjourned till Wednesday 28 June at half past Two o'clock.

**Wednesday 28 June 2006**

Members present:

Sir Patrick Cormack, in the Chair

Mr David Anderson  
Mr Gordon Banks  
Mr Christopher Fraser  
Lady Hermon

Dr Alasdair McDonnell  
Mr Stephen Pound  
Mr Sammy Wilson

Draft Report (Organised Crime in Northern Ireland), proposed by the Chairman, brought up and read.

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

Paragraph 1 read, amended and agreed to.

Paragraphs 2 to 8 read and agreed to.

Paragraph 9 read, amended and agreed to.

Paragraphs 10 to 13 read and agreed to.

Paragraph 14 read, amended and agreed to.

Paragraphs 15 to 21 read and agreed to.

Paragraph 22 read, amended and agreed to.

Paragraphs 23 to 146 read and agreed to.

Paragraph 147 read, amended and agreed to.

Paragraphs 148 to 154 read and agreed to.

Paragraph 155 read, amended and agreed to.

Paragraphs 156 to 161 read and agreed to.

Paragraph 162 read, amended and agreed to.

Paragraphs 163 to 169 read and agreed to.

Paragraph 170 read, amended and agreed to.

Paragraphs 171 to 189 read and agreed to.

Paragraph 190 read, amended and agreed to.

Paragraph 191 read, amended and agreed to.

Paragraph 192 read, amended and agreed to.

Paragraphs 193 to 220 read and agreed to.

Paragraph 221 read, amended and agreed to.

Paragraph 222 read, amended and agreed to.

Paragraph 223 read and agreed to.

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

*Ordered*, That the Chairman do make the Report to the House.

*Ordered*, That the provisions of Standing Order No. 134 (Select Committees (reports)) be applied to the Report.- (*The Chairman.*)

*Ordered*, That the Appendices to the Report be reported to the House. – (*The Chairman.*)

[Adjourned till a date and time to be announced by the Chairman.]



# Witnesses

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## Wednesday 1 February 2006

Mr Nigel Smyth, **CBI Northern Ireland**; Mr Wilfred Mitchell OBE, Mr Glyn Roberts,  
**Federation of Small Businesses** Ev 1

Mr Tom Wilson, **Freight Transport Association**  
and Mrs Val Smith, **Road Haulage Association Ltd** Ev 11

## Wednesday 15 February 2006

Sir Hugh Orde OBE, Mr Peter Sheridan, Mr Philip Aiken and Mr Mark Evans,  
**Police Service of Northern Ireland** Ev 18

## Wednesday 1 March 2006

Ms Jane Earl, Mr Alan McQuillan and Mr Anthony Kennedy, **Assets Recovery Agency**  
**in Northern Ireland** Ev 30

## Wednesday 8 March 2006

Mrs Nicola Carruthers, **Federation of the Retail Licensed Trade Northern Ireland** Ev 42

## Wednesday 22 March 2006

Mr Paul Gerrard and Mr Donald Toon, **HM Revenue and Customs** Ev 53

## Wednesday 3 May 2006

Mr John McGrath, Mr Dave Wall, Ms Linda MacHugh and Mr John Nevin,  
**Department for Social Development** Ev 62

## Wednesday 7 June 2006

Mr Paul Goggins MP and Mr Nick Perry **Northern Ireland Office**  
Mr Nigel Hamilton, **Northern Ireland Civil Service** Ev 77

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## Reports from the Northern Ireland Affairs Committee this Session (2005-06)

The following reports have been produced by the Committee since the start of the 2005 Parliament.

First Report	Education in Northern Ireland (HC 726)
Second Report	The Work of the Committee in 2005 (HC 928)
First Special Report	The Work of the Committee in 2004: Government Response to the Committee's Fourth Report of Session 2004-05 (HC 393)
Second Special Report	The Functions of the Office of the Police Ombudsman for Northern Ireland: Responses by the Government and the Office of the Police Ombudsman for Northern Ireland to the Committee's Fifth Report of Session 2004-05 (HC 394)
Third Special Report	The Parades Commission and Public Processions (Northern Ireland) Act 1998: Government Response to the Committee's Second Report of Session 2004-05 (HC 395)
Fourth Special Report	The Challenge of Diversity: Hate Crime in Northern Ireland: Government Response to the Committee's Ninth Report of Session 2004-05 (HC 396)
Fifth Special Report	Air Transport Services in Northern Ireland: Government Response to the Committee's Eighth Report of Session 2004-05 (HC 529)
Sixth Special Report	Ways of Dealing with Northern Ireland's Past: Interim Report – Victims and Survivors Government Response to the Committee's Tenth Report of Sessions 2004-05 (HC 530)
Seventh Special Report	The Functions of the Northern Ireland Policing Board Responses by the Government and the Northern Ireland Policing Board to the Committee's Seven Report of Session 2004-05 (HC531)
Eight Special Report	Decision to Cease Stormont Prosecutions (HC814)
Oral Evidence	Political and Security Developments in Northern Ireland: Rt Hon Peter Hain MP, Mr Jonathan Phillips and Mr Nick Perry – Wednesday 26 October 2005
Oral Evidence	The Police Service of Northern Ireland: Sir Hugh Orde and Mr Paul Leighton – Wednesday 9 November 2005