

THIRD REPORT OF THE INDEPENDENT MONITORING COMMISSION

Presented to the Government of the United Kingdom and the Government of Ireland under Articles 4 and 7 of the International Agreement establishing the Independent Monitoring Commission

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1. INTRODUCTION AND CONTEXT

- 1.1 We submit this second report on the continuing activities of paramilitary groups under Articles 4 and 7 of the International Agreement establishing the Independent Monitoring Commission. The British and Irish Governments published our first report on this subject on 20 April 2004 and under the terms of the International Agreement we are required to report at six-monthly intervals¹.
- 1.2 In preparing this report we have been guided by a number of considerations.
- 1.3 First is the underlying objective of the Commission set out in Article 3 of the International Agreement.

The objective of the Commission is to carry out [its functions] with a view to promoting the transition to a peaceful society and stable and inclusive devolved Government in Northern Ireland.

This Article continues to guide us in all that we do.

- 1.4 Second are the principles we enunciated in March about the rule of law and the need to observe both the spirit and the letter of democratic government. The principles are set out in full in Annex II.
- 1.5 Third, we are aware of the context in which we work. We understand, as we have said before, that the IMC is only one amongst many organisations, political parties and individuals who are working in their various ways to further the objective set out in Article 3. By helping to make the rule of law work in Northern Ireland we believe that our contribution can be useful. We believe that our first report put facts

¹ Article 4 directs us to monitor any continuing activity by paramilitary groups; to assess the role of the leadership of such groups; to assess trends in security incidents; and to report at six-monthly intervals unless the two Governments request a report at a different time or the Commission sees fit to produce one. Article 7 allows us to recommend any remedial action we consider necessary or measures we consider might appropriately be taken by the Northern Ireland Assembly. The text of Articles 4 and 7 is at Annex 1.

about paramilitary activities comprehensively in the public domain for the first time so that people could judge things for themselves. It also set a baseline against which progress towards a peaceful society could be measured.

- 1.6 We recognise that we are reporting on a society which is in transition. As we indicate below, there has been some welcome reduction in paramilitary violence since we last reported, particularly on the republican side. We have also prepared this report during a period of intense discussions between Northern Ireland political parties and the British and Irish Governments, and we wish all involved success in this latest stage of transition towards delivering peace, stability and reconciliation.

2. OUR APPROACH TO MONITORING CONTINUING PARAMILITARY ACTIVITY

- 2.1 The International Agreement directs us to monitor “continuing activity by paramilitary groups” in pursuit of our objective to promote the transition to a peaceful society and to stable and inclusive devolved government in Northern Ireland. We see our task as one of reporting honestly what is happening, and we follow the facts where they lead us and report what we find. It is only in this way that people are presented with an unambiguous account of the activities of paramilitary groups and are thereby equipped to make up their own minds on how best to complete the transition to a peaceful society.
- 2.2 History is relevant to our work because it sets a context and has helped shape attitudes. However, though we are directed to monitor trends, we are not addressing what once occurred or the antecedents of those who have given up criminality and now follow the democratic path. The distinction between the past and our monitoring of continuing activities is important and lies at the heart of our work. The question for us is whether over the period covered by this report a paramilitary group has been engaged in any form of violent or other criminal activity, is preparing for it, or is in a state of readiness to resume it. If it is not, then it ceases to be a paramilitary group save possibly in name.
- 2.3 Paramilitary groups have evolved from their early days when their prime activity was politically motivated violence. This is not of itself surprising. Terrorism is a tactic, a ruthless means to an end which is ultimately political. Over a period the balance may tip in favour of political means to advance that end, as has happened with some groups in Northern Ireland and in other countries.
- 2.4 To maintain their position paramilitaries have developed methods of community control, all too many examples of which involve extreme violence, and virtually all of which involve the exertion of influence through fear. In situations where there are difficulties about the acceptance of policing, paramilitary groups can come under pressure from their own communities to deal with anti-social behaviour. They also need to raise funds, and have turned to non-terrorist crime to do so. All

these phenomena are linked: violence and the exertion of influence help underpin not only the positions of paramilitaries but their ability to undertake non-terrorist crime. Some of the paramilitary groups to whose current activities we refer below have evolved to the point where they are principally concerned with the imposition of control over the communities within which they mainly operate and with non-terrorist crime, rather than with terrorism used against the organs of the state or against those with opposing political ambitions. Some of these same groups have weaker political links than they used to. Indeed, it is striking that the currently most violent paramilitary groups, on both the dissident republican and loyalist sides, are those whose political wings fail to attract any significant electoral support.

- 2.5 The paramilitary phenomenon in Northern Ireland is a complex one. This means, as we said in our first report, that it is too narrow to think in terms of whether ceasefires have been broken or not. It also means that it is harder for groups and some of their members to move from illegality because they would have to forsake not only the use of violence in pursuit of a political ambition but also control within their communities, personal position and, in some cases, wealth. But there can be no fudging over what has to be given up: a paramilitary group engaged in any of these forms of criminality falls squarely within our remit.
- 2.6 It is also clear that some crimes are committed by individuals or groups of individuals from within a paramilitary group on their own behalf, whether for personal gain or in pursuit of grudges or revenge. These crimes clearly have paramilitary connections but may or may not have an organisational sanction. The result is that what constitutes a paramilitary crime is much less clear than might be assumed and this may well remain the case for some time.
- 2.7 As part of our monitoring of paramilitary activity we have initiated an examination of the illegal activities of prisoners released under the terms of the Belfast Agreement. We will return to this in a future report.
- 2.8 Paramilitary groups need positive leadership if they are to break with criminality and enable their members to move into the legitimate main stream of society and leave criminality behind. Here too the need to distinguish between past and present

is very important. Ex-paramilitaries, who have given up criminality, are perfectly entitled to engage in any legal business, including furthering the welfare of former activists and their families using funds legitimately gained. That is not criminal paramilitary activity.

- 2.9 We applaud those in all walks of Northern Ireland life who are engaged in a range of actions which, in a variety of ways, contribute to enabling communities to live free of paramilitary activities and influence. These people know best of all that their engagement can bear fruit only over time, and as a result of their personal determination and courage. In respect of the period covered by this report we pay tribute to those who have helped ensure a largely trouble free marching season this year, whether by working quietly and determinedly over the preceding months or by their courageous example on the day in the face of sharp criticisms, sometimes from their own communities. We also wish to recognise here the work of all the agencies engaged in combating paramilitary crime, particularly the Police Service of Northern Ireland and An Garda Síochána.
- 2.10 We should also make two further points. The first is specifically about this report. Our reports would quickly become unmanageable if we included in them all the ground we had previously covered so as to ensure each was a self contained document, and we have not done that. On the other hand, we have again covered some earlier ground on incidents of violence so that we can properly assess trends, as Article 4 directs us to do.
- 2.11 The second point is one we have made before but it is worth repeating. We are as keen now as when we first issued a public statement in March 2004 to hear from as large a number of people as possible about what is happening and about potential remedies. We treat everything, including the identity of those who communicate with us, in complete confidence. We owe this to our interlocutors and believe it is essential if people are to talk to us frankly.
- 2.12 Accordingly, we continue to meet political parties, though it remains a matter of regret that some currently feel unable to accept our invitations. We meet community groups and individuals, some as private citizens and others in their

professional capacities, for example as business people, journalists or academics. We have placed advertisements in the press and have indicated on our website areas in which we are particularly interested². We are grateful to all those who have spoken to us, have sent us written material, and have engaged in debate with us. We have learnt from you all³.

² You can contact the IMC through our website:

(www.independentmonitoringcommission.org); by E-mail: imc@independentmonitoringcommission.org;

by post at: PO Box 709, Belfast, BT2 8YB, telephone +44 (0)28 9072 6117. PO Box 9592, Dublin 1, telephone +353 1 4752555.

³ The categories of organisations and people we have met in preparing this report include, in Ireland North and South: political parties; government officials; police; community groups; churches; charities; pressure groups and other organisations; businesses; lawyers; journalists; academics; private citizens, individually and as families.

3. PARAMILITARY GROUPS: ASSESSMENT OF CURRENT ACTIVITIES

3.1 In this report we make a fresh assessment of the current activities and state of preparedness of paramilitary groups, focusing on the period from 1 March to 31 August 2004. We do not repeat our previous historical material or the description of the structure of paramilitary groups but invite readers to refer to our first report for that⁴.

Continuity Irish Republican Army (CIRA) and Republican Sinn Féin (RSF)

3.2 In our first report we concluded that CIRA was ready to commit acts of extreme violence and was in possession of weapons and explosives. Even though membership of CIRA was small, by operating through small units it was capable of mounting effective but sporadic attacks and we said it had a potentially dangerous capability. It had undertaken a number of successful attacks in the previous year.

3.3 During the period covered by this report CIRA has remained active in Northern Ireland. Some whom we believe were members of CIRA were arrested in possession of a rifle and ammunition. CIRA has targeted on and off-duty members of the security forces and has undertaken an unsuccessful bomb attack, which we believe was directed against security force personnel. It claimed responsibility for a series of hoaxes in and around Belfast, as well as an attempted improvised incendiary device attack, on 31 August. More recently, terrorist equipment was recovered by the police and activity disrupted as a result. CIRA seeks to improve its engineering capacity and access to weapons, and to establish new active service units, and it continues to attract new members. Its relative lack of operational success reflects its capacity, not the absence of intent. In Ireland North and South CIRA has attempted to step up its activities and we believe has engaged in recruitment, training and operational planning. We conclude that CIRA has increased its level of activity, remains capable of making effective attacks, albeit sporadically, and is a dangerous organisation which intends to continue to engage in acts of terrorism and other crime.

⁴ IMC First Report, Section 3 pp 11-18.

Irish National Liberation Army (INLA) and Irish Republican Socialist Party (IRSP)

- 3.4 In our first report we described INLA as a volatile mix of people which, though less prominent than it had been, was still a significant terrorist group. It remained active, and though it had declared a ceasefire it had been involved in attacks in early 2004. INLA was heavily involved in criminality, especially drugs, and we assessed it as presenting a high threat of re-engagement, either as an organisation or as individuals.
- 3.5 The picture of INLA's potential remains essentially unchanged. We believe it was responsible for a combined robbery and kidnapping in July. Over the six months covered in this report we believe that it committed a number of shootings and assaults. Members of INLA remain actively involved in organised crime.

Loyalist Volunteer Force (LVF)

- 3.6 We previously described the LVF as a small and geographically limited organisation which had declared a ceasefire but nevertheless continued to be involved in murders and in paramilitary shootings and assaults. It was deeply involved in criminal activity, particularly the illegal drugs trade.
- 3.7 Over the period covered by this report the LVF was involved in a feud with the UVF/RHC in pursuit of which it carried out an attack which led to a number of related incidents. The LVF subsequently agreed to mediation and to stand down its East Belfast members mainly responsible for the violence. It continues to recruit.
- 3.8 Senior members of the organisation have agreed its public position should be that its "war" is over and that its weapons have been put in long-term storage. The organisation appears at present not to want to start violence again, and it decided not to become involved in issues to do with loyalist parades over the summer. The organisation remains involved in virtually every form of organised crime. We conclude that the LVF is less active than it has been, with the exception of organised crime, and that it does not presently show an inclination to be involved in significant levels of violence. But it retains a capacity to do so should the intention change.

Provisional Irish Republican Army (PIRA)

- 3.9 In our first report we said that PIRA was not involved in attacks on the security forces but that it remained active, maintained itself in a state of readiness and derived a substantial income from smuggling and other criminal activity. It had undertaken training in the early part of 2004 and maintained a capability on intelligence and weaponry but it was not involved in attacks on security forces. It was highly active in paramilitary style shootings short of murder. We concluded it was a sophisticated and well controlled organisation which maintained itself in a state of readiness and was capable of reverting to more widespread violence were the decision taken that it should do so.
- 3.10 Over the period covered by this report, so far as Northern Ireland is concerned, we saw no signs of PIRA winding down its capability. It continued to recruit, though in small numbers, and to gather intelligence. We believe it was engaged in some relatively low level training. PIRA has committed no murders and has engaged in a lower level of violence than in the preceding period, committing fewer paramilitary shootings and assaults. It made preparations to undertake “area defence” if the need had arisen during the marching season, and made efforts to contain violence during that period. We believe it was responsible for the major theft of goods in Dunmurry in May and was engaged in significant amounts of smuggling. In the South of Ireland certain of the organised criminal activity seems to have been closed down, and we have found no recent evidence of violent paramilitary activity.
- 3.11 We conclude that since our last report there is no fundamental change in the capacity of the organisation or its maintenance of a state of preparedness, but we also find no evidence of activity that might presage a return to a paramilitary campaign. Through the six months on which we particularly focus it continued to be active in the exercise of control in republican areas in Northern Ireland. During the period covered by this report PIRA reduced shootings and assaults, and towards the end of that period it appears to have suspended action against those it believed to be behaving anti-socially while still monitoring what people are doing. To date we have seen no evidence of its agreeing that those it has exiled should be free to return to Northern Ireland.

Real Irish Republican Army (RIRA) and Thirty-Two County Sovereignty Movement (32CSM)

3.12 In our first report we said that RIRA had access to a considerable quantity of arms and equipment and that it was potentially a very dangerous group, though it lacked an organised structure and local units had considerable autonomy. We referred to some recent attacks and concluded it remained a threat to security force personnel in Northern Ireland and to those involved in the new policing arrangements, though a wider range of targets could not be ruled out, including in Great Britain.

3.13 The basic position on RIRA has not changed. It has two distinct factions. In Northern Ireland we believe it has undertaken a number of postal bomb attacks and threats against prison officers, people involved in the new policing arrangements and senior politicians. It has also ordered at least one local exiling. It undertook a serious shooting attack against a PSNI station in September. The organisation seeks to improve its intelligence gathering ability and to improve engineering capacity and access to weaponry. It trains members in the use of guns and explosives. It continues to attract new members and its senior members are committed to launching attacks on security forces. Arrests in the Spring led to the discovery of incendiary and explosive devices at a RIRA bomb-making facility. RIRA is also engaged in smuggling and other non-terrorist crime in Ireland North and South. We conclude that RIRA remains a considerable threat. We believe it will continue to be active, even if its capabilities do not always match its aspirations.

Ulster Defence Association (UDA)

3.14 We said in our previous report that despite the so-called “cessation of military activity” the UDA had not decommissioned any weapons and remained involved in violence; it was responsible for half of the paramilitary murders committed between January 2003 and February 2004 and continued to be responsible for shootings, assaults and exiling. It was also heavily engaged in crime, including drugs and its feuds associated with criminal activity had contributed considerably to violence in Northern Ireland. We believed that these activities were known to the members of the UDA Inner Council.

3.15 Over the six months covered by this report the UDA has remained active. Though it has not been responsible for any murders it did undertake shootings and assaults. In August members of the UDA are believed to have undertaken a vicious sectarian attack against 3 Catholic men. Senior UDA members restated their intentions of holding to the terms of the 1994 loyalist ceasefire, and there is no evidence to suggest the organisation currently wants to engage in feuding with other loyalist groups. We believe the organisation planned to avoid disorder over the marching season. It nevertheless took preparatory steps, both to defend areas over that time and to identify rival loyalists should there be a feud in the future. We also believe that the UDA has not so far agreed to the free return to Northern Ireland of any of those it has exiled. The UDA remains heavily involved in many kinds of organised crime, and remains an active organisation capable of more widespread violence, with the will to commit it if judged appropriate.

Ulster Volunteer Force (UVF) and Red Hand Commando (RHC)

3.16 We previously described these two closely associated groups as ruthless and reasonably well controlled organisations which were heavily engaged in major crime and in so-called punishment attacks. We referred to a number of recent attacks, including murders, and concluded that they retained a capacity for more widespread violence which they would not hesitate to engage in if they judged the circumstances made it appropriate.

3.17 The UVF remains an active and violent organisation. It committed 2 of the 4 paramilitary murders over the period since the end of February 2004, undertook a number of bomb attacks after the second murder in May as part of its feud with the LVF; and was responsible for other bomb attacks, including against nationalists. Members of the organisation were responsible for a series of violent racial attacks in Belfast, though we believe these were not sanctioned by the leadership. It remains involved in organised crime.

3.18 We note the UVF ended its feud with the LVF following the LVF's decision to stand down its members responsible for that feud. We also note that the senior UVF members have restated their commitment to the loyalist ceasefire statement of

October 1994. Nevertheless we conclude that the UVF remains a ruthless organisation, retaining a capacity for more widespread violence and, as the feud with the LVF showed, if it judged the circumstances appropriate we believe that it would engage in it.

4. PARAMILITARY GROUPS: THE INCIDENCE OF VIOLENCE AND EXILING

- 4.1 This Section concentrates on, but is not entirely confined to, the six months from the end of February to the end of August this year, and compares them with the preceding six months and with the same period in 2003.
- 4.2 The violence we refer to below has been undertaken for varying purposes. Sometimes it has been inter-communal or directed at rival paramilitary groups; sometimes in pursuit of control within the community where the group has its roots; sometimes connected with other criminal activities. Whatever the purpose, it has involved many instances of wanton viciousness and has left victims permanently disabled. We repeat our total rejection of the term “punishment beating”. It lends a spurious respectability to the perpetrators, as if they were entitled to take the law into their own hands. And it has the ring of a deserved chastisement when the reality is often extreme cruelty and lasting physical and psychological injuries.
- 4.3 Although we focus here on violence it is important not to lose sight of the extent to which paramilitary groups can exert their influence by other forms of intimidation, both direct and indirect. The exertion of pressure may be blatant and violent, but it may also be quiet and subtle, and none the less effective for that. We have heard of suggestions to business people that debts are best not called in; indications that things may be known which people thought were secret; messages that problems should be taken to certain paramilitary or political figures in the community and not to the authorities. All these can be intensely intimidating and are the reality of some people’s lives. The reasons for such intimidations can be many: to settle old scores; to remove commercial competition to enterprises run by members of paramilitary groups or through which those groups illicitly launder the proceeds of smuggling and other crime; to maintain position. They do not appear in our statistics but they all have a serious impact on individuals and all underpin the position of paramilitaries in communities. The paramilitary violence analysed in the following paragraphs is only part of this web of intimidation.

Paramilitary violence 1 March 2004 to 31 August 2004

- 4.4 The six-month period since our last report has seen continuing high levels of paramilitary violence. However, the rate is considerably lower than before, particularly by republican groups.
- 4.5 Over the six months 1 March to 31 August 2004 we believe that paramilitary groups murdered 3 people; a further victim was shot in September and died in early October. This compares with 2 murdered in the preceding six months, and with 5 in the same March to August period in 2003. Over a longer perspective, the paramilitary murder rate is significantly less over the last 12-month period - 5 - than it had been in the calendar years 2000-2003 inclusive, when it was 18, 17, 13 and 10 respectively. The high rate of murders in the early part of 2003 - 4 in the first three months - has not recurred.
- 4.6 We wish to refer specifically to the murder of Michael O'Hare in March 2003. In our first report we attributed his death to an unspecified paramilitary group. After comprehensive inquiries we have concluded that this murder should not be attributed to a paramilitary group⁵. Our report was the first occasion on which Mr O'Hare's family had heard any suggestion of paramilitary involvement, and we deeply regret the distress they were caused as a result. The Commission and the PSNI have jointly offered their apologies and an explanation to the family.
- 4.7 We noted in our first report that it is not always possible accurately to ascribe a crime to a particular paramilitary group, though it is usually clear whether the perpetrators were loyalist or republican. In the case of murders, we believe the position is as follows:

⁵ For this reason the figure for paramilitary murders we give above is 5 over March to August 2003, and not 6 as in our earlier report

	1 March – 31 August 2004	1 September 2003 – 29 February 2004	1 March – 31 August 2003
UDA		1	1
LVF			1
UVF	2	1	
PIRA			
INLA			
RIRA			1
CIRA			
Not attributable	1 ⁶		2 ⁷
TOTAL	3	2	5

As in the previous six months, loyalist groups were responsible for most murders from March to August 2004. The UVF committed 2 out of the 3 over that period. As noted in paragraph 4.5, there was a further murder since the end of this period. We are not able at this stage to attribute this latest death to a specific group but we believe it may have been undertaken by members of a loyalist group. In the period from 1 January 2003 to 29 February 2004 which we analysed in our first report, the UDA had committed 5, half the total, and the LVF and UVF one each.

The following people have been murdered by members of paramilitary groups since 1 March 2004.

Andrew Cully	24 March 2004
Brian Stewart	18 May 2004
Kevin McAlorum	3 June 2004
Darren Thompson	Shot 29 September 2004; died 1 October 2004

4.8 The number of casualties of paramilitary shootings and assaults in the six months from 1 March to 31 August is as follows. In these tables⁸, and in subsequent paragraphs, the figures and attributions are both subject to minor statistical adjustment.

⁶ Information suggests this death may have been linked to a republican paramilitary group but the precise motivation and attribution remains unclear.

⁷ One of these was abducted and murdered by a republican group but we are unable to say which. One was a member of PIRA killed in the struggle when attempting to undertake a paramilitary attack.

⁸ The figures show minor adjustments which have been made to statistics published in our first report.

Shooting Casualties

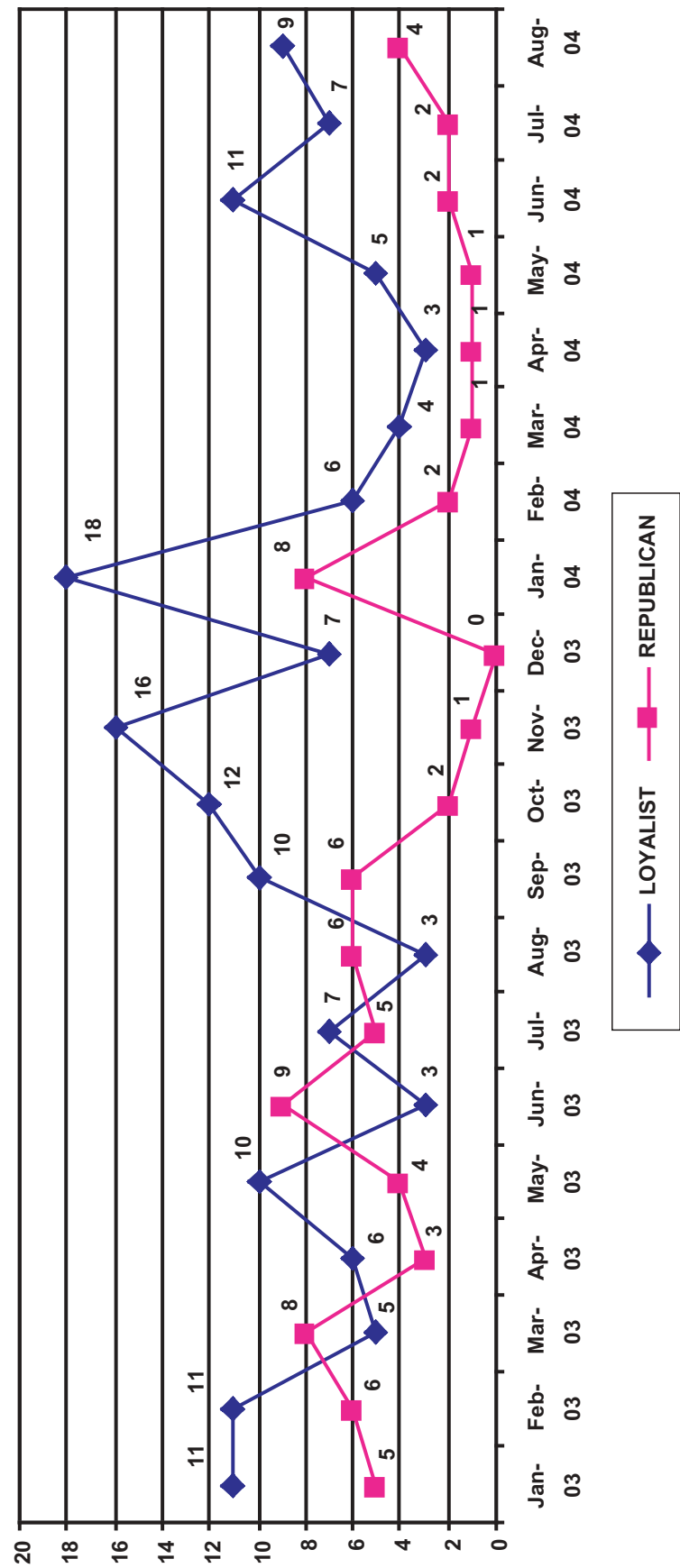
Responsible Group	1 March – 31 August 2004	1 September 2003 – 29 February 2004	1 March – 31 August 2003
Loyalists	39	69	34
Republicans	11	19	35
Total	50	88	69

Assault Casualties

Responsible Group	1 March – 31 August 2004	1 September 2003 – 29 February 2004	1 March – 31 August 2003
Loyalists	42	57	46
Republicans	18	26	24
Total	60	83	70

- 4.9 In our first report we set out the figures on the number of shooting and assault casualties in graphical form for the period from 1 January 2003. We think it useful to extend those same graphs to the end of August, mindful of our remit to look at the trends. The following graphs therefore cover the whole period 1 January 2003 to 31 August 2004

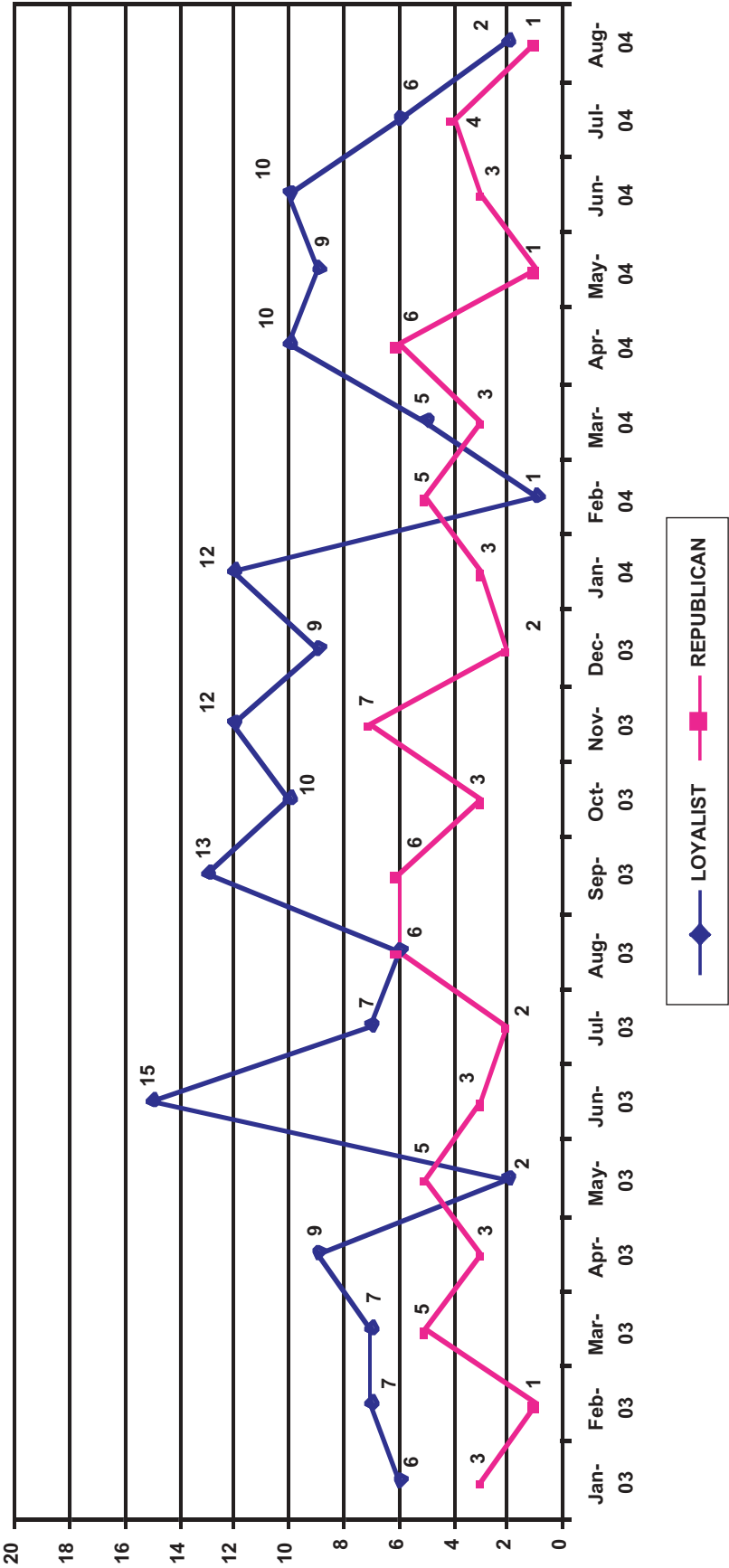
PARAMILITARY-STYLE SHOOTINGS : NUMBER OF CASUALTIES BETWEEN
JANUARY 2003 TO AUGUST 2004



TOTALS OVER THE PERIOD: LOYALIST SHOOTING CASUALTIES 164 REPUBLICAN SHOOTING CASUALTIES 76

Figures and attributions for the above period are both subject to minor statistical adjustment

PARAMILITARY-STYLE ASSAULTS : NUMBER OF CASUALTIES BETWEEN
JANUARY 2003 TO AUGUST 2004



TOTALS OVER THE PERIOD: LOYALIST ASSAULT CASUALTIES 158 REPUBLICAN ASSAULT CASUALTIES 72

Figures and attributions for the above period are both subject to minor statistical adjustment

Exiling

- 4.10 Exiling is one of the forms of continuing paramilitary activity which Article 4 specifically requires us to monitor, and we refer to it in Section 3. It is a matter on which there are no firm official statistics, so that what we are able to say in that Section is more limited. For that reason we want to draw a more general picture of what this practice involves.
- 4.11 The practice of exiling people, either from their existing home to some other part of Northern Ireland or outside Northern Ireland, is one of the most insidious aspects of paramilitary activity. It is a long-standing means of exerting control over individuals, and through them over whole communities. As such it is a striking example of the variety of methods employed by paramilitary groups to which we refer above. It is possible only because of the proven readiness of paramilitary groups to murder or to inflict extreme violence. It is thus both a symptom of their malign influence on communities and a means of continuing to exert that influence.
- 4.12 Those exiled, who may be individuals or whole families, are often required to leave their homes at extremely short notice. Their lives are torn apart. Family and friends have to be left behind; all the assurances of familiar surroundings are lost; life chances are likely to be destroyed; a job or education has to be abandoned; new accommodation found; employment sought though often not found, and until it has been, new arrangements made for the payment of benefits; the future becomes suddenly insecure and uncertain save that it is infected with a lasting fear of what the paramilitary group might yet do.
- 4.13 We have received evidence on the present state of exiling. It is not possible to put accurate figures on what is happening. Perhaps for this reason, little information comes to the notice of the authorities or the general public. Charitable organisations know only of those who seek their help, but many seek help from friends, family or others such as clergymen and so feature in nobody's statistics. Nevertheless we have some measures. One charitable organisation has helped on average one person a week over the period since July 2003; this includes the LVF/UVF feud which involved a high rate of exiling. The available information suggests that exiling by

loyalist groups has increased. In saying this we are very aware that we have been able to obtain a better measure of their present activities than we have of those of republican groups, though we know that they too continue to use exiling as one means of exerting control over communities.

- 4.14 There may be a number of reasons why some of those exiled do not want to return. But others do, and it is important to see if there is any sign at present that paramilitary groups are yet prepared to agree to the general return of exiles to their original homes. We will return to this topic in future reports.

Conclusions

- 4.15 We draw the following conclusions:

- **Despite some considerable reductions, the level of paramilitary violence remains high, particularly with loyalist groups. There were 3 murder victims in the six months March to August 2004 and a further victim died in October. Averaged out, there were 2 victims of shootings a week and 2 to 3 victims of assault a week over the same period.**
- **The murder rate remains essentially unchanged compared with the previous six months but over the last 12 months has been markedly lower than in the calendar years 2000-2003 inclusive. The UVF were responsible for 2 out of 3 murders March to August 2004, though the murder rate by loyalist groups as a whole was less than one third that of 2003.**
- **Since 1 March this year there has been a welcome reduction in the number of victims of violence short of murder compared with the two preceding six-month periods. This is most striking in respect of shootings; the reductions have been proportionately greater on the part of republican groups.**
- **These reductions may be summarised as follows:**

Republican Groups

- Shooting casualties are down by 42% when compared with the preceding six-month period and down by 69% when compared with the corresponding six-month period in 2003.
- Assault casualties are down by 31% when compared with the preceding six-month period and down by 25% when compared with the corresponding six-month period in 2003.

Loyalist Groups

- Shooting casualties are down by 43% when compared with the preceding six-month period but up by 15% when compared with the corresponding six-month period in 2003.
- Assault casualties are down by 26% when compared with the preceding six-month period and down by 9% when compared with the corresponding six-month period in 2003.
- Loyalist groups remain responsible for higher levels of violence than republican ones: over three times the number of victims of shootings and over twice the number of victims of assaults.
- Exiling is one of many reprehensible aspects of paramilitary activity. Only when a group has both ceased the practice and has removed any threat against those it has exiled, can it be considered to have fully ceased its activities. We intend to return to the issue of exiling – including the return of people – in future reports.

5. PARAMILITARY GROUPS: ORGANISED CRIME AND OTHER ILLEGAL ACTIVITY

Organised Crime

- 5.1 Because the two Governments asked us to bring forward the delivery of our first report we were able to deal only briefly with paramilitary involvement in organised crime. We noted that paramilitary groups had extended their activities into a widening range of non-terrorist crime and that as a result organised crime in Northern Ireland was significantly greater in its scale, impact and complexity than it otherwise would have been. We noted too the association between these criminal activities and the control paramilitaries exercise in local communities, often through the use of violence or intimidation.
- 5.2 The phenomenon of non-terrorist paramilitary crime is a complex one and is not confined to those activities at the top end of the scale, such as the smuggling of drugs, oil and other high value goods, large scale counterfeiting and bank robbery. It includes all those activities in which groups of paramilitaries are working together for their criminal benefit. These activities include drugs smuggling and robbery. They also include others lower down the scale, such as the retail end of larger operations, like the supply of smuggled alcohol to individual pubs. In these cases each individual offence may not be major but their cumulative effect is significant in a variety of ways. Very large sums of money can be raised. Legitimate businesses may be undermined, both through directly applied pressure and through unfair competition; this is to the great disadvantage not only of law-abiding people but of the economic wellbeing of whole areas, because investment is discouraged and jobs are lost as a result. And since there are seldom perceived to be victims in the conventional sense, it is possible to embed these activities in communities without the opposition which there may be to acts of violence or drugs trading.
- 5.3 The involvement of paramilitaries not only increases the impact of organised crime in Northern Ireland because of the resources, structure and ruthlessness they are able to bring to bear. It also creates a more insidious situation. From the outset it provides community roots and influence of a kind organised criminals strive to gain.

As has been the case elsewhere, when the ideological incentive declines some paramilitaries turn to other criminal activities to line their own pockets. A number of paramilitary organisations also have links with politics in Northern Ireland, and thus bring organised crime into an association with the democratic process which is plainly unacceptable.

- 5.4 The continuing activity of paramilitary groups is thus not just a survival from “The Troubles”. It is a threat which will not necessarily decline as the more obvious manifestations of paramilitary violence diminish, or if some members of paramilitary groups move to conventional politics or other legitimate activities. Some of those who have worked together for years in paramilitary groups will have no less need for funds and no smaller appetites for personal enrichment after terrorism has ceased than they did before, which may well be whetted by what they have found they are able to earn through crime. It is vital that there is wide appreciation throughout Northern Ireland of the range and complexity of non-terrorist paramilitary crime and of its long term impact on the community as a whole.
- 5.5 Non-terrorist organised crime by paramilitaries accordingly represents a major continuing legacy of the campaign of terrorism. The Northern Ireland Organised Crime Task Force has stated that there are some 230 organised criminal gangs believed to be operating in Northern Ireland. We have been advised that about 60% or some 140 have paramilitary links and that, of the top 25 criminal gangs involved in international activities operating in early 2004, 17, some two-thirds, had paramilitary associations. Seldom in the developed world has this high proportion of the most serious criminals been associated with groups originating in terrorism, with an organisational structure and discipline, and the experience of planning, learning and conducting sophisticated clandestine operations, methods of handling money, and with traditions of extreme violence.
- 5.6 Organised criminal gangs with paramilitary links tend to focus on specific areas of activity, though, particularly on the loyalist side, some are involved in most types of crime. We understand that virtually all the most significant 25 gangs with international associations referred to above are engaged in smuggling or in

laundering the proceeds of their crimes. Of the 17 gangs in the top 25 with paramilitary associations operating in early 2004, drugs dealing is largely confined to those with loyalist links. Whilst we have received direct evidence from a number of victims about loyalist involvement in extortion, both loyalist and republican paramilitaries are engaged in extortion. Amongst these same 17 gangs, those with republican links tend to predominate in smuggling, armed robbery and fraud. It is estimated that some 80% of intellectual property crime, such as the highly lucrative production and sale of forged CDs, is undertaken by gangs with paramilitary links. International crime is an important element, particularly with the smuggling of drugs and tobacco; there are identifiable links with Asia, North America and Africa as well as with other European countries.

- 5.7 It seems to us that the warning we expressed in our first report about an increase in organised crime is being illustrated in a number of recent major incidents. We believe that members of republican paramilitary groups were involved in recent large scale robbery and violent theft. We cannot yet make a more firm attribution.
- 5.8 The activities of the top 25 gangs with international associates are replicated on a lesser scale by the smaller or less important gangs, which are responsible for most of the offences committed. These activities as a whole prompt a number of associated questions, particularly about the level of paramilitary control and about what is happening to the fruits of these crimes, which itself may be associated with the motives for paramilitary involvement.
- 5.9 It is important to bear in mind that paramilitary groups themselves differ considerably in their command structures and in their levels of sophistication and expertise⁹. A single pattern of involvement in organised crime is therefore not to be expected. In some cases crime operations are undoubtedly known about at very senior levels, and either expressly sanctioned or given tacit approval. Control tends to be tighter amongst republicans. PIRA for example is more alert to the political consequences of demonstrable involvement in organised crime and at sensitive times can rein things back. We nevertheless believe that the major theft by PIRA at Dunmurry in May to which we refer above¹⁰ would have been sanctioned at senior

⁹ See Section 3 above, and for a fuller account of the structures of paramilitary groups, also Section 3 of our first report.

¹⁰ See paragraph 3.10.

level. We believe that the UDA Brigadiers are aware of operations undertaken by their organisation and that they sanction some of them.

- 5.10 It does not follow that if a particular operation is authorised by senior paramilitary figures the proceeds are only or mainly for the benefit of the group on that occasion. We believe that much of the proceeds of these operations – which can be very substantial – are for personal gain even though full advantage may be taken of paramilitary infrastructure, expertise and connections; indeed there are some paramilitaries who apparently view the material benefits of organised crime as the well-earned spoils of war. Some proportion of the proceeds is more likely to pass to the associated paramilitary organisation amongst republicans rather than loyalists.

Crime in Northern Ireland Compared with Elsewhere

- 5.11 There is one other issue to which we want to draw attention. It is relevant to this section of our report and to Section 4 on the incidence of violence. We are aware that the image of Northern Ireland is of a place with high rates of crime – particularly of violence – and that what we say here and in Section 4 may serve to reinforce that impression. Our task in this report is confined to the activities of paramilitary groups, so it is not for us to comment on crime at large. Nevertheless we think it is important to emphasise that in many respects this impression of Northern Ireland is false.

- 5.12 We note that in his recent report HM Inspector of Constabulary makes a number of comparisons between recorded crime in Northern Ireland and that in England and Wales¹¹. We recognise that recorded crime figures do not give the complete picture; for example, much of the paramilitary crime we describe in this Section does not appear in official statistics. However, we understand that, contrary to some assumptions, Northern Ireland rates of reporting and so recording may be higher than elsewhere. The HMI shows that in 2002/03 the rate of recorded crime as a

¹¹ HM Inspector of Constabulary, *Baseline Assessment of the Police Service of Northern Ireland*, April 2004, published August 2004.

whole in Northern Ireland per 1,000 of population was about 85, compared with 113 for England and Wales, and that in the period April to December 2003 it was about 57. Domestic burglary, robbery and vehicle crime were all lower, in the case of the last at about half the national rate. Violent crime in 2002/03 was fractionally higher, at 19.2 per 1,000 population compared with 19.0 nationally, but in the period April to December 2003 it was lower at 14.4. We also note that in 2003/04 the rate of recorded crime in Northern Ireland fell by some 10% compared with 2002/03¹². Domestic burglary fell by nearly 12%, robbery by 21% and vehicle crime by 17%. Violent crime rose by 1%, mainly because of assaults resulting in no or slight injury; the number of murders fell by 38%.

- 5.13 Victim surveys provide a truer indication of overall crime rates. The most recent crime victim survey for Northern Ireland dates from 2001¹³ and draws some comparisons with England and Wales. These show that at that time people in Northern Ireland were less likely to be the victims of crime than those in England and Wales – some 20% compared with 27%. The differences varied according to the offence, generally speaking the rate for property crime being lower in Northern Ireland, and that for violence broadly similar. Earlier work had shown higher rates of victimisation in Northern Ireland than in the South.

Responding to Organised Crime

- 5.14 We underline the importance of the work of the Organised Crime Task Force, as we did in our first report. We welcome the emphasis given in its Threat Assessment and Strategy for 2004 to the threat posed by paramilitaries and to the premium this puts on the need for a multi-agency approach¹⁴. We also welcome the recent assessment of cross border organised crime published by An Garda Síochána and the Police Service of Northern Ireland¹⁵. The OCTF is the focus of strategic action

¹² The Police Service of Northern Ireland, *Recorded Crime in Northern Ireland 2003/2004*.

¹³ Northern Ireland Office Research and Statistical Bulletin 3/2002, *Crime Victimisation in Northern Ireland*: findings from the 2001 Northern Ireland Crime Survey published August 2002. The results of the 2003 Northern Ireland Crime Survey will be published in late 2004.

¹⁴ *Confronting the Threat: Serious and Organised Crime in Northern Ireland, Threat Assessment and Strategy 2004*. www.octf.gov.uk

¹⁵ *A Cross Border Organised Crime Assessment 2004*, AGS and PSNI, September 2004.

on organised crime in Northern Ireland. **It is essential that it has the support it needs and is able to command the necessary resources within all the relevant agencies. It is also vital that the strategies of all these participating agencies are directed so that through their operations they maximise their collective impact, and that they fully reflect the significance of the organised crime threat within Northern Ireland. We also think it is essential that all the relevant UK agencies participating in the OCTF take full account not just of the amount of organised crime in Northern Ireland in relation to that in the rest of the UK but also fully respond to the unique and deeply worrying additional element of paramilitary participation to which we refer above.**

- 5.15 We welcome too the report by Professor Goldstock on organised crime in Northern Ireland and the British Government's acceptance of most of its recommendations¹⁶. In particular, his emphasis on the paramilitary threat and the need to attack it strategically has already played an important part in heightening understanding of the extent of the problem.

Assets Recovery

- 5.16 We have looked particularly at the work of the Assets Recovery Agency (ARA) in the UK and the Criminal Assets Bureau (CAB) in the South of Ireland. ARA has been operating only for some 18 months, in contrast to CAB which started in 1996. We are convinced that assets recovery is an important weapon against paramilitary crime and we are very glad that a branch of ARA has been established in Belfast able to focus particularly on the situation in Northern Ireland.
- 5.17 We note the successes ARA has already had, though inevitably in a matter as complex as this the work takes time to build up and there will be lessons to be learnt. **All agencies must learn how to maximise the benefits of asset recovery and must adapt themselves accordingly. It is essential that there is a strategic approach, tackling not only individuals but areas of crime most likely to**

¹⁶ Professor Ronald Goldstock, *Organised Crime in Northern Ireland: A Report for the Secretary of State*. The report was presented to the British Government in January 2004 and was published by the NIO on 22 July 2004. The British Government's response was published on the same day with a Ministerial statement. www.nio.gov.uk

deliver successes. The key is to have a clear focus on the task in hand and close co-operation between ARA and CAB on things of an all-Ireland nature, such as aspects of paramilitary crime. We are glad that this is increasingly happening. It is essential that the British Government provides ARA with the necessary resources, given the threat assessed by the OCTF. In this connection we are pleased to note that from April 2006 UK asset recovery agencies will be able to invest half their proceeds in their further work. We understand that some amendments to the UK law are being considered and that thought is being given to changing guidance so as to allow the earlier involvement of ARA in cases where it can contribute simultaneously with other law enforcement agencies. We think this development has potential for enhancing ARA's effectiveness. We intend to pursue these issues.

Tax

- 5.18 We have looked particularly at the question of the role of tax in combating paramilitary organised crime. We note the presence of both HM Customs & Excise and the Inland Revenue on the Organised Crime Task Force and know that they are co-operating closely with other agencies in pursuit of the OCTF strategy. We have heard of imaginative steps being taken as a result. We are not however convinced that tax – particularly direct taxes levied by the Inland Revenue – receives the priority it deserves as an instrument in the fight against organised crime. .
- 5.19 We understand the Inland Revenue policy of focusing enforcement on individuals and categories of people so as to recover the maximum unpaid tax. We recognise too that investigation and prosecution have to be directed so as to deliver the best rate of success. **But we are persuaded that the priorities which make sense at a UK level do not necessarily rise to the special challenge of organised crime in Northern Ireland and the role of paramilitaries within it. We urge Inland Revenue, within the OCTF strategy and in conjunction with other law enforcement agencies, to consider ways in which it can specifically address the involvement of paramilitaries in crime, irrespective of the extent of their possible tax liabilities or UK-wide criteria, and whether or not they have**

previously come into the tax net. In addition to focusing on top level criminals or areas of serious abuse it may mean also examining the affairs of those smaller local businesses which play a part in the web of paramilitary crime, and in so doing undermine legitimate businesses¹⁷. We recognise that this may have resource implications and require the development of a policy specifically for Northern Ireland. We think paramilitary crime in Northern Ireland poses a serious enough threat to justify this.

Charities

5.20 We have been struck by the limited controls over charities in Northern Ireland. We have heard frequent allegations that this has facilitated the activities of paramilitary groups by making possible the illicit use of money and the diversion of funds obtained from crime.

5.21 It is difficult to know whether and to what extent such a problem exists, either generally or in relation to paramilitary groups. However, reasonable suspicion is aroused by the fact that about two years ago of over 3,500 charities which had approached the Inland Revenue from the Belfast area, only 40% had subsequently made gift aid or other tax claims. We are anxious not to draw specific conclusions from these figures, especially because we know that the charitable sector in Northern Ireland is not identical to that elsewhere. Nevertheless, the low follow-up rate means that 60% had a response from the Inland Revenue in the form of a letter bearing a reference number and accompanying material and had then done no other charitable business involving tax. In some cases this letter could be used for the purposes of passing off an organisation as a new charity, for example in opening a bank account. There is no doubt a natural rate of attrition, when people hope to start new charitable work but fail to do so, or they do so without wanting to claim tax relief. The figure of 60% is nevertheless high. It tends to lend credence to the view a number hold that charitable status is abused by some, and that it may be a channel for the misuse of paramilitary funds.

¹⁷ We refer to the breadth of paramilitary crime in paragraph 5.2.

5.22 We welcome the fact that the British Government is undertaking a review of the control of charities in Northern Ireland which encompasses the question of the establishment of arrangements comparable to those elsewhere in the UK. We are sure that stronger controls should be established, in the interests of ensuring that paramilitary funds cannot be illicitly diverted, including possibly to political parties. Charities in the South are also unregulated. The Irish Government has undertaken comprehensively to reform the law and following extensive public consultation legislation is being prepared. The two jurisdictions are in communication about their respective proposals. Again we welcome this. We would request the two Governments to keep us advised on their progress in this area.

6. RESPONDING TO PARAMILITARY GROUPS: SOME OTHER ISSUES

- 6.1 There are a number of other issues to do with paramilitary activities and the response to them to which we want to draw particular attention. We deal with them as follows:

Restorative Justice

Deference to Paramilitary Groups

Collusion

Allegations of Paramilitary Funding of Political Parties

Restorative Justice

- 6.2 We have considered the developments in restorative justice in the context of the imposition by paramilitary groups of unofficial shootings and assaults on members of their communities. We have looked at community restorative justice and at the new official arrangements being undertaken by the Youth Justice Agency. We focus particularly on the first. This is not because it is more important or should be considered as having a higher priority than the official scheme; the work of the Youth Justice Agency represents a very important development in criminal justice in Northern Ireland. It is because the community schemes appear to us at the moment to be able in principle to bear more directly on the prevention of paramilitary violence and intimidation in certain areas.
- 6.3 We recognise that the transition to a situation where paramilitaries have no continuing role within communities by way of continuing criminal activity is bound to be complex, and in some respects no doubt messy. Our unwavering view that all forms of illegal paramilitary activity must be brought to an end does not mean that we believe it will be easy to secure this. Whatever success the law enforcement agencies may have, and whatever changes of heart there might be on the part of paramilitary leaders, many changes have to take place before the sway all too often held by paramilitaries is finally ended. As part of the transition, both local communities and the paramilitaries must look to means other than violence or intimidation for solutions to the problems of crime and anti-social behaviour.

- 6.4 The situation within communities differs from place to place, and appears to be more highly differentiated within the loyalist community, so it is risky to generalise. But we have received evidence which we find convincing that community restorative justice can under the right conditions help offer alternatives to paramilitary violence and intimidation. To the extent that it can do this, can operate accountably and to acceptable standards, fully respect human rights, and can demonstrate to people that they need not look to paramilitaries to deliver reasonable behaviour within their communities, we believe that it can have a valuable part to play. We recognise that these requirements are sometimes not met, particularly that on human rights. We want to make clear that we do not endorse schemes which involve paramilitary (or indeed any other) violence or intimidation against individuals, or any situation which allows paramilitary groups to exercise influence under a more benign label than in the past. That is to confer legitimacy on these groups in exactly the way we deplore, for the reasons we discuss in paragraphs 6.6 - 6.17 below. Nevertheless, with the right standards and safeguards, we believe community restorative justice has its part to play in helping the transition from paramilitarism. We also recognise that the Youth Justice Agency is operating restorative justice in some of those areas where paramilitaries have been influential, and welcome that fact.
- 6.5 We note that in his first report on the implementation of the Criminal Justice Review Lord Clyde spoke about **increasing the association between community restorative justice schemes and public agencies¹⁸**. We very much agree with him that this is important. We also note that Lord Clyde recommended the evaluation of restorative justice. In agreeing with this we would add that we believe it would also be valuable to undertake research on how it can encourage people to turn from paramilitaries and how this can be further developed in a manner consistent with the maintenance of proper standards and the observance of safeguards. Community restorative justice can offer a number of contributions. Given our remit, we see it as one of a range of measures which, when properly operated, can help in ending the role paramilitaries currently play within certain local communities. We are equally

¹⁸ First Report of the Justice Oversight Commissioner, December 2003

clear that it must never be a cover for the exercise of paramilitary influence. Community restorative justice is able to reflect local variations and complexity in the process of transition to a normal and peaceful society. It can help integrate into official law enforcement and justice procedures individuals and communities which have been long estranged from them. It can help embed approaches that respect human rights and facilitate association and working relationships between those communities and official agencies. The challenge is to ensure that, by meeting these standards and by demonstrating the safeguards, it fulfils this potential, and is then a means of helping to free people from paramilitarism, not one of preserving it.

Ending Deference and Denying Legitimacy to Paramilitary Groups

- 6.6 One aspect of our first report attracted particular attention and a good deal of criticism. In the context of arguing that unofficial law enforcement by paramilitary groups should never be allowed to gain respectability, irrespective of whether it involved some of the extreme violence we had described, we suggested that in some circumstances there was too much tolerance of the role of paramilitaries. We cited the example of a society which had allowed the continued membership of somebody widely believed locally to have perpetrated a vicious attack, and had done so on the grounds that it lacked specific evidence to take action against him. We recommended that organisations should not tolerate links with paramilitaries or give legitimacy to them, and that the onus should be on the person against whom there were suspicions to show they were unfounded, not on the organisation to act only if they were proved.
- 6.7 We have been criticised on three main grounds. First, it has been argued that our proposals implied the return of political vetting. Second, we were told that we gave insufficient recognition both to those who were working with paramilitaries to bring a greater degree of normality to local communities, and to those paramilitaries themselves who made a valuable contribution, for example to the largely peaceful marching season Northern Ireland has experienced this year. Third, it was said the reversal of the onus of proof was unjust and could breach the human rights of the people concerned.

- 6.8. We believe there has been considerable misunderstanding of what we meant and we sought to clarify our position in a letter published in *SCOPE* in June¹⁹. In it we made clear our determination to help to promote peace and that we were not in any way proposing political vetting or criticising the activities of former paramilitaries, some of whom undoubtedly perform difficult and valuable work. At the same time, we made clear that we were not diluting our opposition to criminality in all its forms.
- 6.9 Over the intervening months we have discussed these issues with people in a variety of positions, including those active in development work in local communities. We welcome the wide engagement on this issue and are grateful for the contribution to our thinking, from which we have greatly benefited and which we hope has been useful to others. We take this opportunity once again to clarify where we stand.
- 6.10 First, we fully recognise the work done to reduce tension and to promote peace and understanding, for example through community networks. We applaud those who undertake this work, and understand that it is difficult, sensitive and at times very stressful – even dangerous. Their contribution is key to the development of Northern Ireland as a peaceful society. We understand that in undertaking this work they may have to engage with members of paramilitary organisations.
- 6.11 Second, we repeat that we are not advocating political vetting and are not proposing measures adversely affecting human rights. Nor have we ever argued that ex-paramilitaries, including former prisoners, should be ostracised. On the contrary, it is essential that those who have given up crime are enabled to play a full and productive part in society and thereby further encouraged to leave their past behind them.
- 6.12 Third, we believe it is in the interests of everybody progressively to minimise and ultimately to end deference to or legitimacy for paramilitary groups or those who dominate because of the fear of violence they evoke. In the long run no society

¹⁹ SCOPE is a monthly magazine published by the Northern Ireland Council for Voluntary Action.

should tolerate the existence of active paramilitaries. There can be no compromise over the rule of law. We are convinced that all who work now for peace and community development must have as their goal that those engaged in continuing paramilitary activity are discouraged from doing so, and are deprived of any resulting influence. Influence in a community should come only because an individual is worthy of it, not because behind him lies the threat of violence. This latter kind of influence is a form of corruption. Difficult though it may be to achieve, the common goal must surely be to reach the point where none acquiesce in it or feel they need to.

6.13 Fourth, we accept that reaching this situation will not be easy and that there are many tensions and difficult judgements in the process of transition. Communities in which paramilitaries have for all too long had influence need to be helped to exercise leadership for themselves. For this to happen, wide community participation is essential and there has to be a process of engagement to help people move ahead. We fully support the work being done by public organisations and volunteers to develop communities to that end. We recognise too that this requires public funding and that the groups receiving such funds must be properly governed and directed to worthwhile ends. We know that there are arrangements to ensure that this last is the case and that further strengthening of those arrangements is being actively considered.

6.14 Finally, in pursuit of our objective under Article 3, we see it as part of our role to expose certain issues in relation to paramilitary activity for public debate. Our support for courageous and valuable work to develop communities and secure harmony does not stop us from challenging what we find unacceptable. Our discussions and the information we have received over the past six months continue to give us some cause for concern on this issue.

6.15 **We have had a number of examples of where public sector organisations continue to direct people to paramilitaries to solve problems instead of dealing with them themselves, or which show a degree of deference to paramilitaries that, given the progress towards a peaceful society, in our view is no longer appropriate. This confers on them exactly the kind of continuing legitimacy**

which we believe they must be denied. As normality returns to Northern Ireland public organisations must ensure this does not happen.

6.16 Likewise we have evidence that not all private societies are addressing the question of paramilitaries with the clear objective suggested above, namely that they should play their active part in ending deference and denying legitimacy. If that means adopting new policies they should face that responsibility. The more significant the society, the clearer the lead it should give. It is not enough to say, for example, that no action can ever be taken unless there is a criminal conviction - paramilitaries survive in Northern Ireland partly because intimidation makes it difficult to secure convictions. In some cases, the individuals concerned are self-proclaimed members of armed groups and yet no action is taken.

6.17 These issues expose the real difficulty people may encounter in judging how to engage appropriately with paramilitaries, particularly as circumstances develop and the standards of what is acceptable may change. This arises particularly in the public sector, but is not necessarily confined to it. We think the Secretary of State should consider facilitating the preparation of suitable guidance for people during this time of transition. This should not, however, involve any element of political vetting.

Collusion

6.18 Amongst the comments on our first report was that we had failed to address the question of collusion. We think it is important to set out where we stand on this question.

6.19 Our task is to monitor continuing paramilitary activity. We have firmly stated that one of our guiding principles is adherence to the rule of law. As we make clear in Section 2, we are not mandated to address what happened in the past or with the antecedents of people who have now given up criminality. The kind of ground covered in, for example, the Cory reports, the Stevens inquiry, the forthcoming inquiries stemming from the Cory reports such as the Finucane and Breen and

Buchanan inquiries, are not therefore our responsibility. All these examined events in the past, well before the establishment of the IMC. If there was current collusion of a kind which was material to the present activities of paramilitary groups, we would consider it within our remit. The term collusion is used in a number of different senses. One means active illegal co-operation between public agencies and criminals, specifically paramilitaries in this context. As Judge Cory said, this collusion includes turning a blind eye to or ignoring wrongful acts. The term is also used to cover co-operation by rogue elements within official agencies. Corruption can also be a form of collusion.

Allegations of Paramilitary Funding of Political Parties

- 6.20 In Section 7 of this report we address the question of the leadership of paramilitary groups and of links with the leadership of political parties. Such links have given rise to public debate on whether funds which paramilitary groups raise through crime or in other ways reach political parties, and whether there might be measures to prevent this. To date there is a dearth of empirical evidence to support allegations to this effect. However, the existence of paramilitary groups in Northern Ireland, all with origins in political aims of various kinds, and some with continuing links to political parties through whom people seek election, makes the issue significant.
- 6.21 We note that controls on donations to parties of the kind which exist elsewhere in the UK and in Ireland do not apply in Northern Ireland. We realise that the absence of such controls is itself a result of the special circumstances in Northern Ireland. We are also aware of allegations that the controls which do exist over donations to candidates at elections are not fully effective. We know that the British Government is undertaking a public consultation about amendments to the existing controls on donations.
- 6.22 **The presence of paramilitaries in Northern Ireland is of such crucial importance that it is essential there should be the maximum possible effectiveness, transparency and accountability in the whole control regime, both over donations and over election expenses. It is vital for the health of democracy that paramilitary groups are not able to bring any improper**

influence to bear and that people can be sure that those who seek election are untainted by illicit funding. It is in the interests of political parties to be able to show the same. To the extent that existing controls give rise to an ambiguity on this matter, removal of room for such ambiguity would be in everybody's interests.

7. PARAMILITARY GROUPS: LEADERSHIP

- 7.1 Under Article 4 we are required to assess whether the leadership of paramilitary groups is directing activities or seeking to prevent them.

Relationship between Paramilitary and Political Leadership

- 7.2 In our first report we found that there were associations between the leadership of paramilitary groups and two of the parties elected to the Northern Ireland Assembly, namely Sinn Féin in respect of the PIRA and the Progressive Unionist Party in respect of the UVF and the RHC. The circumstances and associations were not the same in each case but we concluded that neither party had sufficiently discharged its responsibility to exert all possible influence to prevent illegal activity by the paramilitary groups with which they were associated. We noted that had the Assembly been functioning at that time we would have recommended measures against both these parties up to and possibly including exclusion from office, and that any recommendations we might make following restoration of the Assembly would be proportionate to the then prevailing circumstances. Because the Assembly was not restored at the time of our report we recommended that the Secretary of State should consider taking action in respect of the salary of Assembly members of these two parties and/or the funding of the parties. He decided to do the latter for a period of 12 months.
- 7.3 **In the light of the outcome of the talks involving the Northern Ireland political parties and the British and Irish Governments we will be considering whether the leadership of Sinn Féin and the PUP is exerting all possible influence to prevent illegal activity by the paramilitary groups with which they are associated.**

8. CONCLUSIONS AND RECOMMENDATIONS

Conclusions

8.1 We want to do all we can to contribute to our objective to “promote the transition to a peaceful society and stable and inclusive devolved Government in Northern Ireland”. We see our reports as fulfilling three main purposes: to set out the facts on paramilitary activity; to help promote greater understanding of certain issues arising from such activity; and to make recommendations we believe will help reduce or end the role of paramilitaries. Our objective requires us to have regard to the context in which we present our reports but we describe the facts as we find them, wherever they point. Anything less would undermine that objective and would not do the people of Northern Ireland any service.

8.2 We take the following key points from the preceding sections:

- Our mandate is to monitor current illegal paramilitary activity, not what once happened or the antecedents of those who have given up criminality.
- We applaud all those engaged in work which contributes to enabling communities to live free of paramilitary activities and influence.
- Some paramilitary groups have scaled back the intensity of their activity but none have materially wound down their capacity to commit violent or other crime. Dissident republican groups are the most committed to continuing terrorism.
- Paramilitary violence in the form of murder, shootings and assaults has considerably reduced in the past six months but remains at a disturbingly high level. The proportionate reduction is greater on the part of republican groups. Most violence is attributable to loyalist groups.
- The range of illegal paramilitary activity is wide. It includes not only violence and other crime but the use of intimidation within communities, sometimes surreptitiously and indirectly applied.

- Exiling continues as one of the many reprehensible manifestations of paramilitary activity. We intend to revisit the issue of exiling, including the return of people, in future reports.
- Paramilitary groups from both sides remain deeply engaged in serious organised crime. Criminal activity by paramilitary groups poses a significant continuing threat which the suspension of politically motivated activity by such groups will not of itself bring to an end. A number of recent incidents give us cause to fear an increase.
- We urge all the agencies engaged in the Organised Crime Task Force to set their priorities taking full account of the special threat that paramilitary groups present in Northern Ireland.
- We welcome the increasing focus being given to asset recovery and believe it has a key role to play in combating paramilitary crime. All agencies should work to maximise the benefits it offers.
- We believe that tax has a bigger part to play in countering the illegal activities of paramilitaries, within the Organised Crime Task Force strategy on organised crime, and in conjunction with other law enforcement agencies.
- We welcome the attention the British and Irish Governments are giving to the tighter regulation of charities and believe this can play a valuable part in preventing paramilitary groups from laundering funds for illicit purposes.
- We believe that so long as the right safeguards are in place and the right standards are maintained, above all in the full observance of human rights, community restorative justice can have a valuable part to play in helping deprive paramilitaries of the roles they have in certain local communities, and over time in enhancing the associations and working relations between those communities and official criminal justice agencies. We hope that community based schemes will be able to develop so as to fulfil this potential, at the same time making clear that they must never operate in a way which provides cover for paramilitary groups or confers legitimacy on them.

- As the peace process and the establishment of a normal society develops, so too must the relationship with those formerly involved in or closely associated with paramilitary groups. There are forms of contact that have and will continue to have the effect of advancing the normalisation of society. But there are forms of contact with those engaged in continuing paramilitary activity that run the risk of embedding paramilitary influence. We want to draw attention to this critical distinction. We think that both public organisations and private societies should look positively and constructively for ways in which they can give a lead in ending deference and denying legitimacy to those engaged in continuing paramilitary activity.
- Given the capacity of paramilitary groups to raise and misuse money, and noting the British Government’s public consultation on controls over the funding of political parties, we believe it is essential that those controls are framed taking full account of the risk that some funding might come from paramilitary groups.
- In the light of the outcome of the talks involving the Northern Ireland political parties and the British and Irish Governments we will be considering whether the leadership of Sinn Féin and the PUP is exerting all possible influence to prevent illegal activity by the paramilitary groups with which they are associated.

Recommendations

8.3 In making recommendations we have been guided by our objective set out in Article 3²⁰ and by the circumstances in which our report is delivered. All the recommendations are ones we believe will contribute to fulfilling our objective.

8.4 Article 7 of the International Agreement allows us to recommend:

- Any remedial action we consider necessary in respect of matters on which we are reporting under Article 4.

²⁰ Article 3 is quoted in full in paragraph 1.3.

- Any measure we think might appropriately be taken by the Northern Ireland Assembly²¹.

The second part of this Article is not relevant while the Assembly remains unrestored.

8.5 In responding to paramilitary crime, we recommend that:

- All the UK agencies involved in the Organised Crime Task Force should ensure that their strategies fully reflect the significance of the organised crime threat in Northern Ireland, including the unique element of paramilitary participation.
- All relevant agencies should focus on how to maximise the benefits of assets recovery as a means of tackling paramilitary organised crime.
- The British Government should provide the Assets Recovery Agency with the necessary resources for its work in Northern Ireland.
- The Inland Revenue in the UK should ensure that its priorities for enforcement of the tax laws fully reflect the special challenge of organised crime in Northern Ireland and the role of paramilitaries within it.

8.6 In responding to other manifestations of paramilitary activity we recommend that:

- The British and Irish Governments should ensure that in any forthcoming introduction of regulation on charities they take account of the need to reduce the possibilities for paramilitary groups to launder funds through charities.
- In considering future controls over the funding of political parties both the British and Irish Governments should take account of allegations that

²¹ Article 7 is at Annex I. A summary of the statutory measures the IMC can recommend for action by the Northern Ireland Assembly is at Annex III.

paramilitary groups may be able to divert illegal funds to such parties, and should ensure that appropriate steps are taken to prevent this.

- The Secretary of State for Northern Ireland should consider whether research could usefully be undertaken on how and to what extent restorative justice schemes can help encourage people to turn away from paramilitaries in a manner which ensures standards are maintained and safeguards fully observed.**
- The Secretary of State for Northern Ireland should consider facilitating the preparation of guidance for people who have to engage with paramilitaries during this time of transition, as part of helping to end deference and deny legitimacy to paramilitary groups.**

8.7 We hope that members of the public and all political parties will consider this report and let us have their views on it in advance of our preparing our next Article 4 report.

ANNEX I

INTERNATIONAL AGREEMENT BETWEEN THE GOVERNMENT OF THE UK AND THE GOVERNMENT OF IRELAND – ARTICLES 4 AND 7

Article 4

In relation to the remaining threat from paramilitary groups, the Commission shall:

- (a) monitor any continuing activity by paramilitary groups including:
 - i attacks on the security forces, murders, sectarian attacks, involvement in riots, and other criminal offences;
 - ii. training, targeting, intelligence gathering, acquisition or development of arms or weapons and other preparations for terrorist campaigns;
 - iii. punishment beatings and attacks and exiling;
- (b) assess:
 - i. whether the leaderships of such organisations are directing such incidents or seeking to prevent them; and
 - ii. trends in security incidents.
- (c) report its findings in respect of paragraphs (a) and (b) of this Article to the two Governments at six-monthly intervals; and, at the joint request of the two Governments, or if the Commission sees fit to do so, produce further reports on paramilitary activity on an ad hoc basis.

Article 7

When reporting under Articles 4 and 6 of this Agreement, the Commission, or in the case of Article 6(2), the relevant members thereof shall recommend any remedial action considered necessary. The Commission may also recommend what measures, if any, it considers might appropriately be taken by the Northern Ireland Assembly, such measures being limited to those which the Northern Ireland Assembly has power to take under relevant United Kingdom law.

ANNEX II

THE IMC'S GUIDING PRINCIPLES:

These guiding principles were set out in the statement the IMC issued on 9 March 2004.

- The rule of law is fundamental in a democratic society.
- We understand that there are some strongly held views about certain aspects of the legal framework, for example the special provisions applying to terrorism, and that those holding these views will continue to seek changes. But obedience to the law is incumbent on every citizen.
- The law can be legitimately enforced only by duly appointed and accountable law enforcement officers or institutions. Any other forcible imposition of standards is unlawful and undemocratic.
- Violence and the threat of violence can have no part in democratic politics. A society in which they play some role in political or governmental affairs cannot – in the words of Article 3 – be considered either peaceful or stable.
- Political parties in a democratic and peaceful society, and all those working in them, must not in any way benefit from, or be associated with, illegal activity of any kind, whether involving violence or the threat of it, or crime of any kind, or the proceeds of crime. It is incumbent on all those engaged in democratic politics to ensure that their activities are untainted in any of these ways.
- It is not acceptable for any political party, and in particular for the leadership, to express commitment to democratic politics and the rule of law if they do not live up to those statements and do all in their power to ensure that those they are in a position to influence do the same.

ANNEX III

SUMMARY²² OF MEASURES PROVIDED FOR IN UK LEGISLATION WHICH MAY BE RECOMMENDED FOR ACTION BY THE NORTHERN IRELAND ASSEMBLY BY THE INDEPENDENT MONITORING COMMISSION (IMC)

Article 7 of the International Agreement specifies that the IMC may recommend measures for action by the Northern Ireland Assembly, such measures being limited to those which the Northern Ireland Assembly has powers to take under UK legislation. The full text of Article 7 is in Annex I.

Measures which may be taken under UK legislation

- (1) A Minister or junior Minister may be excluded by the Assembly from holding office as a Minister or junior Minister for a period of not less than three months and not more than twelve months.
- (2) Members of a political party may be excluded by the Assembly from holding office as Ministers or junior Ministers for a period of not less than six months and not more than twelve months.
- (3) A Minister or junior Minister may for a specified period have his salary, or part of it, stopped by resolution of the Assembly.
- (4) Members of the Assembly who are members of a particular political party may for a specified period have their salaries, or part thereof, stopped by resolution of the Assembly.
- (5) The financial assistance which is payable to political parties may be stopped in whole or in part by resolution of the Assembly.

²² This summary does not purport to be an authoritative legal interpretation of the relevant legislation. For the actual legislative provisions see Northern Ireland Act 1998 and the Northern Ireland (Monitoring Commission, etc.) Act 2003.

- (6) A Minister, a junior Minister of a political party may be censured by a resolution of the Assembly.

Powers similar to those set out in (1) to (5) may in certain circumstances be exercised by the Secretary of State.