

**REPORT ON THE OPERATION
IN 2004
OF THE TERRORISM ACT 2000**

by

LORD CARLILE OF BERRIEW Q.C.

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INTRODUCTION

1 In the autumn of 2001 I was appointed as Independent Reviewer of the Terrorism Act 2000 [TA2000]. My most recent material report was in January 2004. I reported¹ then on the operation of Part VII of the Act, which relates to Northern Ireland.

2 Part VII would have ceased to have effect on the 19th February 2005 unless continued by Order for continuation of the whole or parts of Part VII for a further period not exceeding twelve months. The debates concerning the continuance of Part VII to February 2006 have taken place in both Houses, and it is to continue for another year².

3 I intend to continue my practice of reporting separately on Part VII in time for the annual debates on renewal (which as a matter of practice take place in February), but if necessary to use my main report on the Act as an additional means of scrutinising and commenting upon those parts of the Act with especial importance for Northern Ireland.

4 In my most recent report, on the operation of Part VII in 2004³, I reminded readers that Part VII will cease to exist altogether in February 2006, by reason of the sunset clause in section 112(1) of the Act.

I am aware that, in a somewhat tense political environment, work has commenced within government

¹ Report on the Operation in 2003 of Part VII of the Terrorism Act 2000: see www.homeoffice.gov.uk/docs2/tatc_report_2003.pdf

² Terrorism Act 2000 (Continuance of Part VII) Order 2005.

³ www.homeoffice.gov.uk then follow 'terrorism' links

to determine what if anything should replace that Part. I shall keep a close eye on developments in that context. What emerges must be not only robust enough to ensure that terrorist activity can be resisted and brought to justice, but also proof against accusations of disproportionate effects on civil liberties and conciliation between communities.

5 This is my third report on the working of the Act as a whole. I am the first Independent Reviewer of the TA 2000 in its full range of applicability. My predecessors' Reports were principally upon the operation of the Prevention of Terrorism (Temporary Provisions) Act 1989. That Act, and the Northern Ireland (Emergency Provisions) Act 1996 ceased to have effect when the present statute came into force on the 19th February 2001.

6 TA2000 has itself been the subject of significant amendment by the Anti-Terrorism, Crime and Security Act 2001 [ATCSA2001]. For example, sections 24-31 were repealed from the 20th December 2001, and form no part of this review⁴. A consequence of the repeal of parts of the TA2000 without substituting new sections into the same Act is that those parts are no longer subject to this form of review, whereas new sections inserted into the TA2000 are. The Prevention of Terrorism Act 2005 adds a further element, as do indications of possible further legislation specific to terrorism later in 2005⁵.

7 I repeat yet again my request made elsewhere that an up to date edition of the TA2000 as *currently in force* should appear on the Home Office website. Given the prevalence of new criminal justice legislation as a policy preference in most Parliamentary sessions, even those of us involved on a frequent basis in the effects of TA2000 find it difficult to keep up with changes. This plea is especially important for the police. At least the text of the Act as passed, the Queen's Printers version, has been on the Home Office website for some time now, though the existence of amendments means it must be treated with caution. I very much welcome the decision to place on the website the recent Terrorism Bill during its Parliamentary stages to becoming what is now the Prevention of Terrorism Act 2005.

⁴ Anti-Terrorism, Crime and Security Act 2001, sections 1(4), 125, Sch 8 Pt 1; and SI 2001/4019, art 2(1)(a), (d)

⁵ See Prevention of Terrorism Act 2005, section 14

This enabled interested persons to follow important and controversial proposed legislation. I have been assured by the Home Secretary that the updated TA2000 will be on the Home Office website soon.

8 I was until their repeal the independent reviewer of the detention provisions introduced by Part 4 of the Anti-Terrorism, Crime and Security Act 2001. These proved ever topical and controversial. Separate reports have been published periodically in relation to my duties under that Act. I was appointed recently as the statutory reviewer of the Prevention of Terrorism Act 2005⁶. This will require a substantial increase in the time spent on my appointments as reviewer of terrorism legislation.

9 My responsibilities in relation to the 2000 Act in 2004 and throughout the past three years have confirmed the shift of emphasis (without any dilution of vigilance in a sometimes fragile political situation) towards international terrorism as, hopefully, the process of normalisation in Northern Ireland has become more evident in the evolution of the Good Friday Agreement.

10 However, the situation in Northern Ireland is the cause of increasing concern. Throughout 2004 there has been impasse in the political process, in that the Northern Ireland Assembly has been suspended without clear signs of progress. Before the Northern Bank robbery and associated offences of the 20th December 2004 there was already plenty of evidence of the continuing existence of para-military organisations inside and outside criminal activity other than terrorism. Some of those organisations have connected to the conventional political process, others not.

11 There is ample evidence of the involvement of paramilitaries in the Northern Bank robbery, as has been confirmed by the report of the Independent Monitoring Commission⁷. Serious political parties can have no truck with organised crime or gang violence. This needs to be accepted without demur

⁶ See Prevention of Terrorism Act 2005, section 14.

⁷ Fourth Report of the Independent Monitoring Commission; 10th February 2005; 2005 HC 308.

on a permanent basis by all parties in Northern Ireland. Those who oppose judge alone criminal courts there weaken their case dramatically by any involvement in the activities of ruthless criminals to whom intimidation of others is second nature. I cannot emphasise too much the importance of that observation.

12 I am grateful for the very considerable and patient help received from civil servants in the Home Office, the Northern Ireland Office, and elsewhere in government, as well as from my many consultees and correspondents from well outside government. I am conscious that there are numerous persons and organisations with much to offer my review. I have attempted during 2004 to widen my range of such contacts, and to learn as much as possible from the experience and opinions of others.

13 In terms of resources, I have operated mostly without direct assistance, though I have been able to look to various sources for research, information and opinions. My duties under the 2005 Act will increase the research requirements underpinning what I do. I have been assured that such resources will be made available to me.

14 My purpose and the requirement of this report are to assist the Secretary of State and Parliament in relation to the working of the Terrorism Act 2000. My terms of reference may be found in the letters of appointment to my predecessors and myself. They are to be found too in the Official Report of the House of Lords debate of the 8th March 1984, which shows clearly what Parliament intended when the post of reviewer was first established: the Reviewer should make detailed enquiries of people who use the Act, or are affected by it, and the Reviewer may see sensitive material. All this I have attempted to do.

15 The statutory foundation for this report is to be found in section 126 of TA2000;

“The Secretary of State shall lay before both Houses of Parliament at least once in every 12 months a report on the working of this Act”.

- 16 In carrying out my task last year I considered how the Act had worked during 2002 and 2003 and examined whether it had been used fairly. Thus last year by reviewing two years I was able to bring the reviewing process up to date. Having caught up with the calendar in that way, this year's report is on the working of the Act in 2004.
- 17 It is outwith my terms of reference to advise as to whether such legislation is required at all. Nevertheless I take it as part of my role to make recommendations accordingly, if it were to be my view that a particular section or part of the Act is otiose, redundant, unnecessary or counter-productive. I have been informed that this is considered useful.
- 18 Once again this year I have received almost complete co-operation from all whom I have approached. I remain convinced that there are many whose interest in the subject I have yet to identify. I do not offer any kind of appeal procedure for individual cases. However, I do read some documents referring to individual cases, and I do ask questions about them and can offer advice and comments. I am particularly anxious to obtain the assistance of more members of the public who have had some contact with the TA 2000, whether as observers, witnesses, persons made subject to powers given under the Act or as terrorist suspects. It is not always as easy as one would wish to make contact with those who have had these real-life experiences. Such contacts as I have made have provided me with valuable insights into their different experiences.
- 19 The existence of the reviewer's role is now better publicised than used to be the case. This is entirely appropriate if the process is to be robust and accountable. Anyone wishing to provide me with information is very welcome to do so by writing to me at the House of Lords, London SW1A 0PW or sending me information via the Internet on carlilea@parliament.uk.
- 20 Contact from members of the public will enhance the method of working which I have developed, and which is similar to that followed by my predecessor J.J. Rowe Q.C. I travel seeking the views of as wide a range as possible of people, offices and departments having anything to do with TA 2000. I

have also found it valuable to make some comparisons with foreign jurisdictions. During 2004 I visited Spain, mainly in connection with my role under ATCSA2001 and in the aftermath of the Madrid bombings, but took advantage of those visits to explore issues arising from TA2000.

21 I have spent approximately 40 days on this present review, including my report on Part VII. This working time has included visits to port units and other establishments listed in Annex A. The persons I have seen include those also listed in Annex A; for reasons of requested or implicit confidentiality I have excluded some names from that list.

22 In preparing this report I have taken it as a basic tenet, not open to question as part of this review process, that specific anti-terrorism legislation is necessary as an adjunct to and strengthening of the ordinary criminal law. The debates in Parliament and in the media over the recently enacted Prevention of Terrorism Act 2005 showed a greater degree of agreement than in some recent years to that effect at least.

23 I seek out and receive such briefings as are needed from time to time to ensure that I have an appropriate state of knowledge. I remain certain that there are active and present threats to the security of the nation as a result of terrorist activity. The potential threat of suicide bombings presents a formidable challenge, especially given the evidence from around the world that Al Qaeda founded terrorism is broadly targeted, and that those connected with Al Qaeda regard a large body count as a victory. The risks of a terrorist attack on places of public aggregation are real. There is no justification for the slightest complacency.

24 In so far as I have judged it necessary, I have seen and examined closed material relevant to the operation of the TA 2000. I have not been refused access to any information requested by me. I have taken that material into account on what I hope is a proportional basis in preparing this report. I do realise that there can be an issue of trust between those like myself who see some closed information and those who do not, especially people whose own lives may have been affected adversely by their

contact with the operation of counter-terrorism laws. Unfortunately there are many pieces of information necessarily protected from public scrutiny on the legitimate grounds of national security.

25 During 2003 difficult problems arose in connection with the use of section 44 of the Act by police on duty at and near RAF Fairford in Gloucestershire and in the Metropolitan Police Area at the time of an arms sales trade exhibition in London's Docklands; and with the extension to a maximum of 14 days of the period for which a suspect can be held by the police for questioning. I have given particular attention to those issues once again during 2004, as can be seen below. In relation to section 44 in particular, my views have developed.

1 PART I OF THE ACT: DEFINITION OF TERRORISM

26 Section 1 defines ‘terrorism’ broadly. Certainly it covers all known forms of what the lay person might consider to be terrorist activity. Some argue that the definition is too broad, to the extent that it could include those who cause damage to fields in a campaign against GM crops, or some relatively minor aspects of pro- or anti-hunting campaigns. With such a broad definition, clearly implementation is an issue of importance and calls for restraint.

27 However, we are entitled to assume that in a democratically accountable system there will be a sensible use of the discretion to prosecute. The availability of judicial review is an ever-present protection against the abuse of administrative action, especially since the coming into force of the Human Rights Act 1998.

28 The definition of terrorism is certainly practical and effective. There is little evidence that a more restricted yet equally effective definition could be used. Founded upon that definition, there has been considerable debate as to whether the creation of an additional offence along the lines of *knowingly doing an act connected with or preparatory to terrorism* might be a useful addition to the statutory framework.

29 This has been discussed recently in Parliament^{8,9}. I believe that there is now clear evidence that it would, in that such an offence would provide for some cases a way of dealing with suspects probably more acceptable in perceptual terms than *control orders*¹⁰.

⁸ See, for example, House of Lords Hansard for March 1st 2005 and March 3rd 2005 (via www.parliament.uk).

⁹ Note the use of the phrase “*involved in terrorism-related activity*” in section 2(1) and 4(3) of the Prevention of Terrorism Act 2005.

¹⁰ *Control Orders* are civil orders against terrorist suspects, introduced by the *Prevention of Terrorism Act 2005*.

2 **PART II OF THE ACT: PROSCRIBED ORGANISATIONS AND THE PROSCRIBED ORGANISATIONS APPEAL COMMISSION.**

30 I have continued to take a close interest in the operation of the regime of proscription of organisations and the appeals process. As reported last year, I have received some strong representations that proscription should form no part of the law, indeed that there should be no special criminal justice provisions targeted against politically motivated groups and crimes, with their consequence of reduced rights for participants in such activities.

31 In 2004 there were very few representations to me or comments of any kind about the proscription regime. This is probably because of changed perceptions about the nature of Al Qaeda. There seems to be general public acceptance that the proscription of dangerous organisations is proportionate and necessary. It can be difficult for the authorities to keep track of proscribed organisations and their members. On the whole members do not carry membership cards. Those connected with Usama Bin Laden and Al Qaeda are part of a shadowy international political conspiracy in which the absence of any clear structure in their organisations is capable of disguising strongly shared lethal purpose. The task of the security services in keeping up with changes within this security-aware loosely knit terrorist confraternity can be extremely difficult. There is always the risk of error, whatever the quality of operations and research.

32 On the other hand, the effectiveness of the Joint Terrorism Analysis Centre (JTAC), a multi-agency approach to information and evidence, shows considerable care and success in the obtaining, preparation and analysis of material by the public service.

33 Schedule 2 of TA2000 sets out the list of proscribed organisations. Since the beginning of 2002 there have been changes. 4 organisations were added on the 1st November 2002¹¹, and a note concerning one of those 4 was added on the same date¹². No organisations have been removed during the period

¹¹ SI 2002/2724, arts 1 and 2.

¹² *ibid.* art 3

2002-2004. 39 organisations are scheduled, of which 14 have their origins in Northern Ireland and/or Ireland.

34 A working group exists within the government service at which all the interested parties meet and scrutinise proscriptions.

35 The group reviews all proscriptions every 6 months in the light of intelligence and other information, all of which is quality assessed. The Foreign and Commonwealth Office is involved in the process, and I am satisfied that they make efforts to and do filter out groups with no real international perspective. Nevertheless the FCO wants to send out a clear signal that the United Kingdom does not welcome terrorists, and proscription is a useful flag in that signal. They are conscious of the human rights implications of rendering unlawful membership of political organisations whose targets are well outside the UK. The prospect of further proscriptions continues, though subject to the Parliamentary affirmative resolution procedure.

36 On the basis of the material that I have seen and the representations received, I repeat the conclusions of my previous reports. It is clear to me that there are organisations that present a significant threat to the security of the state and its citizens. There are some extremely dangerous groups, with a loose but reasonably definable membership, whose aims include activities defined in section 1 of the TA2000 as terrorism and which if carried out would injure UK citizens and interests at home and/or abroad. The level of danger is well demonstrated by events around the world.

37 Subject to satisfaction with the system of law provided to safeguard organisations against arbitrary proscription and mistakes, I have concluded that the retention of proscription is a necessary and proportionate response to terrorism.

38 The inevitably confidential processes used to determine whether an organisation should be proscribed are efficient and fair. In this context at least, intelligence information appears to be cautious and reliable.

39 The system of law governing proscription is subject to the jurisdiction of the Proscribed Organisations Appeal Commission [POAC], established under section 5 of the TA2000. Procedural provisions are made under Schedule 3. Where proscription has taken place, the proscribed organisation or any person affected by the organisation's proscription may apply to the Secretary of State to remove the organisation from the list contained in Schedule 2. Where an application under section 4 is refused, the applicant may appeal to POAC. By section 5(3):

“The Commission shall allow an appeal against a refusal to deproscribe an organisation if it considers that the decision to refuse was flawed when considered in the light of the principles applicable on an application for judicial review.”

40 I take this to mean that a POAC hearing though couched the language of Judicial Review¹³ is effectively an appeal, involving a detailed reconsideration of the facts of the case if necessary, and a review of the decision-making procedure adopted by the Secretary of State.

41 Schedule 3 to TA2000 gives the basic requirements for the constitution, administration and procedure of POAC. One of the three members sitting on a POAC hearing must be a current or past holder of high judicial appellate office. The other members are not judges, and are appointed by the Lord Chancellor. Perceptually it is preferable for judicial members to be serving rather than retired judges.

42 New appointment procedures consequent on recent and impending changes to the role of the Lord Chancellor should follow as closely as possible the new disciplines for the appointment of senior judges.

¹³ The language is similar but not identical to that used in e.g. section 10 of the Prevention of Terrorism Act 2005 in relation to appeals against control orders.

43 POAC sits in public in Central London, but is able to hear closed evidence in camera and with the applicant and their representatives excluded. Where an organisation's appeal to POAC has been refused, a party to that appeal may bring a further appeal to the Court of Appeal (or its Scotland and Northern Ireland counterparts) on a question of law with the permission of POAC or the Court of Appeal. There may also be an appeal on a question of law in connection with proceedings brought before POAC under the Human Rights Act 1998, by virtue of sections 6(1) and 9 of TA2000. The procedural rules for appeals from POAC to the Court of Appeal¹⁴ require that the Court of Appeal must secure that information is not disclosed contrary to the interests of national security. This enables the Court of Appeal, like POAC, to exclude any party (other than the Secretary of State) and his representative from the proceedings on the appeal¹⁵.

44 Pursuant to TA2000 Schedule 3 paragraph 7, special advocates are appointed by the Law Officers of the Crown "*to represent the interests of an organisation or other applicant in [the] proceedings ...*"¹⁶. They are selected for the purposes of this legislation from advocates with special experience of administrative and public law, as is right in this context. Currently they receive no formal training. In my reports¹⁷ on the working in 2003 and 2004 respectively of the detention provisions contained in Part 4 of ATCSA2001 I made recommendations that there should be training of special advocates, and some suggestions as to how such training might be organised and how the choice of special advocates might be widened. The same applies in the POAC context. Recently these views have been accepted broadly by the government¹⁸. I feel that there should now be rapid progress on this, especially given the continuing role of special advocates under the Prevention of Terrorism Act 2005¹⁹.

¹⁴ The Court of Appeal (Appeals from Proscribed Organisations Appeal Commission) Rules 2002.

¹⁵ See rule 4.

¹⁶ Paragraph 7(1).

¹⁷ www.homeoffice.gov.uk/ [follow 'terrorism' and 'reports' links].

¹⁸ See Lord Falconer of Thoroton L.C., House of Lords Hansard for the 3rd March 2005, Col 420.

¹⁹ See Schedule paragraph 7.

- 45 The role of the special advocates is to represent the interests of an organisation or other applicant, but they are not instructed by or responsible to that organisation or person. Like the members of POAC, the special advocates see all the closed material. They are not permitted to disclose any part of that material to those whom they represent.
- 46 Thus they may face the difficult task of being asked by or on behalf of those whose interests they are instructed to serve to present facts or versions of events in relation to which there is the strongest contradictory evidence, but evidence which they are not permitted to reveal in any form. Those whose interests they represent can and in practice so far do have their own lawyers too, but those lawyers are excluded from closed evidence and closed sessions of POAC. Special advocates have a difficult road to follow, and as much help as possible should be given to them in organising the material with which they have to deal.
- 47 I repeat my comments of last year, that it would be helpful if in all cases the special advocate were able to call on a security cleared case assistant familiar with the files. This would speed the preparation of the cases, and assist in analysing disclosure and admissibility issues. This comment is very important for the involvement of special advocates in hearings concerning control orders pursuant to the Prevention of Terrorism Act 2005.²⁰
- 48 Amnesty International, Liberty and others take a very straightforward view of POAC and its sister organisation the Special Immigration Appeals Commission [SIAC], which dealt amongst other things with the detention provisions now removed from ATCSA2001. This view is that international and European human rights law do not permit of a jurisdiction in which an individual or organisation is not told the nature of all the evidence to be deployed against them. That approach begs certain obvious questions about national security and the need for the continuing use of material gained from hard-won intelligence in relation to alleged terrorists. I do not take it as my task to determine whether there

²⁰ The role of special advocates is provided for in the Schedule, paragraph 7.

is justification for the POAC procedure, but rather to advise as to whether the procedure provided works and can be regarded as fair. The judgment of Richards J in the *Kurdistan Workers' Party Case*²¹ sets out with estimable clarity the continuing foundation of legality provided by the POAC system of law.

49 For the specific purpose of POAC proceedings, I am satisfied that the special advocate system works rigorously in practice. With improvements, which it needs, it could become a system of objective examination at least as good as is available elsewhere in the world.

50 Sections 11-13 of the TA2000 provide offences in relation to membership (section11), support (section 12) and uniform (section13) in connection with proscribed organisations. In the previous two years I have expressed concerns about the breadth of these offences.

51 Like many laws if used unwisely, absurd results could follow theoretically. As I have suggested before, a harmless but disturbed individual of a kind familiar in the outer reaches of politics could find himself guilty of an offence if he shouted in a street a profession of membership of, for example, Cumann na mBan, even if nobody understood him and it was a delusion. Each of those wearing t-shirts at a demonstration of young people with a genuine belief that the International Sikh Youth Federation has been proscribed wrongly could face prosecution as 'arousing reasonable suspicion that he is a supporter of a proscribed organisation'. The statistics appended as Annex B to this report show that in reality these offences were prosecuted rarely in Northern Ireland in 2004. Annex C to this report shows a small number of important uses of the membership offence in 2004.

52 I shall continue to observe closely the application of this part of the Act.

²¹ R (on the application of the Kurdistan Workers' Party and others) v Secretary of State for the Home Department, 17th April 2002, Administrative Court (Richards J) [2002] EWHC 644 (Admin).

3 PART III OF THE ACT: TERRORIST PROPERTY

53 Part III, sections 14 to 31, dealt with terrorist property, offences in relation to such property, and seizure of terrorist cash. Sections 24-31 have been repealed and replaced by provisions contained in ATCSA2001.

54 In so far as the following paragraphs contain a repetition of previous reports, this is to provide a reasonably complete review and to obviate reference to old material.

55 The offences provided under sections 14 to 19 impose considerable responsibilities on members of the public. They include the offence of money laundering as very broadly defined in Section 18. For example, an estate agent collecting rent from office premises might be totally unaware that the ultimate beneficiaries of the profits are a company operating for the benefit of a terrorist organisation. If charged, the statutory defence made available under Section 18(2) would place a reverse burden upon him to show “that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property”. The maximum sentence on indictment for a money laundering offence is 14 years’ imprisonment.

56 ATCSA2001 has inserted new sections 21A and 21B into the TA2000. These have been in force since the 20th December 2001. They deal with the regulated sector, as defined in new Schedule 3A. The increasing concerns in businesses in the regulated sector about difficulties of compliance, and the serious consequences that may flow from errors of judgment or even failures to notice, are evident from the many conferences organised on the subject, numerous publications, and the self-protective activities of accountancy firms and other professionals. Compliance is now a discrete and busy discipline in the sector. Generally issues of money-laundering and similar type information are being taken extremely seriously, and the aims of the various items of legislation in this broad context are recognised and effective.

- 57 The statistics at Annex C to this report show some use of the offences under Part III. In 2004 5 persons were charged in respect of funding arrangements (4) and Money Laundering (1) for terrorism purposes. In my judgment the rationale for the introduction and retention of this group remains sound.
- 58 The statistics on the seizure and forfeiture of terrorist cash are at Annex D. In my view these remain useful and necessary powers, and there is no evidence of defect in the working of the provisions.
- 59 Annex E shows the level of arrests under the TA2000 as a whole in 2004. Once again this year, I consider the level to be proportionate to perceived risk, especially when set against the high level of vigilance operated by the statutory services and the large number of stops at ports of entry.
- 60 In the debates on the Prevention of Terrorism Act 2005 Ministers in both the House of Commons and the House of Lords made it clear that there is a firm intention to amend the law if necessary to add an offence of acts preparatory and/or connected with terrorism²². Any proposals will be subject to parliamentary pre-legislative scrutiny by the publication and consideration of a draft Bill. If this process does produce effective legislation, in my view it is likely to add beneficially to the criminal law, by the introduction of an offence likely to secure more effective prosecutions, with convictions of crimes proportionate to the acts committed.

²² Unusually, the reviewer is given a specific responsibility in the Act in relation to future legislation : see section 14(5)(a) of the Prevention of Terrorism act 2005.

4 **PART IV OF THE ACT: TERRORIST INVESTIGATIONS**

61 Part IV provides for the cordoning of areas for the purposes of a terrorist investigation, and powers of entry, search and seizure.

62 Cordoning may occur as a matter of urgency under the direction of any constable, but has to be recorded fully and placed under the supervision of a police officer of at least the rank of superintendent as soon as reasonably practicable. The maximum initial period for designation is 14 days, subject to extension to a total maximum of 28 days (section 35(5)). Police powers are provided by section 36 to clear persons and vehicles from cordoned areas. Maximum sentences for offences in relation to offences of failure to comply have been increased from three months to 51 weeks.²³

63 My conclusions are the same as for 2002-2003. I have received no representations during 2004 in relation to sections 32 to 36. They are proportional and necessary, and are working satisfactorily. The statistics at Annex F are self-explanatory and what one would expect.

64 Section 37 and Schedule 5, and section 38 and Schedule 6 are important provisions of the TA2000. Schedule 5 contains the regime for requiring production of persons and/or material, and also carrying out searches of premises for the purposes of a terrorist investigation. Separate provisions make appropriate arrangements for Scotland and Northern Ireland respectively. The material sought will often include documents, which by their very nature are likely to be confidential. Excluded and special procedure material, familiar concepts from the Police and Criminal Evidence Act 1984, are subject to the Order of a Circuit Judge. Paragraph 13 and corresponding Scotland and Northern Ireland provisions deal with cases of 'great emergency' requiring 'immediate action'.

²³ Criminal Justice Act 2003, Schedule 26, para55.

- 65 A cadre of Circuit Judges has experience of dealing with applications under this part of the Act. The judges concerned have some specific training. Problems of court building security have been addressed apparently successfully by the provision of secure storage facilities in the court building, and of secure recording of hearings. Reasons are given at the conclusion of hearings.
- 66 I have concluded again this year that the Schedule 5 procedure works smoothly. Few if any applications have been refused. I remain confident that rigorous judicial inquisition and the regular experience of presenting police officers act as quality control mechanisms.
- 67 I should be especially interested to hear views of police and lawyers who have been involved in the procedure. I have received no complaints on this score. The Metropolitan Police view is that the judges involved are far from acquiescent, but rather are aware of the implications of their orders and scrutinise carefully the material placed before them. Occasionally I have heard from critics suggestions of the ‘co-optation’ of the judges to a particular mindset for cases connected with terrorism, but I have found no evidence of this. In my view the independence of mind of UK judges is well demonstrated.
- 68 Schedule 6 relates to financial information. A parallel regime is provided to the Schedule 5 system. Most of the applications heard by Circuit Judges relate to bank and credit card accounts. Schedule 6 ranges widely over the kind of information financial institutions hold about their customers.
- 69 Again I have received no representations of concern about the operation of schedule 6. Alongside the effort and sophistication of police investigative techniques in relation to financial matters connected with terrorism, a reasonable level of cooperation between the police and the financial services industry is essential. This is now well established.
- 70 In addition, an effective system of law is needed to empower the obtaining of financial information under compulsion where necessary, subject to solid judicial protection against arbitrariness. That appears to be accomplished by Schedule 6. Whilst some terrorist activities can be achieved cheaply and

in themselves are unlikely to create noticeable financial highlights in the movement of money, the nature of terrorist organisations and their almost universal linkage with organised crime of other kinds makes the financial front one on which the battles against terrorists can be fought effectively. Nothing illustrates this more than the December 2004 robbery at the Northern Bank in Belfast, a raid now clearly connected with paramilitaries.

- 71 I have concluded that Schedule 6 as amended works well and is an essential part of the legislation.
- 72 Section 38A, together with Schedule 6A, deals with account monitoring orders. An account monitoring order may be made only by a circuit judge or District Judge (Magistrates' Courts)²⁴ or equivalent in Scotland and Northern Ireland. The schedule makes it clear that there must be an evidential basis for the Order if it is to be made: speculation or a 'fishing expedition' will not do. The measure and the control of its use are necessary and proportionate.
- 73 Section 38B covers information about acts of terrorism. It is widely drawn. Its clear intention is to secure the maximum possible information so as to avoid acts of terrorism that might otherwise be prevented. In my view it remains necessary and proportionate, given the danger to human life and to the economy posed by terrorist acts.
- 74 Section 39, which corresponds to sections 17(2)-(6) of the former Prevention of Terrorism (Temporary Provisions) Act 1989 [PTA], makes it an offence punishable on indictment by up to 5 years' imprisonment for a person to disclose to another anything likely to prejudice a current or anticipated terrorist investigation of which he has knowledge or has reasonable cause to suspect. This is a reasonable and proportional provision, similar in effect to other offences against justice such as doing an act tending and intended to obstruct the course of justice.

²⁴ District Judges (Magistrates' Courts) were added by the Courts Act 2003, section 65 and Schedule 4 paragraph 11.

5 COUNTER-TERRORIST POWERS: ARREST AND DETENTION; STOP AND SEARCH; PARKING; PORT POWERS

75 Part V of the Act contains counter-terrorism powers available to the police to deal with operational situations. During 2003 these powers became more controversial, particularly because of increased levels of protest arising from the war against Iraq. In particular, section 44 has been the cause of considerable anxiety and debate. That has not diminished during 2004.

76 Section 41 provides constables with powers of arrest without warrant. These powers replace those formerly given by Section 14 of the PTA. The ordinary powers of arrest available to the police under the Police and Criminal Evidence Act 1984 [PACE] require them to have reasonable grounds for suspecting that the person concerned has committed or is about to commit an offence. In his seminal report of terrorism legislation Lord Lloyd of Berwick considered²⁵ that the pre-emptive power of arrest under Section 14(b) of the PTA was useful, because it enables the police to intervene before a terrorist act is committed. If the police had to rely on their general powers of arrest, he argued, they would be obliged to hold back until they had sufficient information to link a particular individual with a particular offence. In some cases that would be too late to prevent the prospective crime²⁶. However, Lord Lloyd expressed concern that the Section 14(b) power under the PTA contravened a fundamental principle that a person should be liable to arrest only when he was suspected of having committed, or being about to commit, a specific crime. He was especially mindful of Article 5(1)(c) of the European Convention on Human Rights, now part of our domestic law. Since then most ECHR rights have been capable of assertion in British courts.

77 Section 41 of the TA2000 was the government's response to the concerns expressed by Lord Lloyd and others. The government rejected his view that it was necessary to introduce a new offence of being involved in the preparation etc. of an act of terrorism²⁷.

²⁵ 1996 Cm 3420, Chapter 8.

²⁶ 1996 Cm 3420 paragraph 8.5.

²⁷ Repeated by Lord Lloyd in House of Lords debate on the Terrorism Act 2005: see House of Lords Hansard for the 10th March 2005 (via www.parliament.uk; follow debates links).

78 Until recently the continuing government view was that the absence of such an offence has stood the tests of time and the courts thus far. Last year I advised that, in determining how to deal with a potentially continuing threat from Al Qaeda after the demise in November 2006 of time-limited detention powers under ATCSA2001²⁸, further consideration might have to be given to the issue of criminalisation of lower level terrorist activities and agreements. That has become more urgent since the demise of those powers following the enactment of the Prevention of Terrorism Act 2005; and as stated above the government has undertaken to look closely with parliament at the possibility of improving the law of terrorism offences.

79 As a practical and current matter, the basis for the power of arrest, set out in Section 41 subject to definition of 'terrorist' in section 40, works satisfactorily.

80 Section 41 and the accompanying procedural system for detention set out in Schedule 8²⁹ are designed to bring the UK into compliance with ECHR Article 5(3)-(5) following the decision of the European Court of Human Rights in 1988 the case of *Brogan v UK*³⁰ that there had been a breach of Article 5(3) where a person had been detained for 4 days and 6 hours without judicial authorisation. In its decision on the narrow facts of that case the Court held that the power of arrest had been justified, in the light of the fact that on arrest the applicants had been questioned immediately about specific offences of which they were suspected. Substantially as a consequence of that case the UK government derogated from the relevant parts of the ECHR and of the UN International Convention on Civil and Political Rights – clearly not a desirable position.

81 There have been various procedural changes to Schedule 8, none of substantive concern³¹. I deal from paragraph below with the broader issues connected with detention under Section 41.

²⁸ ATCSA2001 section 29(7).

²⁹ As amended in paragraph 4 by section 456 and Schedule 11 paras 1, 39(1) and (5) of the Proceeds of Crime Act 2002; see SI 2003/333, art 2, Schedule; and SI 2003/210, art 2(1)(b), Schedule.

³⁰ *Brogan v United Kingdom* [1988] 11EHRR193.

³¹ See Courts Act 2003, section 109(1), Schedule 8 paragraph 391; section 109(3), Schedule 10.

82 There is an issue in relation to section 41 in connection with the taking of fingerprints. I am informed that a statutory amendment would be required to allow civilian support officers to take fingerprints from those detained. This would be a sensible change, reflecting general practice within police forces.

83 Civilianisation of tasks not requiring the necessary involvement of constables is a sound general goal. Too many abstractions from Special Branches are still occurring in some forces – for example, to public order situations. This is not acceptable especially with ports officers. As one Strathclyde officer reminded me when we were discussing abstractions:

“The ports are the front line in the policing of terrorism”.

84 Section 42 permits the search of premises under a warrant issued by a justice of the peace on the application of a constable if the justice of the peace is satisfied that there are reasonable grounds for suspecting that a person “falling within Section 40(1)(b) is to be found there”. There has been no evidence presented to me that this provision is misused. However, as in the two previous years I observe that it is something of an oddity. The justice of the peace has to apply a familiar objective test (“reasonable grounds for suspecting”) seen generally in connection with criminal offences, to confirm that a constable justifiably possesses an honest suspicion (“reasonably suspects”) of the presence on premises of a person whose activity is not necessarily criminal in that it falls within Section 40(1)(b) rather than Section 40(1)(a).

85 I turn next to sections 43-45. Section 43 provides stop and search powers connected with sections 41 and 42. Sections 44-47 provide stop and search powers in relation to persons and vehicles within specified geographical areas, for the purpose of seizing and detaining articles of a kind that could be used in connection with terrorism. It is an offence not to comply. Such stops and searches can occur only within an area authorised by a police officer of at least the rank of or equivalent to assistant chief constable.

86 In 2003 and 2004 I received many complaints, some from organisations and others from individuals about the operation of section 44. There have been administrative law proceedings, most recently the Court of Appeal's decision in

R (Laporte) v Chief Constable of the Gloucestershire Constabulary and others.³²

87 I am grateful for the co-operation I have received in enquiring into this part of the Act. I have seen continuing detailed work done by the Metropolitan Police following difficulties at an arms trade sales fair in 2003 in East London, and have met senior officers concerned. Last year I met and corresponded with the Chief Constable of the Gloucestershire Constabulary following Protests at RAF Fairford. That extensive air base was used by the United States Air Force for the deployment of bombing missions to Iraq during the 2003 war, with frequent take-offs and landings necessitating free use of the runway facilities and a corresponding requirement of security. Those are the circumstances giving rise to the *Laporte* case.

88 During 2004 I have made a point of discussing the nature and use of section 44 and section 45 with police and others wherever possible. My conclusions set out below are founded on a solid evidence base.

89 Section 43 is relatively straightforward. It allows a constable to stop and search “*a person whom he reasonable suspects to be a terrorist to discover whether he has in his possession anything which may constitute evidence that he is a terrorist*”. The thread of reasonable suspicion flows throughout the stop and search procedure, and that for the seizure and retention of material discovered during the section 43 search.

³² [2004] EWCA Civ 1639.

90 In contrast, section 44 provides for the authorisation of geographical areas for the purposes of section 45 searches, which do not have to be founded on reasonable suspicion. Authorisations may only be given by an ACPO rank officer³³, and solely “*if the person giving it considers it expedient for the prevention of acts of terrorism*”³⁴. Pursuant to section 46 the Secretary of State must be informed as soon as possible, and authorisation lapses if not confirmed by the Secretary of State within 48 hours³⁵. Such authorisations were used extensively in 2002, 2003 and 2004. I have examined the full context of them: they have been deployed in almost every police authority area in Great Britain. It would not be in the public interest to provide details of the reasons and events. However, some comments are needed.

91 I must comment on the exercise by the Home Secretary of his authority to confirm the use of section 44. Of course, as is usual in such circumstances a great deal of the work of advising the Home Secretary is done by officials. I have observed recently a change, a more sceptical attitude in the Home Office to the use of section 44. Since 2003 there has been an increased level of questioning by officials advising the Secretary of State, and by the Minister himself, of applications. As a result they are permitted more selectively than used to be the case, and with geographical modifications. Effectively the Home Secretary scrutinises each certification by the police; and as reviewer I look at the broader picture. The increased rigour of these processes has produced some change.

92 In London there were until 2004 rolling 28 day authorisations for the whole of the area policed by the Metropolitan Police and the City of London Police. I have seen detailed figures for the use of the powers in every part of that area. In some parts of London the section 44/45 powers have been used very little. In others, with obvious targets such as an airport or Parliament, there has been more extensive use, as one would expect. There are huge differences between the boroughs in this context:

³³ Sections 44 (4)-(4C).

³⁴ Section 44(3).

³⁵ Section 46(4).

this is certainly evidence of specific operational decisions by the police. The nature of London means that a terrorist may well live in one borough, have associates in others, and have targets in yet others.

93 It is of interest that the percentage of all searches constituted by section 44/45 actions ranges widely from area to area.

94 The blanket authorisations for London, and their use for the East London arms fair, were tested in the Administrative Court in

R (GILLAN) v COMMISSIONER OF POLICE OF THE METROPOLIS and others (2003) DC
*(Brooke LJ, Maurice Kay J) 31/10/2003*³⁶

95 It is worth summarizing the Court's decision again in this report, as I did last year. The relevant senior police officer has a broad discretion as to the width of an authorisation. Section 44(4)(b) expressly envisaged that an authorisation could cover the whole of a police area as a response to a general threat of terrorist activity on a substantial scale. The formulation of measures to safeguard public and national security was primarily for the government and Parliament, on grounds of political legitimacy. A senior officer with major operational responsibility had made the authorisation and the Secretary of State had confirmed it. It was within their powers to do so. There were no grounds on which the authorisation should be set aside as a matter of law. The conduct of the police officers did not entitle the applicants to a public law remedy. The threat posed by terrorist activity and the risk that that threat could become a reality in London provided the necessary justification for any violation of the claimants' rights under Art.8, Art.9, Art.10 or Art.11 of the ECHR that might otherwise be established. The exercise and use of the s44 power was proportionate to the gravity of the risk and was prescribed by law. The Court added that, as the s44 powers went beyond anything permitted by common law powers, the police had to take particular care to ensure that the powers were not used

³⁶ 2003 EWHC 2545 (Admin).

arbitrarily or against any particular group of people. In relation to the arms fair there was “*just enough*” evidence that it was an occasion that concerned the police sufficiently to persuade them that use of s44 powers was needed. It was however “*a close call*” and the Metropolitan Police would do well to review their training and briefing, and the language of the standard forms used for s44 stop and searches. There was a need to revise the guidance notes in Code A Note 13, issued under the Police and Criminal Evidence Act 1984 so that s44 considerations were not mixed up with considerations relevant to the stop and search powers under section 60 of the Criminal Justice and Public Order Act 1994.

96 Lord Justice Brooke’s judgment exactly reflected my own concerns on this front. Whilst the section 44 authorisations for the Metropolitan Police area, and for parts of Gloucestershire and neighbouring areas, at the material times were justifiable and proof from judicial review, their use gave some rise for anxiety. That anxiety arises from the contents of section 45, and the difficulty faced in real-time situations by constables confronted by complex legislative decisions.

97 Pursuant to section 45, a section 44/45 search can be carried out by a constable in an authorised area whether or not he has grounds for suspicion, but may only be “*for articles of a kind which could be used in connection with terrorism*”³⁷. This calls at least theoretically for officers to pause for thought between (a) stop, (b) commencement of search, and (c) during search. If the search commences as defined in section 45(1)(a), but the officer realises at any given moment that in reality he is searching for non-terrorism articles, he should change gear into a non-TA2000 search procedure. This is asking a lot of an officer who may have been briefed in short form at a testing scene.

98 Since my last report I have carried out extensive enquiries into differing attitudes in police forces around the UK to section 44. One possibly surprising fact is that, though it is available in Scotland, to date it has never been used there. It has been regarded as superfluous to requirements, though I

³⁷ Section 45(1)(a).

anticipate that it may be deployed for the 2005 meeting of the G8 Summit in Scotland. Plainly this offers the question of why it is needed in England and Wales if it is not required in Scotland. There is no other provision specific to Scots Law to explain the difference of approach.

99 In addition to those for the Metropolitan and City of London Police areas, section 44 authorisations continue to be used by other forces in England and Wales. The latest snapshot I have, for February 2005, shows 8 other forces receiving authorisations, for periods between 2 and 28 days. None covered full police areas, apart from one for the very small but important and security sensitive geographical area of the City of London.

100 I find it hard to understand why section 44 authorisations are perceived to be needed in some force areas but not others with strikingly similar risk profiles.

101 I am sure that section 44 could be used less. I am pleased that the Home Office is scrutinising applications with renewed vigour, and that refusals are given unless the circumstances are absolutely clear.

102 The Metropolitan Police set up a project group chaired by Assistant Commissioner Sir David Veness (now retired) to review the use of section 44. This has involved extensive legal assessment of operational procedures, a revised training package, improvement of briefings routinely and at events, and other useful outcomes. I expect the results of this continuing work to roll out to other forces. I know that the Independent Police Complaints Commission is also taking an interest in this area.

103 I note that the Metropolitan Police no longer seek blanket section 44 authorisations for their whole area in normal circumstances. This is to be welcomed.

104 In my view section 44 and section 45 remain necessary and proportional to the continuing and serious risk of terrorism. London is a special case, having vulnerable assets and relevant residential pockets in almost every borough, and fairly extensive use is understandable.

105 The use of section 44 authorisations elsewhere in the country has continued to be relatively sparing, and is subject to close scrutiny by the Home Office. However, I would urge the Home Office and ACPO through its constituent ACPO(TAM) or otherwise as appropriate to pursue the need for short, clear and preferably nationally accepted guidelines for issue to all officers in section 44 authorised areas. All briefings should remind officers that, even where there is a section 44 authorisation, other stop and search powers may be judged more appropriate with some individuals stopped.

106 The bottom line of the section 44 issue is that it involves a substantial encroachment into the reasonable expectation of the public at large that they will only face police intervention in their lives (even when protesters) if there is reasonable suspicion that they will commit a crime. Whilst section 44 is necessary for a small range of circumstances, I believe that its use could be cut by at least 50 per cent without significant risk to the public or detriment to policing. Scotland contains many potential terrorism targets, but does without the use of the powers despite their availability. Chief Officers should always regard such applications as undesirable unless essential. A reduction of 50 per cent as suggested would involve a significant change in the views of chief officers of the available procedures. I suspect it would make little difference to policing on the ground, and would not affect risk levels. Less use of section 44 certainly would assist operational police officers faced with difficult statutory provisions.

107 A new Home Office Circular³⁸ provides helpful further guidance in respect of the use of section 44. Its general emphasis is on the reduced use of the section only when necessary.

³⁸ Circular 038/2004, 1st July 2004.

- 108 A particular issue about section 44 relates to rivers and estuaries. There is a degree of confusion as to how far the section extends beyond the low watermark. I have been presented with arguments that the section should extend to all territorial waters – which would require a statutory amendment. Given the importance of the sea and near coast waterways, it would be helpful if government were to consider this matter further. Regulations made by the European Union are consistent with an enhanced level of security around the coast³⁹.
- 109 Sections 48-51 provide similar powers for the designation of areas by ACPO rank officers, in this instance to prohibit or restrict the parking of vehicles on roads specified in the authorisation. This is a proportionate provision in the public interest. There is no evidence of excessive use, nor of insensitive use of prosecution for contravention. It is noted that possession of a disabled person's badge is not of itself a defence to a contravention offence.⁴⁰
- 110 Section 53 and Schedule 7 provide for port and border controls. This remains a very important aspect of the TA2000. It is a lively matter for debate within and outside government as to how best these can be managed. I have followed that debate closely, with a particular interest in whether the very large number of unrecorded short stops at borders could be reduced. The appointment of the national co-ordinator for Special Branch has helped towards more seamless national working practices, along with the associated expertise of the national co-ordinator of ports policing. There is growing evidence of good quality national co-ordination of important strategic issues, including the continuing assessment of where terrorism lies in the context of policing national security, and above all how best to use the heavily devolved national resource offered by Special Branch officers. There are several initiatives on a national scale to increase targeting and effectiveness at all levels.

³⁹ See Regulation (EC) no 725/2004 of the European Parliament and of The Council of 31st March 2004 on enhancing ship and port facility security, and associated documents of 29th April 2004.

⁴⁰ Section 51(3)(4)

111 It is outside my scope in this report to comment in any detail about policy statements and trends⁴¹. On the whole, it is plain to me that individual Special Branch operations of considerably varying size work together well, with considerable reliance being placed on the larger scale available to the Metropolitan Police and to Strathclyde respectively. Nevertheless I detect that the trend towards some form of more unified ports, borders and counter-terrorism policing is gathering pace as part of the evolution of police organisation. Perhaps the whole police service is approaching a period of reform and rationalisation?

112 As before, I have visited several ports of entry this year in my capacity as reviewer; and whenever and wherever I travel privately I am sensitised and watchful of security issues. My observations during visits to ports have included discussions with special branch officers and those from other control authorities. I have watched passengers being stopped and questioned under the powers, and vehicles being searched. The ferry operators and others who form part of the Chamber of Shipping have been a strong and useful part of my research in recent months.

113 I have continued to take particular note of search arrangements developed for airports by TRANSEC, which is part of the Department for Transport and directly responsible for security policy and protocols at ports. TRANSEC appears to be functioning successfully after some difficulties in the previous year. Many police officers find their requirements frustrating, but sensitivity is being shown by TRANSEC to the needs of the police and other control authorities. They seem ready to ensure that covert operations are enabled rather than frustrated. Robust exchange of views on these issues has taken place between the agencies concerned, and has resulted in the reduction of teething troubles in a relatively new system.

114 In relation to Schedule 7, there is no requirement that the officer should have conceived any suspicion in the initial stages of an examination about the passengers, crew, vehicle or goods subject to the stop. This means that it is a wider power than is normally available to police, immigration or customs

⁴¹ Whereas this is a clear task of the Reviewer under section 14 of the Prevention of Terrorism Act 2005.

officers. I and past reviewers have commented before that the evident presence of port officers is a deterrent to terrorists. This has not changed. Knowledge on their part that a port is manned efficiently and the subject of strong and well-informed vigilance is a significant inhibition against targeting that port.

115 Many examinations at ports are carried out after officers have received general or specific intelligence about a suspect, type of traveller, or characteristics of a suspected operation. Some are carried out as part of the work of gathering knowledge about individuals who have come to notice. Having watched the process, I am in no doubt that the trained and ingrained instinct of experienced officers still has real value. The 'intuitive stop' has the potential for catching a terrorist at work, though the 'strike rate' predictably is very low. That does not devalue the process. Different officers operate with their own 'feel' for what they see and hear. Most stops are of perfectly decent and innocent travellers. The intuition described is not the same as reasonable suspicion: much intuition cannot be rationalised. The continuation of the present system is a necessity in current circumstances, and can give rise to useful results, including intelligence gains, from time to time. Technology is continuing to improve, with consequent advantage to port officers and benefits of speed and unobtrusiveness to the travelling public. The ever more effective use of technology is to be encouraged.

116 The success of the Joint Terrorism Analysis Centre [JTAC] has been one of the factors to enable ports officers to approach stops on the basis of better information. The terrorist traveller has much to fear at UK ports of entry. It is likely that UK intelligence procedures and ways of sharing information to meet need are as good as anywhere. They are methodical and tireless. One of the consequences is that intuitive stops are likely to play a diminishing role – though one must be ever mindful of their utility given the use by terrorist organisations wherever possible of 'clean skins', people with no past record of operational terrorist activity.

117 It is my view that the number of intuitive stops could be reduced significantly without any measurable increased risk of danger. Having watched the process many times, and learned more of the way

intelligence is now prepared and shared, this is a firm view. Given better bases for profiling, I believe that a reduction to about a half of the current level of intuitive stops would have no significantly reduced effect on the safety of the nation.

118 I would be opposed to a requirement to record all intuitive stops. Where a member of the travelling public is delayed for only a few moments, and is not removed from the general stream of passengers entering the country, the person concerned is almost always courteously questioned and responds without demur. The recording of momentary and very short stops would change the whole character of the procedure, and would cause delays of an unwelcome kind for the port operators. Of course, if the traveller is removed from the travelling flow and questioned at any length, records should be and are already kept.

119 Premises for special branch police officers at ports still continue to be a cause for concern. For example, I have received complaints about the premises made available to police at the very busy general aviation airfield at Northolt. I repeat again that it is my view an imperative that police should be regarded as an essential resource in a port of entry, whether air or sea; that the proprietors should have an obligation to provide the space reasonably required for the appropriate level of policing; and that considerations of the rental that could be obtained from retail outlets and the like are not the appropriate basis for charging police forces for airport or seaport space. The adequacy of accommodation for police at seaports and airports remains a matter of less than universal contentment. I am still concerned enough to report that continuing attention needs to be given to the accommodation issue to ensure that the working of the Act is in no way compromised by a lack of decent facilities for law enforcement agencies. Paragraph 14(1)(b) of Schedule 7 whereby port managers can be required to provide at their own expense specified facilities, is always an available option.

120 I have received a very small number of complaints about the treatment of members of the public at ports in 2004. Other such complaints are made to the police and the Home Office. Most relate to

being stopped at all, though I am sure from conversations at airports that there is general public acquiescence at present in the value of what might occasionally seem excessive vigilance in other circumstances.

121 One complaint repeated by many related to the stopping of a very well known singer from Ireland, who was stopped and questioned on entry into Great Britain. No public figure can claim special exemption from what may befall the generality of citizens; nor can they expect universal facial recognition, in a world in which celebrity status can be claimed more easily than ever. However, in the absence of special information (and I have been informed of none in that case) care should be taken only to stop travellers in appropriate circumstances. Bearing in mind that most individuals stopped are entirely innocent of any wrongdoing whatsoever, it is important that waiting areas should be away from general public view and designed to cause as little embarrassment as possible. This is generally the case.

122 A particular problem about port powers was brought to my attention by the Chamber of Shipping, and I was able to observe it for myself. This relates to the difficult relationship between the demands of security and the commercial need to keep going traffic outflows from sea ports. The problem is especially acute at Dover, where the port estate is small and hemmed in by the cliffs. I am sympathetic to the view that efforts should be made at ports to avoid multiple stopping points involving the different agencies. Passenger flows both in Great Britain and at ports such as Calais and Dunkerque are sometimes slower than seems necessary. The Treaty of Le Touquet has made a contribution to progress in port activity, but would merit review from time to time from the practical viewpoint.

123 Language difficulties do occur from time to time and will always be liable to cause occasional difficulties at ports of entry. Considerable sums are spent on the provision of interpreters, though the system is bound to be imperfect in some places. Some sea ports are far from large ethnic minority groups, and suitable interpreters of Arabic and other languages are not always available. I believe that the growing concern over Al Qaeda has led to an improvement in the provision of interpretation

facilities wherever necessary, albeit at very considerable cost to the public purse. This is an issue likely to continue to soak up considerable resources.

124 The closeness of working between police, Customs and immigration officers is excellent where the facilities and staff are adequate. However, my observation is that Customs officers in particular are thinly spread. This is a chorus complaint by special branch officers. In some ports of entry a Customs officer is an occasional and prized sight. In others there is effectively no Customs scrutiny of incomers. This is especially so for general aviation (non-scheduled flying). The adequacy of staffing of HM Customs and Excise at and for ports of entry of all kinds would benefit from separate and robust fresh inquiry, possibly by a Select Committee.

125 On the subject of general aviation, the potential for terrorism penetration is not diminishing. It is now possible to purchase, from reputable international companies, piloted flying hours in sophisticated executive jets capable of high speed travel from continent to continent. The risk of hijacking of such aircraft is not fanciful. Fractional ownership too is a subject of some concern. In my view these sectors should be fully subject to EU Security regulations⁴² and to the UK National Aviation Security programme. Government and the aviation industry have a high responsibility to ensure full passenger information and the effective international policing of such aircraft. The operators, wishing to retain their certifications and reputations, have a strong interest in full cooperation with the authorities.

126 Small general aviation still continues to cause me concern, as it has from the beginning of my period as reviewer. However, I am impressed by the developing and high level of contact between local police forces and operators of small airfields and flying clubs. The important thing is that there should always be a vigilant watch for the unusual and unexpected.

⁴² EU Security regulation 2320 is the most obvious reference point.

- 127 In addition, the Maritime and Coastguard Agency has a significant part to play in the policing of small ports and general aviation issues. The Agency should always be seen as a full participant in the stemming of the threat of terrorism.
- 128 Joint UK and French operations are now in being on both sides of the English Channel. These are designed to secure better quality of information sharing between the two countries, a freer flow of legitimate passengers, and the stemming of the tide of asylum seekers with little or no hope of success. This last aspiration is undoubtedly being achieved, with a large reduction in the number of illegal entrants through Dover and Folkestone, and the Channel Tunnel. There remain strong police frustrations about the slow development of some parts of the arrangements. For example, persons detained in France may be held by British police officers, but once detained the arrangements for their release require in some circumstances for them to be brought to the UK in custody in order to be released. Whilst a reasonable sounding explanation in law can be found for this and other idiosyncrasies of the system currently in operation, they can be frustrating for hard-pressed police who reasonably expect common sense to prevail quickly. I repeat my hope of last year: hopefully any practical creases falling within this general description can be ironed out as co-operation evolves further.
- 129 Manifests are a perennial cause for concern. As has been said by me and previous reviewers again and again, the information provided by shippers and carriers is of great value to port officers. If police know who is on board an aircraft or vessel, or what is being carried, their knowledge is increased, and they may be able to further important enquiries. If the manifest information is inaccurate, inadequate and given a low level of importance by transport operators, a vital clue may be missed. Good manifest information can save lives.
- 130 During one of my visits to a major airport in 2004 I viewed from a window a large airliner recently arrived from an embarkation point in the Middle East where conceivably and far from fancifully a terrorist might have boarded. I asked the special branch officers present in the room with me when

they had received the manifest of passengers from that aircraft. I assumed as reasonable disclosure of the manifest that this would have occurred at the latest when the aircraft took off from the port of embarkation. This was not the case. For manifests to be given to the control authorities when the vessel arrives in the UK is not sufficient for even routine checks on the passengers to be made adequately. This is not a national problem. The sloppiness of the international rules on manifests is not justifiable in the present global terrorism climate.

131 Whenever an aircraft takes off, the manifest should be made available to the police at the port of disembarkation. This should be the responsibility of the carriers, who have, or should have, or are capable of obtaining all the necessary information in a simple way at the time of ticket sale. To achieve this with ships is more difficult because of traditionally different records and procedures. However, with passenger shipping too I am firmly of the view that greater safety against terrorism could be achieved by more rigorous manifest requirements.

132 As last year, given the fluidity of terrorist organisations, I trust that attention to crew-related terrorism issues is kept under continuing review and the advice of the police and security services heeded. I believe that developing TRANSEC procedures have contributed to some diminution of concerns about aircraft crews.

133 Schedule 7 of the TA2000 sets out the powers of officers performing port and border controls. The powers under the Act are circumscribed in purpose by paragraph 2(1) of the Schedule, to determining if the person stopped “*appears to be a person falling within section 40(1)(b)*” [i.e. a ‘terrorist’] whether there are grounds for suspicion or not.

134 Detention under section 41 and under Schedule 7 is subject to the regime set out in Schedule 8. Codes of Practice have been issued under Schedule 8. In 2004 as before I have been able to discuss these powers and connected issues with the National Coordinator of Ports Policing and other senior police officers. They work closely together and with others in a border agency working group. I have also

been able to discuss in detail with them and others the adequacy of the maximum 14 day detention period available now.

135 By section 306 of the Criminal Justice Act 2003, Schedule 8 of the TA2000 was amended to allow up to 14 days' detention for the purposes of questioning and associated investigation. This proved very controversial in Parliament.

136 On the basis of material placed before me by police officers from both England and Scotland, I had formed and remain of the view that where multiple arrests take place of unidentified (and occasionally unidentifiable in any true sense) unlawful entrants into the UK, with language problems between detainees and the police, difficult forensic issues at premises, shared defence lawyers and the need for multiple and preferably non-overlapping interviews, 7 days in a few cases is too short a maximum period. The extension to 14 days, permitted by the change, hopefully will be used rarely. It was used in 2004, in cases now sub judice and likely to remain so for some time. I have received no complaints about its use, but some connected issues do arise.

137 It has come to my attention that there is a degree of disappointment in some allied states at the low level of information provided by terrorists arrested in the UK. The present UK government has made it clear that it would like to legislate to formalise plea bargaining procedures, and that discounts from sentence for those who materially assist the authorities should receive transparent and measurable discounts. Those are clearly sensible aims. However, plea bargaining procedures will not deal significantly with the issue mentioned at the beginning of this paragraph. Should there be a way of so doing?

138 I am informed by my enquiries in other countries, by what I read and by my own 32 years of professional experience of dealing with criminals that some, on being arrested, are prepared to cooperate to reduce what may be a very long sentence. As a barrister I have appeared in drugs cases

where that occurred, in one instance in circumstances requiring great caution and discretion. However, the degree of danger to the defendant concerned is high even with caution and discretion.

139 It seems to me to be fair to all terrorists who are potential informants, and very much in the public interest, that there should be an opportunity for the provision of information of potentially life-saving significance in human rights compatible circumstances secured by a clear and robust system of law. The use of 'supergrasses', though sometimes controversial, has produced convictions for extremely serious crimes. The 'pentiti' system in Italy has assisted in reducing the power of the Mafiosi in some areas of the country and business. A similar approach is under way in Spain.

140 Part of the problem in this area arises from the fact that, perfectly properly, many terrorism suspects arrested in the UK exercise their right to make no comment when interviewed. The detention period of up to 14 days remains valuable for the police as they gather evidence and pursue enquiries, but in terms of interview product there is little or none. Whilst under arrest and detention terrorism suspects tend to have the same or a small number of lawyers advising them. This is understandable and most of the lawyers concerned have enviable and justified reputations: the point is that at the time of arrest the suspects are in a group setting, and it is highly unlikely that any will break ranks at that stage.

141 Detainees under the former ATCSA2001 Part 4 were sent letters by the Home Office, signed by a senior official, offering them an interview with the Security Service for the kind of purpose described above. The letters emphasised that such interviews were entirely voluntary, would be recorded, and could be conducted with a legal representative present. Unsurprisingly the uptake on this commendably open offer was not high.

142 In my view there is a strong argument for a formalised system of law to provide an opportunity for repentant and advantageous confession, if such a system can be devised. It must be fully compatible

with human rights legislation, fair beyond realistic reproach, and confidential. I am not a legislative draftsman and therefore do not offer a fully drafted scheme.

However, I suggest that such a system should be considered and that it might include:

- After arrest and remand (whether on bail or in custody) an offer of a security interview.
- Such interview to be entirely confidential and never to be referred to in court save at the request of the interviewee.
- Interview to be conducted by security service with or without service lawyer, under the supervision of a judge to ensure fair process and questioning. A cadre of district judges (magistrates courts) and/or circuit judges could be security cleared for this type of examining judge type work.
- Special advocate to be appointed, with facility for consultation with person concerned, to ensure that interview covers all relevant areas and is complete.
- Total interview to be recorded for any future verification purposes.
- Confidential report to go to any sentencing judge, with provision for judge to decide who sees it if anyone.
- Where information of value, special advocate to be permitted to make written representations (if desired by informant) as to effect on sentence.
- Either a sentence discount reflecting the information given, or in certain circumstances an unreduced sentence but with an understanding for post-sentence arrangements reflecting an appropriate discount on time to be served.
- Suitable arrangements for protection if needed.

143 The Schedule 8 powers are subject to a system of law supervised by District Judges (Criminal) with particular knowledge and experience of the system for extension of detention under section 41 and Part III of Schedule 8. Currently they are led for this purpose by Judge Workman, the Chief Magistrate. These provisions apply too to persons stopped at a port and dealt with under Schedule 7, and subsequently arrested under section 41. The number of district judges carrying out this important work is small, and they sometimes have to travel at very short notice to distant parts of the country. This system works well.

144 Overall I am satisfied that in 2001 the port powers and the checks and balances on those powers worked well and remained necessary. Recording systems are sound and accountable. Each port examination (as opposed to short stop) is recorded in written form, and superior officers examine written records routinely. Special Branch officers generally function to a very high professional standard.

6 PART VI OF THE ACT: ADDITIONAL TERRORIST OFFENCES

145 Sections 54 and 55 provide for an offence of instructing and training another, or receiving instruction or training, in the making or use of firearms, explosives or chemical, biological or nuclear weapons. The offence includes recruitment for training that is to take place outside the UK.

146 There have been no prosecutions under the section since its enactment. Lord Lloyd reported that the precedent for this offence applicable only in Northern Ireland had never been used, and presented real evidential difficulties⁴³. The government responded in its consultation paper prior to the TA2000⁴⁴ with reference to international terrorism and its recruitment methods.

147 As I said in the corresponding report a year ago, the events of September 11th 2001 and evidence available since then demonstrate that international terrorists have recruited young people in the UK, with the potential for use against the UK and around the world. The demonstrable evidence was that two British nationals born and educated in the UK were recruited and responsible for a suicide bombing in Israel in 2003. There is concern about radicalisation in at least one institution I have visited in which young offenders are held. I believe that further material to support this set of concerns will emerge in the months ahead. Any person who invites, incites or encourages young people to receive instruction or training in terrorist violence (wherever in the World such instruction or training was to be given) is guilty of an offence⁴⁵. In the present international climate of general terrorist threat this provision is proportionate and necessary. The threat of terrorist use of weapons capable of injuring whole communities is serious enough to warrant the measures of which sections 54-55 are part.

148 I remain satisfied that these provisions are potentially very useful and effective for dealing with aspects of international terrorism, and are likely to result in prosecutions in the years ahead.

⁴³ CM 3420 Volume 1 Paras 14.26-14.28.

⁴⁴ CM4178 Para 12.12.

⁴⁵ Section 54(3).

- 149 Sections 56-58 deal, respectively, with directing terrorist organisations, possession of articles giving rise to a reasonable suspicion of a terrorist purpose, and possession or collection of information likely to be useful for terrorism.
- 150 It is not part of my terms of reference to debate the merits or otherwise of reverse onus provisions of the type contained in sections 57 and 58, unless they do not work satisfactorily. They were considered by the House of Lords in *R v DPP ex p Kebilene*⁴⁶. The working of sections 56-58 is satisfactory, and they remain a necessary and proportionate part of the legislation.
- 151 Sections 59-62 provide for offences of inciting terrorism overseas. These provisions incorporate the substance of what was formerly Sections 5-7 of the Criminal Justice (Terrorism and Conspiracy) Act 1998. Whilst the provisions are wide, the consent of the DPP is required before a prosecution can be brought. With the protection of the requirement of such consent, the existence of an offence to criminalize, for example, incitement by a person within the UK to murder a British ambassador abroad is a proportionate response. As I observed in my last report, the death of a senior British diplomat and others in Istanbul in 2003 has demonstrated the reality of our worst fears that such events may occur.
- 152 Section 63 extends jurisdiction so that if a person does anything outside the UK that would have constituted a terrorist finance offence contrary to sections 15-18, he shall be guilty of the offence as if it had been done in the UK. It is my continuing view that this provision remains useful and necessary, and enhances the working of the Act.
- 153 Section 64 has been repealed.

⁴⁶ [2000] 2 AC 326.

7 **PART VII OF THE ACT: ANNUALLY RENEWABLE NORTHERN IRELAND PROVISIONS**

154 I reported earlier in 2005 on the working of Part VII in 2004, so that my report could be available prior to the parliamentary renewal debates.

155 That report is very recent, and I cannot usefully add anything of substance to it here. Although I produced the Part VII report separately for legislative convenience and clarity, it should be read too as part of this review. I remain reasonably confident that there is little appetite among the vast majority of ordinary citizens for a return to violence in Northern Ireland. Recent criminal events have shown that there is a very small but heavily dangerous group of 'hard cases' to whom crime and violence are more important than a peaceful and enduring political settlement. That group should be regarded as well outside the political arena: they are merely criminals, taking advantage of some political connections.

8 PART VIII OF THE ACT: GENERAL PROVISIONS

156 Part VIII contains general powers necessary to give the Act full effectiveness, definitions and regulation-making powers.

157 Again this year sections 114-116 have provoked no complaints of which I am aware, either as inadequate or as providing too much power to police officers. They seem to me to be a necessary part of counter-terrorism police powers.

158 I have referred above to the provisions in section 117 requiring the consent of the DPP or the Attorney General to prosecutions in respect of most offences under TA2000. This is an important safeguard against the arbitrary use of wide powers that could be misused in the wrong hands. The effectiveness of consent to prosecute as a protection against arbitrariness depends on far more than the astuteness and level of knowledge held by the DPP or Attorney General concerned. It depends too on the accuracy and integrity of the information provided for the purpose of the exercise of consent.

159 I am satisfied that full consideration is given to training police and prosecution staff as to the type of information needed in order to ensure that consent is given or refused on a proper basis. Whilst occasional mistakes are almost inevitable in what is a big picture, failure to achieve proper standards in relation to consents compromises the liberty of the individual, and should be regarded as a serious matter in terms of departmental and professional discipline.

160 Section 118, which in my report on 2001 I described as an interesting and apparently effective example of a double-reverse-onus provision, deals with the prosecution's burden of disproving a statutory defence once the defence has complied with the evidential burden of raising it. No problems have been identified about its fitness for purpose.

161 Sections 119 to 125 are largely formal or definitions consequent upon the Act as a whole. I have reviewed them fully, and have no basis for suggesting that they do not work to meet purpose.

162 Section 126 establishes the mechanism leading to this report. It provides that the Secretary of State shall lay before both Houses of Parliament at least once in every 12 months '*a report on the working of this Act*'. In addition to producing separate part VII reports as described above, I intend to keep under review whether there may arise the need to produce any supplementary reports either on the Act as a whole or on issues arising under it.

163 The transitional provisions contained in section 129 have worked satisfactorily, and now are largely historic.

9 SCHEDULES TO THE ACT

164 All the schedules have been the subject of amendment and partial repeal.

165 Schedule 1 deals with transitional matters, and has served its purpose.

166 Annex G lists those organisations currently proscribed under Schedule 2, pursuant to section 3.

167 Schedule 3 provides for the constitution, administration and procedure of POAC. POAC issues are discussed in chapter 2 above.

168 Schedule 3A defines the regulated sector and supervisory authorities, and is discussed above.

169 Schedule 4 was amended by ATCSA2001. The schedule covers forfeiture, restraint and connected compensation orders. It remains a necessary part of the Act, and works.

170 Schedules 5 and 6 have been dealt with above. They too were amended by ATCSA2001. The effect of those amendments has not led to any representations to me since my last report. If there have been any particular difficulties I should be pleased to hear of them and give them full attention in the coming year.

171 Schedule 6A introduced the system of account monitoring orders. They can be obtained only by order of a circuit judge or equivalent, and on grounds set out in reasonably clear terms in paragraph 2. Their potential as a route towards useful evidence is self-evident.

172 Schedule 7 (port powers) is discussed above. It too was amended, albeit not extensively, by ATCSA2001.

173 Schedule 8, concerning the detention of terrorist suspects under section 41 or Schedule 7, is discussed above. A significant amendment introduced by ATCSA2001 allowed authorisation for the obtaining from a detained person of fingerprints, restricted to cases of refusal of identity or where there are reasonable grounds to doubt the claimed identity⁴⁷. Used fairly, this is a proportional and reasonable provision, and should work adequately. Two years ago I recommended that statistics should be kept by the Home Office of the use of this power. I have yet to provided with them: they should now be made available.

174 The period of maximum and judicially supervised detention has been extended to 14 days, as described above⁴⁸. That it was subject to considerable criticism in the Parliamentary debates, especially in the House of Lords⁴⁹, is to be taken very seriously indeed. I have been attending closely to the consequences of the change. I said a year ago that I should welcome information about the effect on individual cases, if the 14 day detention provision is used. I have received such information from the police, who find the extension useful in very difficult and multi-arrest cases. I have received no adverse comment with any particularity to any individual case or operation.

175 Schedules 9-13 relate to Northern Ireland. They are covered within the ambit of my separate report under Part VII of the Act.

176 The remaining schedules, 14 and 15, have not given any cause for comment.

⁴⁷ See Schedule 8 paragraphs 10-15, 20

⁴⁸ Criminal Justice Act 2003, section 306, amending Schedule 8 of TA2000

⁴⁹ Notably Lord Lloyd of Berwick, House of Lords Hansard, Debates, 11th November 2003, Col. 1305

10 SCOTLAND

177 My travels as reviewer take me reasonably frequently to Scotland. I have been there again in the past year. Scottish special branches have close working relationships together, and I am impressed by their commitment to sharing information.

178 The frequent presence in Scotland of members of the Royal Family has given Scottish forces a long-standing expertise in anticipating and analysing any terrorist threat, as well as of the necessary close protection issues. Their ability to operate without section 44 has been noted above.

11 CONCLUSION

179 My conclusions in general are as a year ago. As always, throughout my travels, reading and discussions in connection with the TA2000 I have been fully conscious of the delicate nature of the balance between political freedoms and the protection of the public from politically driven violence and disorder. This balance has been highlighted by the debates on the Prevention of Terrorism Act 2005.

180 I have raised a number of particular issues in this report, and look forward to extensive discussion upon them before I present my next report. I draw especial attention to my comments on, respectively, section 44, random stops at ports, and potential security service interviews. All are matters in need of early consideration.

181 Overall, and subject to some detailed comment above, I regard the Terrorism Act 2000 as continuing to be fit for purpose.

ANNEX A

**PERSONS AND ORGANISATIONS CONSULTED,
CONTACTED, AND PROVIDING INFORMATION
TOWARDS REPORT; and VISITS**

Note: Not all are listed. Those omitted include occasional correspondents, and some whom the Reviewer judged should not be listed for reasons of confidentiality etc.

Professor Rogelio Alonso, Universidad Rey Juan Carlos, Madrid

Audencia Nacional, Madrid, senior prosecutors

Avon and Somerset Police

Belfast High Court and judiciary

Birmingham Airport

Birnberg Peirce and Partners, Solicitors

Blackpool Airport

Bristol Airport

British Business and General Aviation Association

British Embassy, Madrid

British Irish Intergovernmental Secretariat

CNCA, Madrid

Calais Port

Cardiff Airport

The Chamber of Shipping

Martin Chamberlain, Special Advocate

Democratic Unionist party

DPP Northern Ireland

Dover Port

Ebrington Centre, Londonderry

Editor and Deputy editor, El Mundo, Madrid

Ferry Operators (various)

Finucane Centre, Londonderry

David Fitzpatrick, barrister (London and Hong Kong)

Gasyard Centre, Londonderry

Gatwick Airport

Professor Tom Hadden

HMP Belmarsh; and detainees

HMP Woodhill; and detainees

Heathrow Airport

Holyhead Port

Holywell Trust, Londonderry

Home Secretary and officials

Independent Monitoring Commission

Ireland: various diplomatic and government officials

Dr Mike Jacobson (Washington Institute)

JTAC

Kent Police

Mohammed Khamisa, barrister

Liberty

Tony Lloyd M.P.

Lothian and Borders Police

Manchester Airport

The Maritime and Coastguard Agency

Angus McCullough, Special Advocate

Ian McDonald Q.C., Special Advocate

Metropolitan Police

The Muslim Council of Britain
National Co-ordinator of Ports Policing
The National Co-ordinator of Special Branch
Northern Ireland Human Rights Commission
Northern Ireland Office
North Wales Police
Police Service of Northern Ireland
Popular Unionist Party
Security Service
Sinn Fein
Special Immigration Appeals Commission
South Wales Police
Ministry of Justice, Spain
Special Criminal Court, Dublin
Strathclyde Police
Sussex Police
TRANSEC, Department of Trade and Industry
Ulster Unionist Party
New Zealand Government delegation of legal officials

ANNEX B

Persons detained in Northern Ireland under any legislation and charged with offences contained specifically in the Terrorism Act (Section 41)

	Jan-June 2004	July-Dec 2004	Total
Section 11 (Membership)	5	4	9
Section 12 (Support)	0	0	0
Section 13 (Uniform)	0	0	0
Section 15 (Fund raising)	1	1	2
Section 16 (Use and possession)	0	0	0
Section 17 (Funding arrangements)	2	0	2
Section 18 (Money laundering)	0	0	0
Section 19 (Disclosure of information: duty)	0	0	0
Section 54 (Weapons training)	0	0	0
Section 56 (Directing Terrorist Organisation)	0	0	0
Section 57 (Possession for Terrorist purposes)	10	14	24
Section 58 (Collection of information)	0	1	1
Section 103 (Terrorist Information)	0	1	1
Schedule 4, para 37 (Contravention of restraint order)	0	0	0
TOTAL NUMBER OF CHARGES	18	21	39
TOTAL NUMBER OF PERSONS CHARGED	12	14	26

Source: Police Service of Northern Ireland

ANNEX C

Persons detained in Great Britain under any legislation and charged with offences contained specifically in the Terrorism Act (Section 41)

	Jan-June 2004	July-Dec 2004	Total
Section 11 (Membership)	1	3	4
Section 12 (Support)	0	0	0
Section 13 (Uniform)	0	0	0
Section 15 (Fund raising)	0	2	2
Section 16 (Use and possession)	0	0	0
Section 17 (Funding arrangements)	0	4	4
Section 18 (Money laundering)	1	0	1
Section 19 (Disclosure of information: duty)	0	0	0
Section 38B (Information about acts of terrorism)	0	0	0
Section 54 (Weapons training)	0	0	0
Section 56 (Directing Terrorist Organisation)	0	0	0
Section 57 (Possession for Terrorist purposes)	3	0	2
Section 58 (Collection of information)	1	4	5
TOTAL NUMBER OF CHARGES	6	13	19
TOTAL NUMBER OF PERSONS CHARGED	6	13	19

Source: Metropolitan Police Service

ANNEX D

SEIZURE AND FORFEITURE OF TERRORIST CASH IN GREAT BRITAIN

PERIOD	No. OF SEIZURES	RESULT
1st Quarter 2004	2 seizures	£12,950 (returned)
2nd Quarter 2004	0 seizures	
3rd Quarter 2004	1 seizure	£3,362 (returned)
4th Quarter 2004	0 seizures	

Source: Metropolitan Police Special Branch

ANNEX E

ARRESTS UNDER THE TERRORISM ACT 2000

1 January 2004 – 31 December 2004

	Total Arrests	Arrests after Examination	Charged	Terrorism Act	Other Legislation	HM Immigration Service	Irish Terrorism	International Terrorism	Domestic Terrorism
January	7	0	2	0	2	0	1	5	1
February	3	0	1	1	0	3	1	2	0
March	22	1	7	4	3	0	1	21	0
April	22	0	2	1	1	1	0	22	0
May	11	2	2	0	2	4	2	7	2
June	7	0	1	0	1	4	1	5	1
July	14	2	7	3	4	2	4	9	1
August	20	2	12	6	6	4	4	16	0
September	21	0	4	3	1	0	0	19	2
October	12	0	1	1	0	5	2	9	1
November	10	1	1	0	1	0	0	10	0
December	13	3	0	0	0	7	0	12	1
TOTAL	162	11	40	19	21	30	16	137	9

ANNEX F

CORDONS UNDER SECTIONS 32-36

Date	Region	Duration
2 January	St Mary's Axe, City of London	62 mins
26 February	Giltspur Street, City of London	64 mins
28 March	Southall	104 mins
28 April	Throgmorton Street, City of London	19 mins
2 May	Finsbury Circus, City of London	45 mins
9 May	Charing Cross	35 mins
14 May	Bishopsgate, City of London	30 mins
7 June	Shoreditch	49 mins
9 June	Plumtree Court, City of London	15 mins
27 June	Charing Cross	23 mins
13 July	Leadenhall Street, City of London	62 mins
21 July	Rose & Crown Court, City of London	10 mins
9 August	Newgate Street, City of London	41 mins
11 August	King William Street, City of London	29 mins
6 September	Trinity Square, City of London	85 mins
14 September	Cheapside, City of London	34 mins
14 October	Cheapside, City of London	72 mins
17 October	Walbrook, City of London	35 mins
24 October	Royal Exchange, City of London	71 mins
6 November	Charterhouse Street, City of London	63 mins
30 November	Great St Helens, City of London	65 mins

ANNEX G

PROSCRIBED ORGANISATIONS (SCHEDULE 2)

Irish Groups

The Irish Republican Army
Cumann na mBan
Fianna na hEireann
The Red Hand Commando
Saor Eire
The Ulster Freedom Fighters
The Ulster Volunteer Force

The Irish National Liberation Army
The Irish People's Liberation Organisation
The Ulster Defence Association
The Loyalist Volunteer Force
The Continuity Army Council
The Orange Volunteers
The Red Hand Defenders

International Groups

Al- Qa'ida
Egyptian Islamic Jihad
Al-Gama'at al-Islamiya
Armed Islamic Group (GIA)
Salafist Group for Call and Combat (GSPC)
Babbar Khalsa
International Sikh Youth Federation
Harakat Mujahdeen
Jaish e Mohammed
Lashkar e Tayyaba
Liberation Tigers of Tamil Eelam (LTTE)
Hizballah External Security Organisation
 Hamas-Izz al-Din al-Qassem
Palestinian Islamic Jihad - Shaqaqi
Abu Nidal Organisation
Kurdistan Workers Party (Partiya Karkeren Kurdistan) (PKK)
Revolutionary People's Liberation Party - Front (DHKP-C).
Basque Homeland and Liberty (ETA)
17 November Revolutionary Organisation (N17)
Islamic Army of Aden
Mujaheddin e Khalq
Jeemah Islamiyah (JI)
Abu Sayyaf Group (ASG)
Islamic Movement of Uzbekistan (IMU)
Asbat Al-Ansar (aliases: Abu Muhjin group/faction, Jama'at Nour)