



Northern Ireland Audit Office

# **Detailed Note accompanying the Memorandum to the Committee of Public Accounts from the Comptroller and Auditor General**

## **Organised Crime: developments since the Northern Ireland Affairs Committee Report 2006**







Northern Ireland Audit Office

# Organised Crime: developments since the Northern Ireland Affairs Committee report 2006



This detailed Note and Memorandum, which it accompanies, have been prepared under Article 8 of the Audit (Northern Ireland) Order 1987 for presentation to the Northern Ireland Assembly in accordance with Article 11 of that Order.

*KJ Donnelly*  
Comptroller and Auditor General

Northern Ireland Audit Office  
19th January 2010

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For further information about the Northern Ireland Audit Office please contact:

Northern Ireland Audit Office  
106 University Street  
BELFAST  
BT7 1EU

**Tel:** 028 9025 1100  
**email:** [info@niauditoffice.gov.uk](mailto:info@niauditoffice.gov.uk)  
**website:** [\*\*www.niauditoffice.gov.uk\*\*](http://www.niauditoffice.gov.uk)

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# Introduction

## Organised Crime in Northern Ireland

### Third Report of Session 2005–06

*Volume II*

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

### Nature of organised crime

11. Two key themes run through the evidence we received in public, private and informal sessions. There was universal recognition that Northern Ireland had made significant progress in the last decade and is now much more peaceful than for many years. However, it is also clear that many of those paramilitaries who have been involved in perpetrating acts of terrorism continue to be involved, either as part of an organisation or as individuals in organised criminality. Even the latest (April) and most encouraging of our individual findings this, it must be remembered that fresh in everyone's memories from the Bank's inquiry was the massive bank robbery at the Northern Bank in December 1996. The general acceptance of the PSNI assessment that the Provisional IRA in December 1996 was this

### Spousal involvement

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

13. The involvement of paramilitaries in organised crime is not a recent phenomenon. The public evidence from HM Revenue and Customs, we were told, has shown that the need for funding throughout their history and here argued that paramilitaries are involved in different forms of criminality.<sup>13</sup> In its 2005 Annual Report, the CSET has argued that the funding of fundraising activity that paramilitaries are involved in, including the fundraising of so-called charitable organisations, some of which are involved in fundraising for the

14. We were told that paramilitary organisations and sophisticated extortion and racketeering was believed to be carried out

14. We were told that paramilitary organised crime was organisation and sophistication." Sir Hugh Orde told us it was organised and more sophisticated than loyalist crime," and that loyalist groups were "equally difficult to deal with".<sup>12</sup> He said that loyalist organisations had traditionally been "much less assets they derived from crime tended to be for personal, rather by contrast, republican paramilitaries were more organised from crime, while often greater than loyalists, were less visible to find."<sup>13</sup>

15. We heard reports in Ireland that paramilitary organisations were becoming more organised and sophisticated.

15. We heard reports in informal meetings about the paramilitary organisations, including between republican informants for certain specific, often drug related, organised crime were *ad hoc* pragmatic arrangements.

16. We also heard how the trade in drugs was organised. One witness described the trade in drugs as being organised in a pragmatic way, with the trade in drugs being organised in a pragmatic way, with the trade in drugs being organised in a pragmatic way.

16. We also heard how the traditional pattern of paramilitary crime<sup>17</sup> was becoming more difficult, given the shift as being from "paramilitary crime" to "organised crime". It was becoming more difficult, given the shift as being from "paramilitary crime" to "organised crime". It was becoming more difficult, given the shift as being from "paramilitary crime" to "organised crime".

"It is very hard to judge what is paramilitary crime and ordinary crime being committed by members of an organisation's gain, certainly."

17 Mr Peter: ...

## Introduction:

1. The House of Commons Northern Ireland Affairs Committee (NIAC) published a report of its inquiry into organised crime in Northern Ireland in July 2006 (HC 886-1). In putting forward a number of conclusions and recommendations, the Committee underlined the scale of organised crime and the damage it causes to both public sector finances and programmes, and businesses in Northern Ireland.
  2. Subsequently the National Audit Office (NAO) and the Northern Ireland Audit Office (NIAO) decided to review progress made in implementing the recommendations, and give an updated assessment of organised crime and development of potential new steps to counter it. Our focus has been on the Northern Ireland Office (NIO), the Northern Ireland departments, law enforcement agencies and the wider public sector. The review's terms of reference at Annex 1 to the Memorandum exclude consideration of certain of NIAC's recommendations - mainly those relating to tax and duty regimes (see Annex 2 to the Memorandum, paragraphs 1, 18 and 27). Accordingly, this review focuses on law enforcement and on functions that are either already devolved or planned to become so. Because of the close linkage with the NIAC report, this review reflects the structure of that report.
  3. Overall, there has been material progress in implementing the recommendations. Since the NIAC report, the Independent Monitoring Commission (IMC) has also reported a reduction in some paramilitary organisations' involvement in organised crime. But neither of these developments means that HM Government, the Northern Ireland Executive or the law enforcement agencies can relax their guard: organised crime is, and is likely to remain, a major international and national phenomenon from which Northern Ireland has no immunity, and local gangs, whether of paramilitary background or not, remain very active, not least in exploiting opportunities presented by the border. So organised crime remains a major and dangerous threat which requires the combined efforts of all these bodies, working together, to protect the public purse, taxpayers' interests and the health of society.
  4. Our review is structured as follows:
    - Part 1 discusses the nature and scale of organised crime in Northern Ireland;
    - Part 2 assesses its impact on different sectors of the economy and society;
    - Part 3 outlines the measures taken by Government departments and law enforcement agencies to combat organised crime; and
    - Part 4 suggests additional measures that could, we believe, make a valuable contribution to the process.
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5. Implementation of some of our recommendations would involve modest additional resources. Clearly this aspect will require consideration, but part of this should be recognition that the recommendations should have the effect of both reducing criminality and protecting public revenue. The spend-to-save dimension must be acknowledged in considering the resource implications.

## Summary of Recommendations

### Part One: On the nature and scale of organised crime:

- I. The NIO should lead a review involving HMRC, PSNI, SOCA and appropriate representatives of the criminal justice system to maximise practical co-ordination in relation to oils crime and organised crime more generally (paragraph 1.6.8, page 12).
  - II. PSNI and HMRC should take steps constantly to ensure that co-operation remains at a high level (paragraph 1.6.12, page 13).
  - III. NIO, together with other departments as appropriate, should review the question of adopting the Schengen Agreement's provisions on hot pursuit to reinforce the fight against drugs in particular (paragraph 1.6.24, page 15).
  - IV. We note that SOCA can provide national risk assessments on money laundering trends and SAR related issues, including providing alerts on up-to-date criminal financial activity and sectoral threats. Northern Ireland Departments should put in place arrangements to tap into the strategic information held by SOCA (paragraph 1.6.32, page 16).
  - V. DFP should invite the PSNI to assess areas of the public sector at risk of money-laundering and ensure the appointment of MLROs accordingly (paragraph 1.6.32, page 16).
  - VI. Possible loopholes in arrangements for countering cross-border money laundering should be examined and closed as appropriate (paragraph 1.6.33, page 16).
  - VII. HMRC should, in due course, evaluate the effectiveness of the Money Laundering Regulations 2007 in reducing abuse of bureaux de change for money laundering (paragraph 1.6.34, page 17).
  - VIII. Professional bodies must remain vigilant and rigorous in enforcing compliance of their members with professional standards (paragraph 1.7, page 17).
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## Introduction:

- IX. Awareness events for professional and business bodies should continue, and consideration be given to extending them on a cross-border basis (paragraph 1.8, page 17).
- X. Greater capability should be developed for evaluating the impact of organised crime, in the public sector in particular. The NIO should consider bringing together experts from the PSNI Analysis Centre with, for example, economists and accountants in the Northern Ireland departments in an ad hoc 'think tank' to resolve the methodological difficulties (paragraphs 1.15-16, page 21).
- XI. Ways of forestalling identified growth areas of organised crime should be developed now (paragraph 1.17, pages 21 and 22).

### **Part Two: On the impact of organised crime:**

- I. A statutory power should be considered to enable NIEA to withdraw vehicle operating licenses from those using them for illegal purposes (paragraph 2.2.5, page 27).
  - II. NIEA should report findings of illegal dumps on agricultural land to DARD (and other Northern Ireland departments in relevant circumstances) for appropriate investigation (paragraph 2.2.8, page 27).
  - III. The NIEA Environment Crime Team requires continuing focussed support from senior management in DOE and the wider Civil Service (paragraph 2.2.9, page 28).
  - IV. DOE and NIEA should take the steps recommended in the CJINI report to ensure that the Agency's enforcement functions are fully supported and integrated with the other work of the NIEA (paragraph 2.2.10, page 28).
  - V. HMRC should vigorously enforce the new Construction Industry Scheme and adjust it as appropriate in the light of the current effectiveness review (paragraph 2.2.12, page 28).
  - VI. Use of the extortion helpline should continue to be encouraged (paragraph 2.2.14, pages 28 and 29).
  - VII. The impact of the arrangements using the newly conferred powers in relation to regulating and licensing the private security industry should be monitored (paragraph 2.2.15, page 29).
  - VIII. DFP guidance should specify that construction business cases should consider the case for appointing a CCM, bearing in mind factors such as assessed risk and proportionality to the scale of the contract (paragraph 2.2.17, page 29).
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- IX. The risk of displacement and the effectiveness of CPD's growing focus on both waste disposal and vertical supply chain management, in preventing displacement of extortion to other construction activities, should be monitored (paragraph 2.2.17, pages 29 and 30).
- X. The issue of indemnifying CCMs should be revisited with a view to a positive outcome (paragraph 2.2.17, pages 29 and 30).

### **Part Three: On measures taken by government departments and law enforcement agencies:**

- I. Particular attention should be paid to the three points relating to the operation of the OCTF in (paragraph 3.2, page 35).
  - II. Central co-ordination amongst, and briefing arrangements within, Northern Ireland departments and public bodies should be reviewed (paragraph 3.3, page 35).
  - III. Northern Ireland departments must attach a high priority to countering organised crime (paragraph 3.4, page 35).
  - IV. The OCTF and IDGOC should review whether their constituent members properly reflect the drive against organised crime in their own business plans, supported by objectives and performance indicators (paragraph 3.5, page 36).
  - V. The Policing Board and Chief Constable should re-assess the prominence and priority given to combating organised crime in future Policing Plans, not least in supporting the Executive's Programme for Government (paragraph 3.6, page 36).
  - VI. Departments, the public sector as a whole and private sector interests should adopt and be guided by the principles advanced by the ARA (paragraph 3.7, pages 36 and 37).
  - VII. There should be an early review by the NIO, OFMDFM and PSNI of whether adequate mechanisms exist between them and Northern Ireland departments to ensure that briefing can be provided to departments, as and when necessary, on developing or emerging threats from organised crime and potential countermeasures (paragraph 3.10, pages 37 and 38).
  - VIII. Appropriate steps should be taken to improve attitudes in Northern Ireland departments towards seeing countering organised crime as a common responsibility requiring co-operation with other departments and law enforcement agencies (paragraph 3.12, page 38).
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## Introduction:

- IX. With a view to fostering better working partnerships between the police and the wider public sector, the NIO and OFMDFM should consider ways to apply relevant provisions of the Crime and Disorder Act 1998 in Northern Ireland (paragraph 3.14, pages 38 and 39).
- X. The availability of resources to counter organised crime should be reviewed by the Chief Constable, the Policing Board and the NIO (paragraph 3.15, page 39).
- XI. Local capability for confiscation must be maintained. In addition, the Public Prosecution Service should be appropriately skilled and resourced to discharge its duties in relation to civil confiscation and the question of its access to the Incentivisation Fund resolved in relation to criminal confiscation (paragraph 3.19, page 40).
- XII. DFP should examine ways of making more of its potential contribution to combating organised crime (paragraph 3.20, pages 40 and 41).
- XIII. North/South mechanisms must be maintained if organised criminals' ability to exploit the border is to be neutralised (paragraph 3.21, page 42).
- XIV. The appropriate North/South machinery set up under the Belfast Agreement should be used for systematic reviews to ensure that:
  - relevant bodies in both jurisdictions are co-operating fully to combat organised crime, and
  - relevant policies developed in each jurisdiction are analysed with a view to altering features that might facilitate organised criminal activity (paragraph 3.22, page 42).

### **Part Four: On additional measures to combat organised crime:**

- I. Prosecution and sentencing for organised crime must be such as to exercise a deterrent effect on criminals (paragraph 4.2, page 46).
  - II. Regulatory and licensing regimes should be regularly reviewed to determine if appropriate and well-judged assessments have been completed in each area, whether the correct balance has been struck and whether appropriate guidance is in place (paragraph 4.3, page 46).
  - III. It is important that proposed developments in certain Northern Ireland department's regulatory and licensing functions be pursued vigorously and as a priority (paragraph 4.4, page 46).
  - IV. DETI, in conjunction with HMRC and the PSNI, should monitor the effectiveness of the new petroleum retail licensing regime to ensure that it meets the objectives endorsed by the NIAC and IMC (paragraph 4.4.3, page 47).
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- V. Proposed legislation for strengthening the road haulage licensing regime should be implemented as soon as possible (paragraph 4.4.5, page 47).
  - VI. The new taxi licensing scheme should be implemented as soon as possible (paragraph 4.4.6, pages 47 and 48).
  - VII. The new charities regulatory regime, including establishment of a Northern Ireland Charity Commission, should be implemented as soon as possible (paragraph 4.4.8, page 48).
  - VIII. In deciding the way forward on liquor licensing, DSD should consider the concerns raised in paragraph 4.4.9, page 48).
  - IX. TSS, PSNI and HMRC should review the best deployment of their overall resources and powers in relevant fields with a view to seeing if TSS could enhance its role. If this produced a resource cost, then that should be considered by DETI and DFP (paragraph 4.4.10, page 48).
  - X. The question of whether the FSA should take over the regulatory function in relation to credit unions should be considered if the growth of credit unions in the Republic of Ireland into mortgage lending were to be replicated in Northern Ireland (paragraph 4.4.11, page 49).
  - XI. DETI and the PSNI should review whether there should be stricter requirements relating to the preparation of company accounts and qualification standards for book-keepers (paragraph 4.4.12, page 49).
  - XII. NIO should evaluate the effectiveness of crime proofing, in 12 months time, with a view to making any appropriate adjustments (paragraph 4.5, page 49).
  - XIII. Efforts by the OCTF and its constituent members to increase levels of public understanding and reporting should be continued, including use of confidential phone lines (paragraph 4.6, pages 49 and 50).
  - XIV. The NIO should review its response to their consultant's report on public relations initiatives (paragraph 4.7, page 50).
  - XV. The potential for increased use of data sharing/matching/mining should be fully explored in the ways recommended in paragraphs 4.9 – 4.16, pages 50-53.
  - XVI. The 'spend to save' principle should be carefully considered in relation to all cases in which additional resources are sought to combat organised crime (paragraph 4.16, pages 52 and 53).
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# Part One:

## Nature and scale of organised crime



## Part One:

### Nature and scale of organised crime

#### Definition of Organised Crime

- 1.1 In the local circumstances of Northern Ireland, there is a question over distinction between 'ordinary' organised criminal gangs and paramilitary organisations. Historically the latter have engaged in organised crime to finance their activities, and past analyses of organised crime (e.g. NIAC and IMC reports) have underlined the close connection between it and paramilitary groups. The IMC's recent reports (November 2007, May, September and November 2008, and May 2009) recorded an overall decrease in the involvement of paramilitary organisations and personnel in organised crime, although with continuing criminal activity in several quarters. The picture varied from organisation to organisation and, in some cases, it was not clear whether continued involvement was at individual or organisational level.
  - 1.2 The likelihood must be that the contacts, supply chains, secrecy and skills of paramilitaries will continue to make organised crime a particular threat in Northern Ireland, whether undertaken for organisational or individual gain, for some time to come. In that context, there can be little doubt that political developments of the past years have had a beneficial effect on the drive to combat organised crime by encouraging paramilitary organisations, both implicitly and explicitly, to move away from criminal activity of all kinds. Such efforts are one way of discouraging paramilitary groups from sliding into a long-term culture of organised criminality, be it for group or personal gain.
  - 1.3 The methods organised crime uses, the damage it causes and the means by which it can be prevented, detected and prosecuted need to be distinguished from the conventional frauds that Government departments and public bodies are normally geared-up to counter. This has made it especially important in this review to work to some definition which distinguishes the two. Organised crime also has consequences for the departments and other public bodies, and their defences against it, as explained in paragraphs 3.8 and 3.9.
  - 1.4 Against this general background, we adopted a definition used by police: an organised crime gang *'comprises three or more persons engaged in continuing serious illegal activities for the generation of substantial profit or gain, whilst employing protective measures.'*
  - 1.5 The key features of this definition emphasise that organised crime is a resilient and enduring activity aimed at major criminal profit and designed to avoid detection. It distinguishes organised crime from crime that is either individual or opportunistic, or directed at relatively minor gain (which much conventional fraud against Government departments and public bodies usually is); but crucially it points to a degree of sophistication against detection which underlines the need for particular and skilled approaches to prevention and prosecution. It is also worth noting that organised crime is often international in character; and in Northern Ireland is often cross-border.
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## 1.6 Main areas targeted by organised crime

These remain very largely as described in the NIAC report:

- 1.6.1 **Oils fraud** takes the form of cross-border smuggling to exploit differential duty rates, stretching of fuel by addition of other low duty fuels such as kerosene, and laundering in which lower duty fuels are adulterated and passed off as a higher duty fuel. Paramilitary organisations have historically been heavily engaged in this, and some level of paramilitary involvement continues to be reported by the IMC. Although legitimate fuel deliveries have increased over recent years:
- a significant number of filling stations in Northern Ireland are still believed to sell illegal fuel either exclusively or partly;
  - “non-duty paid” diesel accounts for 40 per cent of the Northern Ireland market and “non-duty paid” petrol for 14 per cent (2006-07);
  - revenue loss is estimated to deprive the tax payer of £250 million, though a significant element of this is from legitimate cross-border purchasing; and
  - a single fuel laundering plant has, depending on its size, the potential capacity to launder between 5,000 and 75,000 litres a week – this equates to between 260,000 and 3.9 million litres a year.
- 1.6.2 In addition, damage is often done to engines using adulterated fuel and to the environment as a result of dumping residues (at further cost to the tax payer from clean-up - this directly engages the Department of the Environment’s (DOE) interests in the Executive’s Programme for Government).
- 1.6.3 The general assessment, shared by both the Police Service of Northern Ireland (PSNI) and HM Revenue and Customs (HMRC), is that the incidence of this crime type is reducing in the wake of more effective enforcement, with sales of lawful fuel now steady.
- 1.6.4 HMRC has a tailored strategy to tackle oils fraud on a UK-wide basis<sup>1</sup>. To implement this, it devotes high levels of resource to combating oils fraud in Northern Ireland on account of its scale and organised nature here, as well as concern at potential further penetration of the Great Britain (GB) market.
- 1.6.5 Overall, the impact of the strategy in Northern Ireland has resulted, between April 2001 and March 2008, in 9.38 million litres of illegal fuel seized, 102 laundering plants and six mixing plants dismantled, 6,972 vehicles seized and 33 convictions (as well as convictions in GB of

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<sup>1</sup> Notably the Registered Dealers in Controlled Oils scheme which requires businesses dealing in fuels for non-road use that attract lower levels of excise duty to obtain the approval of HMRC before start-up, and to comply with operating conditions applied by HMRC.

## Part One:

### Nature and scale of organised crime

Northern Ireland-based criminals operating there) (see **Case Examples 1 and 2** in Appendix 1). There is also a programme of inspections of retail sites; since April 2001, on 558 occasions (including repeat cases) retail sites were found to be selling illegal fuel – 150 of these have been in the period from April 2006. Civil confiscations following criminal conviction have amounted to £0.25 million. In addition to confiscation, HMRC also issued assessments of VAT and excise duty to those detected who are involved in oils fraud. However, details of these assessments, which we were told are substantial, are not published.

- 1.6.6 There has been a good deal of criticism, not least in the media, directed at HMRC's effectiveness in tackling oils frauds, with particular concern at the apparently low rate of prosecution of, and sentences imposed on fraudsters. HMRC's Autumn Performance Report 2008, for example, notes that the average sentence in the four prosecutions for oils fraud in GB in 2007-08 was 48 months, whereas it was six months in the three prosecutions in Northern Ireland.
- 1.6.7 We consider that, while concern at the prevalence of oils frauds is well justified, it is harsh to lay blame for this solely on HMRC. It is determined to tackle oils crime effectively, and has been frustrated at the outcome of some of its efforts. As **Appendix 2** shows, HMRC seeks to use a range of sanctions, ranging from prosecution, through confiscation to imposition of tax assessments. The effectiveness of these sanctions depends on co-operation between HMRC, the PSNI, the Serious Organised Crime Agency (SOCA) and the criminal justice system as a whole. We recommend that the NIO lead a review involving each of the law enforcement agencies within Northern Ireland to ensure that co-ordination is maximised in practice, both in relation to oils crime and organised crime more generally.
- 1.6.8 NIAC underlined the importance of maintaining cross-border countermeasures. There have been positive developments on this, with the recent establishment of the Cross-Border Fuel Fraud Enforcement Group. We also welcome the provisions in the Serious Crime Act 2007 which enable information to be passed from HMRC to the Republic of Ireland's Criminal Assets Bureau (CAB), as well as the development of a memorandum of understanding also between HMRC and the CAB. Northern Ireland departments have also an important role to play in countering organised fraud in oils – see paragraph 4.4.2.
- 1.6.9 **Cigarettes** fraud represents another field of revenue abuse in which paramilitaries have historically been active (and in some cases, we were told, remain so) and in which crime remains at a high level. HMRC assesses the illegal trade throughout the UK to be in the range 9 – 17 per cent of total sales (separate figures are not published for Northern Ireland), with a switch from the predominance of UK-manufactured cigarettes to smuggled counterfeit brands as reflected in seizures following the introduction of regulation under a UK-wide strategy in 2000.
- 1.6.10 We were told that Northern Ireland has a disproportionate share of UK gangs involved in cigarette fraud, some being among the most skilled and equipped in the UK, and operating

both within, and from, here to import from the Far East and Baltic states. Seizures are often made at GB ports, with contraband either destined for sale here or using Northern Ireland as a conduit. Within Northern Ireland some 35 million cigarettes were seized in 2005-06, with a further 6.8 million seized in 2006-07, representing potential tax revenue of about £7 million and £1.7 million respectively.

- 1.6.11 As strikingly recounted in paragraphs 41 and 44 of the NIAC report, as well as revenue loss to the tax payer and damage to legitimate business, this crime puts smokers' health at greater risk (again potentially at cost to the tax payer). This crime engages the interests of the Department of Enterprise, Trade and Investment (DETI) and the Department of Health, Social Services and Public Safety (DHSSPS) in the Executive's Programme for Government.
- 1.6.12 Co-operation between the PSNI and HMRC is crucial to successful countering of organised crime in this field: both need to ensure that co-operation remains at a high level (see **Case Example 3** in Appendix 1). Co-operation with the Garda Síochána and Irish Revenue Commissioners is reported to be effective. Northern Ireland departments, and the Trading Standards Service (TSS), appear to have little role in this area in practice.
- 1.6.13 **Alcohol** fraud is also an area of revenue loss but one where other abuses such as extortion and money laundering, as well as the potential social consequences, can be of great concern, as recounted in paragraphs 111-115 of the NIAC report. Again, paramilitaries have historically been heavily involved.
- 1.6.14 HMRC told us that the latest strategic intelligence indicates that, at a UK level, alcohol fraud is on the increase, although this has not presented itself in Northern Ireland. The main risk continues to be smuggling from mainland Europe. Counterfeiting, however, continues. HMRC maintains a UK-wide strategy aimed at curbing both forms of alcohol crime and is now targeting criminals engaged in this form of criminality. A new duty stamp scheme was introduced in 2006 and since late 2007 HMRC has increased checks on compliance with statutory requirements. We were also told that cross-border co-operation is good.
- 1.6.15 PSNI and HMRC told us that, partly as a result of law enforcement, the overall threat in this field is in decline in Northern Ireland. The latest published figures for alcohol seizures in the UK are:
- spirits 557,909 litres
  - beer 4,763,006 litres
  - wine 1,128,117 litres.

The number of alcohol prosecutions by HMRC in the UK between 2002-03 and 2007-08 was 73, with 59 resulting in convictions; none of these prosecutions relate to Northern Ireland.

## Part One:

### Nature and scale of organised crime

- 1.6.16 **Intellectual property crime and counterfeiting** was assessed in 2006<sup>2</sup> as having an annual value of over £200 million in Northern Ireland and has historically been heavily exploited by paramilitary organisations. A wide range of goods is involved – cigarettes, perfume, computer games, CDs, DVDs, clothing – and business representative organisations report continuing damage to legitimate business. This crime deprives the public purse of tax revenue, undermines legitimate business and competition, usually defrauds, and often endangers the health of, individual purchasers, as reported in paragraph 44 of the NIAC report. Despite that, there is a widespread – and misplaced – perception that it is a victimless crime. DETI and DHSSPS interests in the Programme for Government are affected.
- 1.6.17 An area of major organised crime at the global level is in the area of pharmaceuticals. As part of the UK-wide effort against this, DHSSPS, working closely with PSNI, the UK Border Agency (UKBA) and on a cross-border basis, operates a regulatory, licensing and enforcement regime which seems so far to have been successful in preventing international organised crime from abusing the Northern Ireland pharmaceuticals market.
- 1.6.18 **Illegal dumping:** this is dealt with in paragraphs 2.2.1 – 2.2.10.
- 1.6.19 **Social security fraud:** this is dealt with in paragraphs 2.2.18 – 2.2.20.
- 1.6.20 **Armed robbery and cash-in-transit robbery** have been of concern in recent years, although levels in Northern Ireland are now well below many large regions of GB. Cash-in-transit robberies have fallen significantly from 134 in 2002 to 25 in 2008, a development welcomed by business representative bodies. This flows from substantial co-operative effort by law enforcement agencies and the industry (e.g. establishment of a joint control room involving the PSNI and cash transit companies), and demonstrates the positive impact of close co-operation. But, despite a reduction, ‘tiger kidnappings’ remain of concern to the business community.
- 1.6.21 **Drugs** remain an area with paramilitary as well as non-paramilitary involvement, including an international dimension as reflected in **Case Example 4** in Appendix 1. Northern Ireland has had a relative advantage over GB and the Republic of Ireland (RoI), with the main drugs of choice being cannabis and ecstasy, although we were told of growing evidence and concern that heroin, more harmful forms of cannabis and, in particular, cocaine are on the increase.
- 1.6.22 Measurement of the effectiveness of countering organised drugs crime is a particular problem: there are too many types and qualities of drugs to permit a reliable, consistent measure based, for example on price. Seizures are also problematic as they could reflect availability rather than effectiveness. Arrest and disruption of gangs is the PSNI’s preferred countermeasure.

- 1.6.23 PSNI assess inter-agency co-operation on the demand side to be good, involving the NIO, DHSSPS, Department of Education and others. On the supply side, we were told that co-operation with HMRC is close and effective. The UKBA is the front-line agency responsible for detecting illegal drugs at the point of importation. The investigation and reporting of those concerned for prosecution are the responsibility of HMRC. If there is the opportunity to progress a case further, it will be referred to SOCA or PSNI for further investigation.
- 1.6.24 Co-operation with the Garda Síochána could be strengthened by adopting the provisions of the Schengen Agreement permitting hot pursuit across international borders. We recommend that NIO, together with other departments as appropriate, should review whether adoption of the Agreement's provisions would contribute to countering drugs and other forms of organised crime.
- 1.6.25 **Human trafficking** involves the exploitation of people brought into Northern Ireland or similar exploitation of people already resident in the UK. Northern Ireland is both used as a conduit to, and from, GB/Rol (see **Case Examples 5 and 6** in Appendix 1) and, increasingly, a destination in itself. In 2005-06 over 10,200 foreign nationals from new European Union accession states registered for work and a further 2,500 work permits were issued. Recently reported cases, as well as PSNI participation in a major UK-wide enforcement operation (Pentameter 2), confirm that Northern Ireland is not immune from the sorts of crime and abuses seen in GB in the trafficking field, whether in relation to prostitution or to other abuses such as organised labour and accommodation packages from which the organiser creams off a 'fee', with the migrant receiving less than he is entitled to (e.g. by way of wages, benefits). This kind of illegal and essentially cruel activity is widely expected to grow.
- 1.6.26 There is uncertainty between the Department for Employment and Learning (DEL) and the Department of Agriculture and Rural Development (DARD) over respective responsibilities in this area. This has been highlighted by the correspondence we have received from both departments about this report.
- 1.6.27 **VAT and income tax fraud**, including tax credit, are the subject of organised crime, but there is no evidence that abuses in relation to VAT, are different in scale or type in Northern Ireland than in other parts of the UK. Reassuringly, HMRC's Specialist Criminal Investigation Unit, Criminal Taxes Unit and other civil investigation teams are not constrained in practice by UK-wide thresholds for investigation of individuals' tax affairs and so can target key organised crime players who are important at a regional level, using both criminal and civil powers as appropriate (see **Case Example 7** in Appendix 1). Co-operation with the former Assets Recovery Agency (ARA) was good, and according to both HMRC and SOCA continues to be so since the absorption of the ARA into SOCA in April 2008.
- 1.6.28 Statutory constraints on sharing of information are imposed by the Commissioners for Revenue and Customs Act 2005, but where a crime is suspected a 'gateway' to SOCA is permitted.
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## Part One:

### Nature and scale of organised crime

- 1.6.29 **ID theft:** much organised crime requires the theft of individual identities in order to perpetrate an intended fraud, and public debate about recent cases has highlighted the value of stolen or lost personal data to criminals. Discussions with a range of private sector, and in particular financial services, interests revealed how alert they are to the threat and the – often sophisticated – steps available to counter it. The valuable example of work done by CIFAS<sup>3</sup> in the private sector throughout the UK is described further in paragraphs 4.15 and 4.16.
- 1.6.30 There is no evidence that the public sector is unaware of the threat or undefended against it, but recent concerns about the possible abuses that could be perpetrated due to loss of data holdings underline the need for constant vigilance on the part of Government departments and other public bodies which hold personal data (even when they are not necessarily the targets of subsequent crime).
- 1.6.31 **Money laundering:** this offence is present in much organised crime, as criminals usually have to find ways of disguising the proceeds of their crime. It is not clear whether, or to what extent, Government departments and public bodies more widely may be used to launder money, either directly or by abusing services they provide, but we believe it would be an unsafe assumption that they are not. Invest NI is clearly aware of the risk in land sales and take steps to mitigate it, using the Suspicious Activity Reports (SAR) regime.
- 1.6.32 The Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 place obligations on firms carrying out 'relevant business' (as defined in the legislation). One of the ensuing obligations is to appoint a Money Laundering Reporting Officer (MLRO) to oversee the organisation's defences against money laundering, receive reports of suspected money laundering against it and report to SOCA on these. The Department of Finance and Personnel's (DFP) guidance<sup>4</sup> requires Northern Ireland departments to appoint an MLRO if they carry out relevant business, but no guidance is offered about seeking an assessment of risk, from for example PSNI. Given the particular characteristics of organised crime in Northern Ireland and its ability to find new targets and to launder the criminal proceeds, public bodies should in our view seek advice from law enforcement agencies as to the risk. We note that SOCA can provide national risk assessments on money laundering trends and SAR related issues, including providing alerts on up-to-date criminal financial activity and sectoral threats. Accordingly, we recommend that Northern Ireland Departments put in place arrangements to tap into this valuable source of information. In addition, DFP should ask PSNI to assess whether Northern Ireland departments and other public bodies are at risk from money-laundering and, where they are, DFP should ensure that those departments and bodies appoint an MLRO.
- 1.6.33 Cross-border aspects of money laundering may require further examination. One current weakness is where money is unlawfully acquired in Northern Ireland but concealed in the RoI. We were told that, unless the person suspected in Northern Ireland has come to notice here, effective investigation is difficult. The same problem could in principle arise in reverse, and the

3 CIFAS is a body established and financed by its constituent private sector company members, whose purpose is to prevent fraud. It has 270 members spread across banking, credit cards, asset finance, retail credit, mail order, insurance, savings and investments, telecommunications, factoring, and share dealing.

4 DAO (DFP) 14/04 Money Laundering 17 September 2004

volume of property acquisition here by owners/developers from the Rol might offer a means of concealment, although that remains at the level of supposition. We recommend that these points be reviewed by both governments in liaison with SOCA and CAB as appropriate.

- 1.6.34 Bureaux de change are assessed to be at risk in the money laundering context. The 2007 Money Laundering Regulations are aimed at tackling this. It is important that HMRC enforces them vigorously and monitors the effectiveness of the new legislation.
- 1.6.35 Discussions with the Financial Services Authority (FSA), NI Bankers Association, UK Council of Mortgage Lenders, a range of bodies representing qualified accountants and the Law Society of Northern Ireland, suggest that these bodies and professions are generally fully aware of the risk of money laundering involving their members, whether knowingly or otherwise, and have defences in place.
- 1.6.36 The Government's main instrument for detecting funds that have already been laundered is SOCA. This is discussed in paragraphs 3.17 – 3.18.

### **Involvement of professionals in organised crime**

- 1.7 We met with several bodies representing a range of professions. Our discussions confirmed that these bodies are generally well aware of the risk of members being co-opted, whether knowingly or not, by organised crime in order to facilitate offences. Monitoring and disciplinary arrangements are in place to guard against members falling short of prescribed professional standards, but professionals from both GB and Northern Ireland have been convicted of offences connected with organised crime. So it remains very important that professional bodies maintain a rigorous level of compliance with professional standards, including detection arrangements such as whistle-blowing schemes, and take resolute action, including prosecution, in cases where standards are breached.
- 1.8 We were reassured to learn of awareness events held by some professional bodies to enable the law enforcement agencies to brief members on the organised crime threat, counter-measures etc. These and other events to widen professional and business awareness were promoted by the Organised Crime Task Force (OCTF) with funding from NIO. We believe that there is merit in continuing such events, and possibly worth extending them on a cross-border basis.

### **Scale and quantification**

- 1.9 It is widely accepted by governments and law enforcement agencies that organised crime is, and without determined countermeasures is likely to remain, a major threat at international, national and local levels. By its nature, organised crime is very difficult to measure with any

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reliability, whether on the international, national or regional plane, but the following provides some pointers to its scale where generally accepted measures are available (a list of the abbreviations used is at Appendix 5).

#### **International**

- trade in counterfeit goods = 5-7 per cent world trade in late 1990s (OECD)
- 50 per cent video sales, 43 per cent software, 34 per cent recorded music counterfeit worldwide (OECD)
- up to 10 per cent medicines counterfeit (up to 40 per cent in the developing world), costing the pharmaceutical industry \$2bn a year (WHO)
- 100,000 jobs lost in EU over 10 years because of counterfeit goods (International Chamber of Trade)

#### **National**

- £20-25 billion estimated economic and social cost of organised crime (Home Office 2007, UKTA 2008-09)
  - cost of fraud estimated £14 billion in 2007 (ACPO)
  - £1.7 billion cost of ID fraud alone (current, Home Office)
  - illicit profits generated by organised crime affecting the UK amount to about £5.3 billion a year, of which some £2 billion is laundered within the UK (SOCA annual report 2006-07)
  - £11.6 billion estimated annual VAT revenue loss in 2008 (HMRC)
  - illicit drugs market worth £4-6.6 billion (UKTA 2008-09)
  - 9-17 per cent market share in illicit cigarettes in 2006-07 (down from 16-24 per cent in 2001-02) (HMRC)
  - £1.1 - 2.2 billion annual revenue loss from tobacco smuggling (HMRC)
  - 6 per cent market share in spirits in 2006-07 (7 per cent in 2002-03), cost £250 million (HMRC)
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- £1.3 billion current annual cost of intellectual property crime, of which £900m attributable to organised crime (SOCA, quoting Gowers Review of Intellectual Property, December 2006)
- almost £1 billion annual cost to industry of film and music piracy – with profits of some £280 million to criminals from pirated films, and 10 per cent of CDs counterfeit
- £800 million benefit fraud in GB in 2006-07, of which £50-100 million is attributable to organised crime

### **Northern Ireland**

- oils revenue loss £250 million (2006-07), non-UK duty paid diesel worth 40 per cent of market - though not all fraud, part legitimate cross-border purchases of fuel (HMRC)
- in 2001, two-thirds of filling stations sold illegal fuel either partly or exclusively - now improved (legitimate fuel delivered 595 million litres 2000, 740 million 2003) (HMRC)
- fuel laundering plant capacity up to 4 million litres a year (HMRC)
- 9.4 million litres of oil seized between April 2001 and March 2008 (HMRC)
- 35 million cigarettes seized, revenue value £7 million (2005-06, OCTF)
- £4.3 million drugs seized, (2007-08, OCTF),
- over £35 million assets seized by PSNI/HMRC/ARA (2007-08, OCTF)
- £200 million + annual value of counterfeit trade (80 per cent paramilitary – prior to IMC October 2006 report) (OCTF)
- extortion generates £10 million criminal profit (OCTF)
- illegal dumping was assessed in 2006 to generate £25 million criminal profit (NIEA), now thought potentially to be higher.

1.10 There is no overall quantification of the 'value' of organised crime in Northern Ireland. However, assessments have been made of the value of fraud in the UK: in early 2007, the Association of Chief Police Officers estimated it at some £14 billion a year, including the cost of countering it. A study commissioned by the Home Office in 2007 into the scale of organised crime put the revenue to organised criminals at £15 billion and the cost to the UK economy and society at £25 billion, both calculated on a conservative basis. SOCA's 2008-09 UK threat assessment

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quoted broad estimates of the economic and social costs of serious organised crime, including the costs of countering it, at 'upwards of £20 billion a year'. The Attorney General's Fraud Review in 2006 emphasised the importance of measuring fraud, and its recommendations led to the establishment of the National Fraud Reporting Centre, whose work may prove helpful to the Organised Crime Task Force (OCTF) in relation to measuring organised crime here.

- 1.11 In respect of Northern Ireland alone, available quantifications in specific sectors are often developed on different bases – mostly on extrapolations from seizures. Some assessments, e.g. tobacco, are provided only on a UK-wide basis because, HMRC argues, of the nature of the crime. Other areas, notably drugs, do not lend themselves to any known reliable measurement (as explained in paragraph 1.6.22). Nor are there any aggregate figures for the cost of combating organised crime here, although in principle this should be more readily available.
- 1.12 Fundamentally, organised crime is all but impossible to quantify with complete accuracy because of its very nature – covert, often sophisticated and professional. In a nutshell, if it could be reliably quantified, it could more easily be successfully countered because our knowledge of it would be so much greater.
- 1.13 It could be argued that measurement is unimportant. As against that, convincing the public (whose support is important as they are – usually unwittingly – both collaborators and victims) of the scale of the problem might be made easier if a reliable headline figure (or set of figures) were available. Likewise, convincing departments and the wider public sector of the need for more commitment and concentrated action would be facilitated if figures of losses - and the cost of countering organised crime - were to hand. (Ironically, the difficulty of measuring organised crime may have the effect of making it seem less important than other more easily measured crime.) And of course more reliable measurement would in principle permit a better evaluation of the effectiveness of counter-measures.
- 1.14 We know that the Home Office, NIO and PSNI have examined various ways of getting a better grip on quantification, but have encountered a range of methodological difficulties. Despite that, we believe that efforts to achieve better quantification should continue, even if the benefits would not be realised immediately. Accordingly, we recommend the development of greater capability for evaluating the impact of organised crime in the public sector, including the cost of countering it. This could, for example, seek to bring together a number of difficult but important issues:
  - study of harm caused by organised crime, building on the work already done by the Home Office, SOCA<sup>5</sup> and NIO;
  - information already available on perceptions of the impact of organised crime;

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5 SOCA published its Harm Framework in November 2008 – this is designed to be used at a practical level to consider outcomes when initiating new operational activity. The Framework is reproduced at Appendix 3.

- quantification, analysing current information, identifying gaps and exploring ways progressively to fill them; and
- success measures, seeking more reliable ways to assess the impact of actions taken to combat organised crime.

1.15 In June 2009, OCTF partner agencies agreed a baseline measure of harm caused by organised crime, opting for a matrix approach which measures harm using both objective and subjective analysis across a number of crime types. This work is to be used to set a target later in 2009, as part of the NIO's Public Service Agreements targets, to reduce the harm caused by organised crime. This has the advantage of drawing on the experience of SOCA, which in turn should benefit from a deeper understanding of Northern Ireland and the ability to feed this into national programmes, including the UK Threat Assessment. We think that is likely to prove a valuable development in guiding future efforts against organised crime and in helping to co-opt greater public support for them.

### Potential new organised crime areas

1.16 It is commonplace that organised crime will very quickly spot new areas for potential criminal profit and move to exploit them with great agility. Ideally, therefore, the law enforcement agencies should seek to get one step ahead by systematically predicting those areas to which organised crime is likely to turn next. Unfortunately there seems no scientific way of doing so.

1.17 Nonetheless, two areas seem likely to be of growing challenge in Northern Ireland, and we recommend that the appropriate law enforcement agencies should now develop ways of tackling these:

- **immigrant crime:** the suggestion that immigrant crime may also grow, by no means implies any greater propensity to crime on the part of immigrants or their communities – indeed the record to date suggests that they are very frequently victims, not perpetrators. But - and police experience already points in this direction - not only are they likely to become the victim of the sorts of abuse described in paragraph 1.6.25, some are also likely to bring forms and methods of crime not often experienced here, whether 'managed' locally or from abroad. There is also the related difficulty of language and cultural barriers which will make both understanding the criminal mind more difficult and relations between immigrant communities and the police, Government departments and public bodies more problematic. Good working relations between law enforcement agencies here and in originating countries will be at a premium.
- **technological advance:** organised crime has plainly exploited increasing usage of IT in the economy, e.g. identity theft. This will almost certainly increase, and law enforcement

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agencies, Government departments, public bodies and the private sector will increasingly have to be on their guard against it in terms of the design and operation of systems. (That in itself may require the development of, or access to, new skills.) Ironically, the more IT systems are networked (sometimes with a view to countering and investigating organised crime), the more that networking opens greater opportunities for crime and so it needs to be designed with that threat in mind. Recent events have underlined the importance of well-designed systems and of effective management action in enforcing compliance with data protection legislation (as well as the damage to confidence in public administration when compliance is not achieved).

#### Recommendations in Part 1

- I. The NIO should lead a review involving HMRC, PSNI, SOCA and appropriate representatives of the criminal justice system to maximise practical co-ordination in relation to oils crime and organised crime more generally (paragraph 1.6.8).
  - II. PSNI and HMRC should take steps constantly to ensure that co-operation remains at a high level (paragraph 1.6.12).
  - III. NIO, together with other departments as appropriate, should review the question of adopting the Schengen Agreement's provisions on hot pursuit to reinforce the fight against drugs in particular (paragraph 1.6.24).
  - IV. We note that SOCA can provide national risk assessments on money laundering trends and SAR related issues, including providing alerts on up-to-date criminal financial activity and sectoral threats. Northern Ireland Departments should put in place arrangements to tap into the strategic information held by SOCA (paragraph 1.6.32).
  - V. DFP should invite the PSNI to assess areas of the public sector at risk from money-laundering and ensure the appointment of MLROs accordingly (paragraph 1.6.32).
  - VI. Possible loopholes in arrangements for countering cross-border money laundering should be examined and closed as appropriate (paragraph 1.6.33).
  - VII. HMRC should, in due course, evaluate the effectiveness of the Money Laundering Regulations 2007 in reducing abuse of bureaux de change for money laundering (paragraph 1.6.34).
  - VIII. Professional bodies must remain vigilant and rigorous in enforcing compliance of their members with professional standards (paragraph 1.7).
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- IX. Awareness events for professional and business bodies should continue, and consideration be given to extending them on a cross-border basis (paragraph 1.8).
  - X. Greater capability should be developed for evaluating the impact of organised crime, in the public sector in particular. NIO should consider bringing together experts from the PSNI with, for example, economists and accountants in the Northern Ireland departments in an ad hoc 'think tank' to resolve the methodological difficulties (paragraph 1.14).
  - XI. Ways of tackling identified growth areas of organised crime should be developed now (paragraph 1.17).
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Part Two:  
Impact of organised crime on different sectors of the  
economy and society





## Part Two:

### Impact of organised crime on different sectors of the economy and society

- 2.1 NIAC described the deep concerns of the business community at large, and of certain sectors in particular, about the harm caused by organised crime. This report focuses on the measures taken by the Government and Northern Ireland Executive in the wake of the NIAC report. Our consultation with business representative bodies, however, suggests that, although the efforts of the Government and law enforcement agencies are appreciated (including greater involvement of business), business continues to be damaged by organised crime in a variety of sectors. We were told that this has a depressant effect on confidence, investment and jobs (perhaps particularly in disadvantaged parts of Belfast), thus directly engaging the interests of DETI and the Department for Social Development (DSD) in the Executive's Programme for Government.
- 2.2 As reported by NIAC, there are three sectors in which Northern Ireland departments' programmes are already known to be under attack and where counter-measures have been put in place.

#### Illegal dumping

- 2.2.1 EU landfill directives have reduced the number of licensed sites in Northern Ireland from 60 to 11, although a number of the closed sites are subject to appeal. The crime of illegal dumping arises on two levels – cross-border and domestic.
- 2.2.2 Under UK law it is unlawful to import waste other than for re-cycling, but differential costs for disposing of waste between the RoI (averaging €220-350/tonne) and Northern Ireland (where landfill costs range from £28-58/tonne, landfill tax is levied at a standard rate of £40/tonne and VAT also applies) have made dumping southern waste in Northern Ireland attractive. Differing tax levels in both jurisdictions made a major contribution to the overall cost differential. We were told that illegal dumps containing RoI-originating waste, found in remote places in all counties of Northern Ireland, can hold 200-300,000 tonnes. One 40-foot lorry carries 25 tonnes, so large-scale transportation is involved, with those engaged apparently often breaching freight vehicle law, as well as being involved in oils and tobacco fraud too (**Case Example 8** in Appendix 1).
- 2.2.3 Domestically, the crime relates to disposal of waste from legitimate demolition, construction and excavation industries in landfill sites without paying landfill tax and in breach of environmental protection law, often involving transport in deficient lorries and falsifying documentation certifying proper disposal etc. Planned increases in landfill tax, which by 2010 will have doubled in three years, will make this sector more vulnerable. Because of its very harmful environmental impact, illegal dumping goes directly to the DoE's interests in the Executive's Programme for Government.
- 2.2.4 The main legislation available to the Northern Ireland Environment Agency (NIEA)<sup>6</sup> is the Waste and Contaminated Land (NI) Order 1997, originally passed not to tackle organised crime but to

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6 The NIEA, created on 1 July 2008, replaced the Environment and Heritage Service.



translate EU regulations into law. New powers have now been acquired in an amendment order passed in March 2007 – to stop, search and seize vehicles, impose clean-up costs etc. These powers have not yet, however, come into force.

- 2.2.5 The 2007 Order did not confer power to withdraw vehicle operating licences from those using them for illegal purposes: we believe that such a power would be a valuable tool. On the other hand, NIEA has acquired potentially useful powers under the Serious Crime Act (2007) to apply to the courts for Serious Crime Prevention Orders, so enabling it to apply for a court order banning persons from continuing certain activities judged likely to facilitate illegal dumping.
  - 2.2.6 Detection has normally been by observation, and since NIEA assumed responsibility for Waste Management in December 2003, there have been over 6,832 reports of suspicious activity and illegal sites from members of the public, political representatives and other regulatory agencies. District Councils have to foot heavy clean-up costs which add to burdens borne by the ratepayers, which, for some councils, can amount to about £100,000 a year. Efforts to change public perceptions are therefore important, and public awareness appears to be increasing.
  - 2.2.7 NIEA confirms the PSNI account that the numbers of reported incidents of crime in illegal dumping have decreased, largely following successful enforcement and prosecution. However, the more recent discovery of a number of very large illegal waste sites has resulted in similar tonnages of illegal waste being discovered in 2008 compared with 2007. NIEA told us that the clean-up costs for some of the more recent sites are likely to rise to tens of millions of pounds each. In the past year, NIEA initiated 148 investigations into illegal waste activities; 65 cases were forwarded to the Public Prosecution Service, resulting in 60 convictions and fines of over £275,000. Some of these cases have been referred to SOCA (formerly ARA) which successfully secured four confiscation orders between November 2007 and February 2008, totalling £832,000. NIEA's accredited financial investigators also secured their first confiscation order, taken independently of SOCA, for £200,000 in March 2009.
  - 2.2.8 NIEA works in close collaboration with PSNI, HMRC, SOCA and NIO to counter illegal dumping. We were told that co-operation is good with counterparts in the RoI, with automatic reporting of any cross-border finds and cases. On the other hand we found that NIEA does not report findings of illegal dumps on agricultural land to DARD. Conversely, we were told that NIEA has had to overcome obstacles to getting information from DARD's database on land holdings, although DARD now believes these problems have been resolved. We recommend that NIEA routinely shares information on discovery of illegal dumps with DARD (and any other department or public body which might have an interest), and that DARD co-operate fully with NIEA in relation to data it holds.
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## Part Two:

### Impact of organised crime on different sectors of the economy and society

- 2.2.9 NIEA has a dedicated Environmental Crime Unit, including financial investigators. This is an unusual arrangement within the Northern Ireland Civil Service, which can present novel management challenges and, as such, requires continuing focussed support from senior management in the NIEA and the DOE.
- 2.2.10 NIEA's operational approach is committed, focussed, professional and collaborative. It is the case that the issue of illegal dumping goes close to the heart of its functions, but its example shows what can be done when management recognises the threat and mobilises resources and takes action to deal with it. On the other hand, bearing in mind the 2007 report on the DOE's enforcement functions produced by Criminal Justice Inspection Northern Ireland (CJINI), senior management in both DOE and NIEA should take the steps recommended in that report to ensure that the enforcement functions are fully supported and integrated with the other work of NIEA. In this connection we were reassured by the allocation of significant new resources to enable implementation of the recommendations to be carried forward and the progress that NIEA has already made in doing so.

#### **Construction industry**

- 2.2.11 The construction industry has long been the target of abuse by organised crime, primarily in the form of tax scams and extortion (normally by paramilitaries or those claiming to be so). This form of crime goes directly to the heart of the Executive's Programme for Government priorities for both a dynamic economy (DETI) and investing in improved infrastructure (DFP).
- 2.2.12 In April 2007, HMRC launched a new Construction Industry Scheme to combat tax evasion in the sector. All payments made by contractors to subcontractors must now take account of the subcontractor's tax status as determined by HMRC. This may require the contractor to make a deduction, payable to HMRC, from that part of the payment that does not represent the cost of materials incurred by the subcontractor. It will be important for HMRC to enforce the new scheme vigorously, and we welcome the commissioning in Summer 2008 of an effectiveness assessment.

#### **Extortion**

- 2.2.13 Extortion has been a feature of the construction industry in Northern Ireland for many years, as described in paragraph 104 of NIAC's report. Its nature is now changing, with fewer police reports of protection rackets. Nonetheless, extortion remains highly damaging to the construction industry in particular, deeply troubling to those affected and highly corrosive to the communities in which it takes place.
- 2.2.14 There is no easy remedy, but a number of things can be and have been done, as acknowledged by the business community. First, the PSNI has established a confidential helpline
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for those who receive threats. Uptake has been disappointing despite continued advertising. But PSNI points out that, where cases have been reported, it has been successful in bringing prosecutions (**Case Example 9** at Appendix 1). Overall, the PSNI arrested 23 persons and charged 20 persons with extortion in 2007-08. Representatives of the industry stress that successful prosecutions are the key to ending the abuse. Use of the confidential line should continue to be encouraged.

- 2.2.15 Second, as noted in paragraph 203 of the NIAC report, Northern Ireland does not yet have a fully regulated and licensed **private security industry**. The Justice and Security (Northern Ireland) Act 2007 extends the provisions of the Private Security Industry Act (2001) to Northern Ireland, thus permitting the Security Industry Authority to extend its operations to Northern Ireland. From December 2009 it will be illegal to work without a SIA licence in almost all designated licensable sectors in Northern Ireland, including door supervisors provided under contract. In-house door supervisors will be required to have a licence by April 2010. In the meantime an interim regulatory and licensing scheme, provided for in the Justice and Security (NI) Act 2007 and building on current arrangements (based on the Terrorism Act 2000), has been implemented. We recommend that the impact of the newly conferred powers be monitored by NIO.
- 2.2.16 Third, flowing from the Goldstock Report,<sup>7</sup> the decision was taken to adopt the Independent Private Sector Inspector General concept (now renamed Construction Contract Monitors (CCM)) into building contracts let by central Government in Northern Ireland. Following four pilots, all Government construction works contracts now have an enabling clause permitting the contracting body to appoint a CCM (a private sector firm) where intelligence reporting or risk analysis suggests that the contract in question is likely to be targeted by extortionists. The CCM may be appointed for: conducting audits of a contractor's records to identify potential fraud and corruption risks; introducing procedures and programmes to guard against criminal conduct by or against the contractor; and/or monitoring compliance with for example, waste disposal and landfill tax requirements.
- 2.2.17 A number of issues have already arisen in relation to CCMS:
- *cost.* CCMs are expensive and can add to the cost of contracting. Northern Ireland departments and public bodies are expected to find budgetary cover, with the expectation that they will do so in order to avoid criticism following subsequent discovery of extortion. We believe that this is an inadequate basis on which to proceed, and recommend that DFP guidance should specify that business cases for capital projects should consider the arguments for and costs of appointing a CCM, bearing in mind factors such as assessed risk and proportionality to the scale of the contract;

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<sup>7</sup> Organised Crime in Northern Ireland – A Report for the Secretary of State (January 2004)

## Part Two:

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- *risk of displacement* to other contracts or suppliers/sub-contractors. The former should be monitored as there is a link between this issue and cost where other public sector contracts are concerned). On the latter, DFP's Central Procurement Directorate's growing focus on both waste disposal and vertical supply chain management should help, with CCMs potentially applied as appropriate. We recommend that this point be monitored for threat and effectiveness, and
- *indemnity*. There must be a risk that a CCM may be at least tempted to shear away from submitting a wholly unvarnished account for fear of either physical threat or subsequent legal action, or perhaps only reporting only those suspicions of irregularities that would be likely to stand up in a criminal court. But such partial reports are unlikely to prove wholly effective. Government departments are properly reluctant to provide indemnities. But the value of CCMs is, in our opinion, likely to be significantly eroded if indemnities cannot be provided in at least some cases. We recommend that this issue be revisited with a view to a positive outcome.

#### Social security fraud

- 2.2.18 The Social Security Agency (SSA) believe that there is little evidence to suggest that the benefits system is the subject of attack by organised crime or opportunistic abuse by individuals. But, even if there is little to suggest at present that the SSA is targeted by paramilitary or other criminal gangs, (as revealed by **Case Examples 10 and 11** in Appendix 1), some cases of known fraud against the Agency could have been committed only by a person or persons acting with most of the characteristics of organised crime (as defined in this review), and should be regarded and treated as such. Organised social security fraud is already a significant problem in GB: there is no reason to believe that similar attacks are not already being made and will not be made here in future.
- 2.2.19 Estimated social security fraud has been reduced from about £39 million in 2003-04 to £12.6 million in 2008-09 out of a budget of some £3.7 billion<sup>8</sup>. In 2008, 512 benefit fraud prosecutions were achieved, representing a total of £3.7 million of public money falsely claimed. In addition, a dedicated organised fraud unit, within the Benefit Investigation Service, works with the UKBA and the PSNI, and will have a very small number of ongoing investigations as a proportion of the overall workload at any one time. But other steps, like the switch from (forgeable) payable order books to payment by Bankers Automated Clearing Services (BACS), appear to have made a major contribution. So has close cooperation with, among others, the PSNI and HMRC, with whom the SSA undertake data-matching to check consistency of data submitted by applicants for tax and tax credit purposes.
- 2.2.20 Despite this progress, the SSA has attracted criticism from the CJINI which made a series of recommendations for change<sup>9</sup>. These have now been implemented.

8 Public Accounts Committee: Social Security Fraud and Error (Twelfth Report of Session 2007-2008)

9 Inspection of the Benefit Investigation Service of the Social Security Agency (May 2006)

- 2.3 Parts 3 and 4 of this report comment on aspects of organised crime and measures taken to counter it in several of the sectors discussed in the NIAC report and in which Northern Ireland departments have an important role to play.

## Recommendations in Part 2

- I. A statutory power should be considered to enable NIEA to withdraw vehicle operating licenses from those using them for illegal purposes (paragraph 2.2.5).
  - II. NIEA should report findings of illegal dumps on agricultural land to DARD (and other Northern Ireland departments in relevant circumstances) for appropriate investigation (paragraph 2.2.8).
  - III. The NIEA Environment Crime Team requires continuing focussed support from senior management in DOE and the wider Civil Service (paragraph 2.2.9).
  - IV. DOE and NIEA should take the steps recommended in the CJINI report to ensure that the Agency's enforcement functions are fully supported and integrated with the other work of the NIEA (paragraph 2.2.10).
  - V. HMRC should vigorously enforce the new Construction Industry Scheme and adjust it as appropriate in the light of the current effectiveness review (paragraph 2.2.12).
  - VI. Use of the extortion helpline should continue to be encouraged (paragraph 2.2.14).
  - VII. The impact of the newly conferred powers in relation to regulating and licensing the private security industry should be monitored by NIO (paragraph 2.2.15).
  - VIII. DFP guidance should specify that construction business cases should consider the case for appointing a CCM, bearing in mind factors such as assessed risk and proportionality to the scale of the contract (paragraph 2.2.17).
  - IX. The risk of displacement and the effectiveness of CPD's growing focus on both waste disposal and vertical supply chain management, in preventing displacement of extortion to other construction activities, should be monitored (paragraph 2.2.17).
  - X. The issue of indemnifying CCMs should be revisited with a view to a positive outcome (paragraph 2.2.17).
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## Part Three:

### Measures taken by law enforcement agencies



## Part Three:

### Measures taken by Government departments and law enforcement agencies

#### The Organised Crime Task Force

3.1 The OCTF was established by the Northern Ireland Secretary of State in 2000. Following a review in 2005, it was re-structured as follows:

- **Stakeholders Group**, chaired by the Policing and Security Minister at the NIO and consisting of the NIO, Head of the Northern Ireland Civil Service (representing the Northern Ireland departments), PSNI, HMRC, SOCA, UKBA, Home Office, the Policing Board and a range of private sector interests – the Confederation of British Industry, the Federation of Small Businesses and the Northern Ireland Chamber of Commerce and Industry. Its aim is to advise on, and monitor progress in achieving, cross-cutting objectives.
  - **Strategy Group**, chaired by the Director General Policing and Security NIO and including the PSNI, HMRC and SOCA (i.e. the law enforcement agencies). Its aim is to develop an improved shared understanding of the nature of organised crime and to identify barriers to tackling it and strategies to overcome them. It also supervises the identification of ‘prolific criminals’ so as to facilitate co-ordinated action against them – a move away from the more diffuse previous approach of targeting commodities – and justified by the analysis that top criminals are likely to operate in several fields and so disrupting them is likely to impact on many areas.
  - **co-ordinated workstreams and supporting sub-groups and expert groups**. These fall into two main themes – enabling and co-ordinating, and criminal enterprises – with various subsidiary groups focussing on analysis and measurement, communications and publicity, cross-border co-operation and joined-up government (both within Northern Ireland and beyond) in the first theme; and others focussing on revenue offences, drugs, armed robbery, criminal finance, intellectual property crime and immigration and human trafficking in the second. These groups are composed of relevant interests drawn as appropriate from both the public and private sectors. Importantly, the chairs of these groups meet regularly with the chair of the Strategy Group in order to further tighten co-operation, ease flows of information etc. A new sub-group focusing on tackling oils fraud was established during 2008. Uniquely, the Cross Border Fuel Fraud Enforcement Group, which is chaired by HMRC, has representatives from law enforcement agencies from both Northern Ireland and the RoI.
  - **the Inter-departmental Group on Organised Crime (IDGOC)**, chaired by the Head of the Northern Ireland Civil Service and bringing together the Northern Ireland departments to brief them on the work of the OCTF, is responsible for promoting awareness in those departments and the wider public sector of the threat and for maintaining the momentum behind current initiatives, including how legislation can be used.
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- 3.2 Overall, the OCTF machinery works well. We understand that the NIO keeps its structures, composition and working methods under regular review. That is important: as organised crime evolves, so must the mechanisms set up to counter it. We underline three aspects:
- it will be important to ensure that the OCTF structure, including UK-wide bodies like HMRC and SOCA, continues to be effective after devolution of policing and criminal justice, including the continuation of necessary information flows;
  - particular attention needs be paid continuously in order to guard against the constant risk of public bodies' levels of co-operation falling off under the normal pressures of business; and
  - forming and maintaining working partnerships with private sector interests are vitally important, and their effectiveness should be kept under review.
- 3.3 Momentum towards a coherent and informed effort against organised crime appears to be gathering - albeit not universally - in the Northern Ireland departments, and the work of the IDGOC doubtless had much to do with this. But it is clear from discussions with a number of departments that agencies and public bodies are not briefed systematically on the work of the OCTF or IDGOC, or on prevailing threats or means to counter them. We are aware that these arrangements are in transition but believe that our review could be helpful in identifying improvements. As a first step, we recommend that the briefing arrangements within Northern Ireland departments and public bodies are reviewed. Effective co-ordination arrangements amongst the Northern Ireland departments are all the more important as we understand from OFMDFM that *'no co-ordination or lead role for [it] has been established'*, and that the IDGOC has not met for some time.
- 3.4 We believe that, in order to fulfil the Executive's commitments in the Programme for Government, departments must attach a high priority to countering organised crime as:
- they have a responsibility to help protect tax revenues which finance their expenditure, even if that is primarily the function of HMRC;
  - law enforcement agencies will not succeed unless Northern Ireland departments' regulatory, licensing and enforcement powers are vigorously deployed (a point developed further in paragraph 4.3);
  - some Northern Ireland departmental functions are already known to be under direct attack – SSA, NIEA, construction – as discussed in Part 2; and
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## Part Three:

### Measures taken by Government departments and law enforcement agencies

- Northern Ireland departments are not immune from the known characteristic of organised crime to move on to softer targets, as counter-measures in other areas become more successful.

- 3.5 We recommend that, at this stage in their development, the OCTF and IDGOC should review whether their constituent members properly reflect the drive against organised crime in their own business plans, supported by objectives and performance indicators. This would not have to be explicit in all cases in terms of the link with combating organised crime (though it generally should be). But if departments, agencies and public bodies do not have business objectives related to their role in countering the threat, it will be difficult to be confident that the necessary priority is being given to it or that the necessary action is being taken.
- 3.6 We welcome the greater prominence given to organised crime in the Northern Ireland Policing Plan 2009-12. It is mentioned, both as a category and in terms of crime types, e.g. drugs, but we were surprised that the Plan does not accord the specific objective of combating organised crime greater prominence. For example, the Plan contains only one specific indicator and target (on drugs) that is directly related to combating organised crime. We recommend that the Policing Board and Chief Constable re-assess this in future Plans, not least in supporting the Executive's objectives set out in its Programme for Government.
- 3.7 In approaching the question of how to contribute to the fight against organised crime, we believe that Northern Ireland departments (and indeed the public sector as a whole and also private sector interests) would do well to be guided by three principles advanced by the former ARA in discussions with us. These are as follows:
- **vigilance and awareness:** departments, encouraged by IDGOC, should review their mechanisms for ensuring that managers are briefed on known or suspected organised crime threats against their programmes and on ways in which their powers to regulate, license and enforce may play an important supportive role. Existing managers in posts responsible for areas where there could be a threat, and their successors, should be briefed from time to time on developments in organised crime and any possible threat in their field of responsibility, together with information on techniques used by organised crime and potential counter-measures and techniques (e.g. database interrogation, data sharing, matching and mining). The issue of organised crime should feature on a systematic basis on the agenda of departmental management boards, with frequency taking account of the degree of assessed or potential threat against them. IDGOC (or, if its remit were refocused as suggested below, the Fraud Forum) could have a particular role in ensuring the dissemination across departments of developments and lessons in other departments (both UK and Northern Ireland);
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- **infrastructure:** departments should conduct an audit of their practice in areas such as whistle-blowing arrangements, gifts and hospitality policies, controls on internet usage, document security, audit checks and an effective investigative capability. But senior management also need to consider the prevailing culture of their departments or public body: experience suggests that, if managers in whose field organised crime is found to have successfully operated attract severe criticism for 'allowing that to happen', then they and their colleagues may be less likely to report suspicions freely, so weakening the necessary defences. On the other hand, culpable lapses do need to be investigated and responsible staff held properly to account. But the way in which this is done, while apparently effective in the short term, may prove counter-productive over a longer period. This is a matter for discretion, consideration and judgement; and
- **interrogation of databases and sharing of information and data** with other agencies likely to be affected. This is explored more fully in paragraphs 4.9 – 4.16.

- 3.8 Some Northern Ireland departmental programmes are under direct attack by organised crime, as already noted. There is at the moment no evidence to suggest that other departmental programmes are under such attack, but one of the properties of organised crime is continually to look for softer or more lucrative targets as current ones get harder on account of enforcement activity. This means that all public sector bodies should be constantly on their guard, but the problem is - how to spot organised crime operating in areas of the public sector? The skill of organised crime is usually such that it will often be impossible for managers in departments and public bodies to uncover it unless briefed and tipped off by the law enforcement agencies.
- 3.9 There is greater likelihood of encouraging management to guard actively against organised crime if the risks are made clearly known: otherwise it is like asking someone to look for a needle in a haystack when a description of the shape and size of the needle is not available. That puts a premium on effective working links between law enforcement agencies and the wider public sector. For the best part of 40 years natural linkages between the Northern Ireland departments and the police, common in other jurisdictions, have diminished. The police had other priorities for much of that time, and that required a narrow focus. The successful countering of organised crime requires a much broader focus and maximisation of linkages and partnerships.
- 3.10 Current linkages between the law enforcement agencies and Northern Ireland departments vary in their effectiveness. Much current co-operation, often close, is at the level of investigating instances of conventional fraud, and there is a memorandum of understanding between the Northern Ireland public sector and PSNI on handling cases of suspected fraud. These linkages need to be raised to a higher strategic level. We recommend that there should be an early review by the NIO, the Northern Ireland departments and PSNI of whether adequate mechanisms exist to ensure that briefing can be provided to departments, as and
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### Measures taken by Government departments and law enforcement agencies

when necessary on developing or emerging threats from organised crime and potential countermeasures. This should aim to provide the best available description of the developing threats from organised crime and ways to counter them. This might well need to involve NIO and OFMDFM directly if sensitive material is in play. (Particular points to be considered by such a review, relating to PSNI, are discussed in paragraph 3.15)

- 3.11 But for improved links with the law enforcement agencies to work effectively, Northern Ireland departments need to develop a wider and deeper understanding that, even though direct action in countering organised crime is usually the responsibility of the law enforcement agencies, they too have a crucial complementary role, if often indirect. We found a cultural barrier here, again possibly the result of many years of separation of civil administration from wider law enforcement and possibly concern about the threat to staff from paramilitary groups.
- 3.12 In the course of this review we came across examples of determined effort against organised crime in HMRC, SSA, NIEA and the Legal Services Commission. But too often we encountered an attitude of ill-founded complacency. At times this went beyond an undue willingness to see the problem of organised crime as being the responsibility of the law enforcement agencies alone, but extended to a reluctance to co-operate either with those agencies or even with other Northern Ireland departments in tackling it. This attitude has to be reversed, by management stressing the threat from organised crime and the need for public servants, acting on behalf of society as a whole, to play a complementary supporting role along with other departments and law enforcement agencies in countering it. We recommend that appropriate action be taken to achieve this.
- 3.13 Difficulties in partnerships were replicated to some extent in PSNI. There is clear recognition within the PSNI of the need for enduring working partnerships and indeed a good deal of frustration at the reported unwillingness of parts of the public sector to embrace partnership with the police. But while we found examples of effective partnership working, e.g. in relation to drugs, several of those bodies we consulted reported that they had found difficulty in developing a mutually trusting and open relationship with the police. There is some way to go on all sides.
- 3.14 As the Patten Report<sup>10</sup> argued (and the PSNI fully endorse), policing generally is not fully effective unless it is conducted in partnership with the community. This applies no less in the drive to counter organised crime. We have made recommendations aimed at fostering closer working partnerships between the PSNI and the wider public sector (paragraphs 3.10 and 3.12). In addition, we suggest that the NIO should consider adopting for Northern Ireland the provisions of the Crime and Disorder Act 1998, which promote partnership working between public authorities and the police and require public authorities to exercise their functions with regard to their effect on crime and to the need to do everything reasonably possible to prevent crime. Clearly, these powers go much wider than organised crime; and we acknowledge both that

10 'A New Beginning: Policing in Northern Ireland'. The report of the Independent Commission on Policing for Northern Ireland September 1999.

District Policing Partnerships and Community Safety Partnerships already go some way towards the aims of the Act and that the different structures of the public sector in Northern Ireland also complicate implementation of the relevant provisions of the Act here. Nevertheless, we recommend that the NIO and OFMDFM should consider ways in which the purposes of those provisions could be implemented here.

3.15 The PSNI clearly has an important role to play in combating organised crime. It is not for us in this review to substitute our judgment for that of either the Policing Board or HM Inspector of Constabulary about the professional effectiveness of the police in this field. However, our discussions with a range of bodies, both public and private, exposed two common themes which are of material importance to that effectiveness and which should be considered in the review recommended in paragraph 3.10:

- the need for greater **partnership working**, as already discussed in paragraph 3.12; and
- **resources:** the Policing Board emphasised to us that its role is to secure resources for Policing, while the Chief Constable is responsible for allocating those resources across operational and other areas. Several of the bodies we spoke to noted that the Organised Crime Branch seemed under-resourced for its workload, with the result that co-operation on any issue, and particularly on investigations, took a very long time. In part this was in the nature of painstaking police work, but it was clear to most that inadequate resourcing was also a major issue. This perception has the potential to harm action against organised crime (and fraud in general) and could act as a deterrent to departments and agencies making a larger contribution against it. We consider that, if the suggestions in this review are to be brought to fruition, this is an issue which will need to be reviewed by the Chief Constable, the Policing Board and the NIO, in conjunction with re-assessing the level of priority given to organised crime in the Policing Plan (paragraph 3.6), as the two issues are linked.

3.16 HMRC is both a major target of organised crime and a very important direct player in combating it. Part 1 has already highlighted the main areas of its involvement and recorded some measures of success. HMRC is impressive for its focus and determination in tackling organised crime, and it has devoted substantial resources to it. Organised crime is a real threat to its central revenue-raising functions and it has a long tradition of criminal law enforcement. Its perspective in that sense is quite different from that of many other departments. In many respects it provides a good example of how a Government department can be organised and mobilised to work with others to counter the threat. But, as reported in paragraph 1.6.6, there is some unease at the rate of success of the law enforcement and criminal justice systems in perpetrators, and we recommended a review to ensure the closest co-ordination.

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#### SOCA

- 3.17 In April 2008, the SOCA subsumed the functions of ARA. The latter had been set up in 2003 under the Proceeds of Crime Act 2002 specifically to recover assets from criminals, using new and unique powers of civil recovery as well as criminal confiscation and taxation. A report by the NAO<sup>11</sup> acknowledged that ARA had exceeded its target for disrupting organised criminal activities. The same report, however, and subsequent Public Accounts Committee report<sup>12</sup>, highlighted areas for improvement both in its management information systems and its performance in recovering assets.
- 3.18 At a local level, ARA made a notable contribution to the drive against organised crime in Northern Ireland, and this was recognised by the IMC in its April 2007 report. Although it was entirely funded by the Home Office, some 29 per cent of its staff worked directly on Northern Ireland investigations. In the four years from 2003-04 ARA in Northern Ireland achieved disruptions (essentially freezing of assets) in 50 civil cases valued at £34.1 million and concluded or enforced civil confiscation actions in 12 cases valued at £3.9 million.
- 3.19 There remains concern, reflected by the IMC, at the merger, lest the focus on organised crime here be diluted in a larger organisation with potentially different priorities. We note that the Government has sought to provide reassurance on resources and local prioritisation<sup>13</sup>, and welcome SOCA's assurance to us that the merger '*will provide a much enhanced capability for the recovery of criminal assets in Northern Ireland...*'. While SOCA is principally accountable to the Home Office for its performance, it told us that its Annual Report will contain civil recovery and tax information, including separate Northern Ireland figures, and that it already provides data to the OCTF Strategy Group on its Northern Ireland activity. In addition, it told us that it is keen to continue working alongside partners in Northern Ireland and to offer some support to other agencies that wish to take up the new civil recovery powers conferred by the Serious Crime Act 2007. This is important as we believe that the disproportionate extent of organised crime in Northern Ireland, linked to the scale of revenue loss that flows from it as described in our review, justifies the retention of an effective, focussed confiscation capability. It is also important that the Public Prosecution Service is appropriately skilled and resourced to discharge its duties in relation to civil confiscation conferred by the Serious Crime Act 2007 (and also that the question of its access to the Incentivisation Fund<sup>14</sup> be resolved in relation to criminal confiscation).

#### DFP

- 3.20 We consider that DFP has the potential to make a greater contribution to combating organised crime, not least given its responsibility to protect as well as maximise the impact of public finance in Northern Ireland. In particular:

<sup>11</sup> The Assets Recovery Agency HC 253, Session 2006-07, 21 February 2007.

<sup>12</sup> Assets Recovery Agency HC 391, Fiftieth Report of Session 2006-07.

<sup>13</sup> Home Secretary's letter of 6 February 2007 to the Secretary of State for Northern Ireland.

<sup>14</sup> The object of the incentivisation scheme is to boost asset recovery by giving stakeholders a share in the proceeds they generate from that work.

- its current focus is almost exclusively on conventional fraud rather than on the linked but wider issue of organised crime. The Fraud Forum chaired by DFP seems to be only tangentially interested in organised crime according to its terms of reference (*'The Forum may include reference to Organised Crime issues but is more concerned operationally with wider fraud matters in a public sector context.'*). There are questions about optimal and clear structures in terms of governmental arrangements (OCTF/IDGOC/Fraud Forum), but we recommend that the current role of the Forum should be reviewed, by OFMDFM, DFP, NIO and PSNI (who are already members). This review should consider whether the Forum might be better directed, perhaps in addition to conventional fraud, at ensuring that the public sector's technical defences against organised crime are in good order – e.g. disseminating information on techniques used by organised crime and counter measures, auditing departments' implementation of guidance, the role of MLROs etc;
- the review should also consider further extending DFP's Annual Fraud Report to cover organised crime. It could for example, use case studies, (see Appendix 1), to highlight examples of effective co-operation between public bodies in tackling organised crime. Also, in line with the equivalent HM Treasury report, it could provide information on wider issues such as: the outcome of the Government's Fraud Review; relevant legislative developments such as the Serious Crime Act; information on fraud alerts issued by the PSNI or other police forces; anti-fraud initiatives being taken forward by departments; and lessons from fraud-related reports by the Public Accounts Committee;
- the NAO/Treasury guidance 'Tackling External Fraud'<sup>15</sup> offers much that is useful in the field of combating organised crime, while dealing with external fraud on a broader canvas. We recommend that DFP reviews Northern Ireland departments' implementation of its recommendations;
- this review has already recognised the difficulties in quantifying organised crime, but DFP has not sought to commission any work to assess its potential cost to public expenditure, even though protection as well as maximised impact of public finance in Northern Ireland is one of its fundamental responsibilities;
- although DFP alone will not deter serious and organised crime, it seems to have no clear plans to require the early adoption of universal payment by BACS under the Account NI programme, apparently on the grounds that this would not be workable for all recipients. This is particularly difficult to understand when, for example, both SSA and DARD either already use BACS, or will shortly do so, as the normal means of effecting payment. DFP should establish early plans to move to BACS for payments, except in cases of clear hardship, and require all departments and public bodies to do so without further delay; and

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15 NAO and HM Treasury guide 'Good practice in tackling external fraud' revised and updated 27 June 2008.

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- paragraph 1.6.32 has already discussed DFP's current guidance in light of the potential role of MLROs in departments.

#### **Cross-border co-operation**

- 3.21 The NIAC report underlined the importance of effective cross-border co-operation and noted a number of ways by which this is promoted, especially the annual North/South government and police service conferences focussing on organised crime. There are also specific sectoral arrangements to co-ordinate effort against fraud, e.g. in relation to social security and oils. PSNI told us that one example of this is the Cross Border Organised Crime Seminar which is held in alternate years north and south of the border. It involves all law enforcement agencies and government representatives, and encourages coverage of all aspects of organised crime on a rotational basis. This event assists with liaison and networking opportunities and involves discussion on the improvement of working relationships and best practice in the various aspects of crime detection. In addition, the Cross Border Threat Assessment was launched in November 2008. In our opinion, mechanisms of this kind must be maintained if organised criminals' ability to exploit the border is to be neutralised.
- 3.22 A general area for policy consideration is the potential for policies and schemes introduced in one jurisdiction to vary from their cross-border counterpart in a way that opens one or other to abuse by organised crime. Fuel and alcohol duty and landfill taxation are good examples of policy instruments where differences have created opportunities which organised crime has readily exploited. We recommend that the North/South machinery set up under the Belfast Agreement, is used for systematic reviews to ensure that:
- relevant bodies in both jurisdictions are co-operating fully to combat organised crime;
  - relevant policies developed in each jurisdiction are analysed with a view to altering features that might facilitate organised criminal activity;
  - decisions on new policies, North and South, are taken in the light of the assessed consequences for criminal exploitation; and
  - where such consequences are identified as likely, policy adjustments or counter-measures, as appropriate, are put in place in both jurisdictions.
- 3.23 Appendix 1 provides a number of case studies which illustrate and analyse both success and failure. The most important single lesson to be learnt - the priority need for cross-agency working and co-operation – confirms a central theme of this investigation.
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### Recommendations in Part 3

- I. Particular attention should be paid to the three points relating to the operation of the OCTF in paragraph 3.2.
  - II. Central co-ordination amongst, and briefing arrangements within, Northern Ireland departments and public bodies should be reviewed (paragraph 3.3).
  - III. Northern Ireland departments must attach a high priority to countering organised crime (paragraph 3.4).
  - IV. The OCTF and IDGOC should review whether their constituent members properly reflect the drive against organised crime in their own business plans, supported by objectives and performance indicators (paragraph 3.5).
  - V. The Policing Board and Chief Constable should re-assess the prominence and priority given to combating organised crime in future Policing Plans, not least in supporting the Executive's Programme for Government (paragraph 3.6).
  - VI. Departments, the public sector as a whole and private sector interests should adopt and be guided by the principles advanced by ARA (paragraph 3.7).
  - VII. There should be an early review by the NIO, OFMDFM and PSNI of whether adequate mechanisms exist between them and Northern Ireland departments to ensure that briefing can be provided to departments, as and when necessary, on developing or emerging threats from organised crime and potential countermeasures (paragraph 3.10).
  - VIII. Appropriate steps should be taken to improve attitudes in Northern Ireland departments towards seeing countering organised crime as a common responsibility requiring co-operation with other departments and law enforcement agencies (paragraph 3.12).
  - IX. With a view to fostering better working partnerships between the police and the wider public sector, the NIO and OFMDFM should consider ways to apply relevant provisions of the Crime and Disorder Act 1998 in Northern Ireland (paragraph 3.14).
  - X. The availability of resources to counter organised crime should be reviewed by the Chief Constable, the Policing Board and the NIO (paragraph 3.15).
  - XI. Local capability for confiscation must be maintained. In addition, the Public Prosecution Service should be appropriately skilled and resourced to discharge its duties in relation
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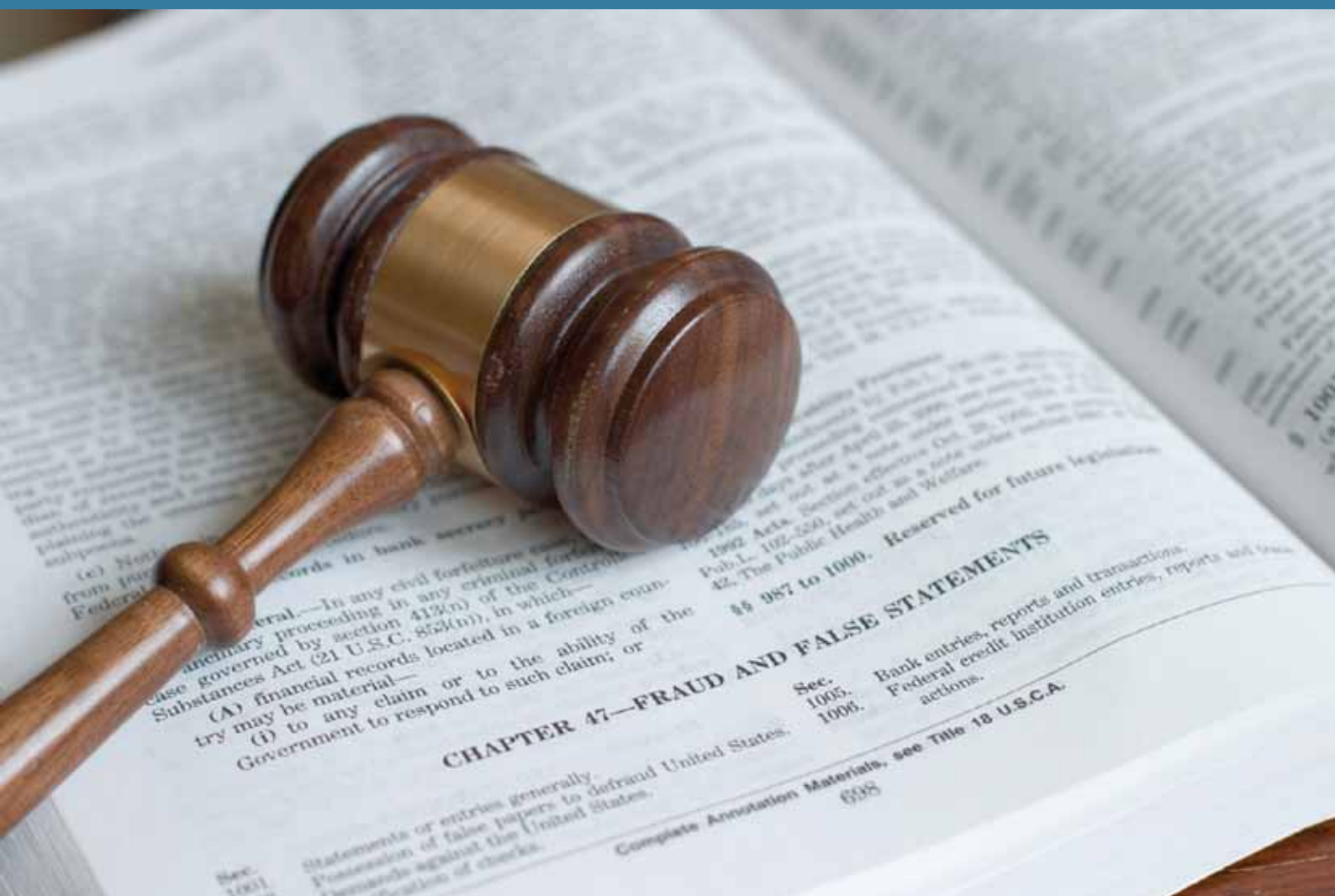
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to civil confiscation and the question of its access to the Incentivisation Fund should be resolved in relation to criminal confiscation (paragraph 3.19).

- XII. DFP should examine ways of making more of its potential contribution to combating organised crime (paragraph 3.20).
- XIII. North/South mechanisms must be maintained if organised criminals' ability to exploit the border is to be neutralised (paragraph 3.21).
- XIV. The appropriate North/South machinery set up under the Belfast Agreement should be used for systematic reviews to ensure that:
  - relevant bodies in both jurisdictions are co-operating fully to combat organised crime, and
  - relevant policies developed in each jurisdiction are analysed with a view to altering features that might facilitate organised criminal activity (paragraph 3.22).

## Part Four: Additional measures to combat organised crime



## Part Four:

### Additional measures to combat organised crime

#### Sentencing

- 4.1 Reflecting concerns expressed in a number of quarters about the adequacy of sentences imposed for organised crime (paragraphs 180-192 of their report), the NIAC recommended a study into sentences in Northern Ireland, compared with those in England and Wales. This has now been conducted by the NIO: we were told that it concludes that sentences passed here are broadly comparable with those handed down in England and Wales for equivalent offences. The analysis is now being extended to Scotland and the RoI.
- 4.2 We wholly acknowledge the importance of respecting the prosecution and judicial functions of the criminal justice system and the risk of basing observations on a limited number of cases. But it would equally be wrong not to report the widespread unease we encountered – as did NIAC – at the effectiveness of the criminal justice system in successfully prosecuting and deterring organised crime. We believe that successful prosecution and deterrent sentencing are essential if the scourge of organised crime on society and the economy of Northern Ireland is to be overcome.

#### Regulation, licensing and enforcement

- 4.3 Powers conferred on several Northern Ireland departments can, as underlined in NIAC's report, make an important contribution to the efforts of the law enforcement agencies in combating organised crime. In the course of this review, evidence emerged on a number of fronts which tended to confirm that the weaknesses in enforcement identified by CJINI in agencies of DOE may be more widespread among Northern Ireland departments. The picture we have formed suggests strongly that the balance between encouragement and enforcement may be too biased in favour of the former. We recommend that these regulatory and licensing regimes are regularly reviewed to determine if appropriate and well-judged assessments have been completed in each area, whether the correct balance has been struck and whether appropriate guidance is in place.
- 4.4 The NIAC report examined several regulatory and licensing regimes assessed to be important in complementing law enforcement agencies' efforts. Policy and legislative developments since the NIAC report are detailed below. We believe it is important that implementation be pursued by the Executive and Northern Ireland departments vigorously and as a priority.
- 4.4.1 **Petroleum retail licensing:** both NIAC and IMC have reported on the importance of an effective petroleum retail licensing regime as a way of tackling sales of illegal fuels and so acting as an essential support mechanism for HMRC's efforts in this field (see paragraphs 1.6.4 – 1.6.8). NIAC welcomed the proposal announced in April 2005 for the licensing of fuel retail sites, with the HSENI assuming responsibility for petroleum licensing. As the NIAC report noted (paragraph 195), *'A system requiring comprehensive and auditable records of deliveries, stocks*
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*and sales would assist HM Revenue and Customs in identifying illegal fuel as they would be able to carry out reconciliations of deliveries (and identify off-record deliveries), track individual deliveries and apply sanctions based on documentary evidence. Retailers who had been identified as contravening the conditions of their licence would be reported to the licensing authority who would take action’.* HMRC told us that it would support the transfer of petroleum licensing to HSENI as it continues to see little evidence of action by district councils.

- 4.4.2 We were told that DETI has, however, decided on a dual approach, which will see the issuing of petroleum licenses remain with district councils on condition that they work cooperatively with HSENI to gather evidence and information to facilitate action by HMRC and the PSNI. We note that DETI has now established a Fuel Oils Forum, including representation from HMRC, and a Liaison Unit within HSENI to provide strategic oversight of the partnership between district councils and HSENI in order to maximise the effectiveness of the new arrangements.
- 4.4.3 Given concerns expressed at the performance of district councils in operating the current licensing scheme, we welcome the new arrangements. It will be important to keep their effectiveness under review, particularly given concerns about the slow rate of progress so far.
- 4.4.4 **Road haulage licensing:** the second area where HMRC’s efforts against oils fraud can usefully be complemented and relates to road haulage licensing, the responsibility of DOE. Currently, Northern Ireland arrangements are in line with EU requirements – licensing of hire freight carriers. In GB since 2000, however, hauliers of their own goods – representing the bulk of the haulage market – have also been regulated.
- 4.4.5 Legislation<sup>16</sup>, has been presented to the Assembly to introduce such a scheme here, with additional checks, e.g. on-the-spot checks, fines on defaulters and powers to immobilise defective vehicles. Illegal and smuggled fuels are normally, and often dangerously, transported by road. This additional layer of control has the capacity to act as an additional deterrent. As such, we believe it must be pursued with vigour in the interests of fair competition for lawful suppliers, safety, reduction in money laundering and revenue protection. HMRC told us that it would support any additional legislation that would penalise hauliers detected transporting smuggled goods. This legislation should be implemented as soon as possible.
- 4.4.6 **Licensing of taxis:** although this area appears to be diminishing in terms of abuse by organised crime, as a cash-based industry run by a large number of localised operators, it is in principle always vulnerable. An effective licensing and enforcement regime therefore remains important. Detailed plans for thorough reform are well in hand: The Taxis Act (Northern Ireland) 2008<sup>17</sup> contains new powers enabling reform of the taxi operator licensing regime. Once this legislation is in place anyone wanting to operate a taxi business will have to be “a fit and proper person” and will have to comply with certain duties related to record keeping and the drivers who can work for them. There will also be greater enforcement powers to ensure that taxi operators and

<sup>16</sup> The Goods Vehicles (Licensing of Operators) Bill completed Committee stage in December 2008 and is now being given further consideration by the Minister.

## Part Four:

### Additional measures to combat organised crime

drivers comply with the legislation. DOE is planning a phased introduction of operator licensing, with the first phase due to start later this year.

- 4.4.7 **Regulation and licensing of the security industry, including door supervisors:** an NIO responsibility, this is relevant to combating both extortion and alcohol/clubs crime. The current position has already been described in paragraph 2.2.15, together with our recommendation that the impact of the new arrangements using the newly conferred powers be monitored.
- 4.4.8 **Regulation of charities:** a DSD responsibility, this is important for countering money laundering, often for paramilitary purposes, as well as general prevention of deception of the public. NIAC was critical of delays in achieving reform (paragraphs 204-210). The Charities Bill, which received Royal Assent in September 2008, includes provisions for the establishment of a local Charity Commission. The first commencement order to establish the Commission formally was signed in March 2009 and further orders will be brought forward, from September 2009, to introduce the remaining powers. Commissioners were appointed in June 2009. This new regulatory regime should be implemented as soon as possible.
- 4.4.9 **Clubs and liquor licensing:** Northern Ireland departmental involvement concerns DSD in its responsibilities for liquor and clubs licensing. In November 2008, proposals were announced in the Assembly, subject to Executive approval, to strengthen enforcement measures and modernise clubs' accounting practices. DSD hopes that a bill giving effect to these proposals will be introduced to the Assembly in Summer 2009. There are also plans to transfer responsibility for the licensing and clubs regimes from the courts to the new district councils following the Review of Public Administration<sup>17</sup> and to redefine licensing categories and conditions to the same timescale. Overall DSD and PSNI seem satisfied that the new regime would be an advance, but we recommend that DSD should monitor the effectiveness of its new powers and proposed arrangements. DSD told us that there are long-established links and regular contacts between DSD, NIO and PSNI in relation to the day-to-day operation of licensing and clubs law. Additionally, it consults HMRC and DETI, including the Trading Standards Service (TSS), as necessary on specific issues. DSD believes that these liaison arrangements work well and are sufficient.
- 4.4.10 **Trading standards:** the TSS has a role in countering a wide range of organised frauds. It acts, for example, to prevent the defrauding of individuals, often elderly and vulnerable, by bogus lottery and prize draw scams said to amount to some £100 million a year in Northern Ireland. But its ambit also extends to IPC, oils, alcohol and other crimes. We were told that it is not resourced to carry out systematic tests in these fields, although it undoubtedly has a significant contribution to make. We welcome the development of service level agreements with the PSNI and HMRC, but recommend that TSS, PSNI and HMRC keep under review the best deployment of their overall resources and powers in these fields with a view to maximising their joint effectiveness.

<sup>17</sup> Following a review of public administration it is proposed that the number of district councils is to reduce from 26 to 11 from May 2011.

- 4.4.11 **Credit unions** in Northern Ireland are regulated by DETI rather than by the Financial Services Authority (FSA) as in GB. The two regimes are similar and DETI believes that its approach is appropriate to the current scale and sophistication of the sector. In 2006 the share capital of the 182 unions amounted to £616m and loans to £427m. DETI told us that, at this level, there is currently no great concern about exploitation for money laundering purposes, but that with greater sophistication this potential could grow. DETI also recognises that, should the sector become more sophisticated, eg mortgage lending, there would be a case for the FSA to take over the regulatory function. We welcome the recommendation of the Assembly's Committee for Enterprise, Trade and Investment<sup>18</sup>, accepted by DETI, that, while registration should remain with DETI, regulation of credit unions should transfer to the FSA.
- 4.4.12 **Companies Registry:** as in GB, DETI's Companies Registry does not seek to run checks on those registering as directors of newly-formed companies, even though there is clear scope for those in such positions to act fraudulently (and some concern highlighted in recent work by World-Check<sup>19</sup>). We recommend that DETI and the PSNI review whether there should be stricter requirements relating to the preparation of company accounts (we were told of instances of differing accounts being prepared for Companies Registry, HMRC and banks) and qualification requirements for book-keepers. (In October 2009, responsibility in this field transferred to the UK-wide Companies House, and so consideration of this recommendation will now fall to them.)

## Crime proofing

- 4.5 All policies are now subject to an integrated impact assessment to which policies are subjected. This includes guidance on an initial policy screening exercise and on a full crime impact assessment. PSNI and other interested parties were consulted during its development. It is available to departments and will be updated and refined in light of further research and as feedback on its implementation is received. We recommend that its effectiveness is evaluated in 12 months time, with a view to making any appropriate adjustments (see also paragraph 3.22).

## Reporting of organised crime

- 4.6 Some crimes, notably extortion, are widely believed to be seriously underreported, as noted in the NIAC report (paragraph 85). Others, particularly those involving individual consumers, e.g. intellectual property crime, rely to an important extent on public ignorance or indifference. NIAC confirmed a widespread view that organised crime is victimless, assessing it as deeply corrosive – in reality, we are all victims, whether as taxpayers or consumers. Hence the importance of efforts by the OCTF and its constituent members to increase levels of public understanding and also reporting. We believe that these should be continued and should include measures to

<sup>18</sup> Report on the Committee's Inquiry into the Role and Potential of Credit Unions in Northern Ireland (05/08/09R February 2009)

<sup>19</sup> World-Check compiles public information from open sources via the internet and is used in the prevention and detection of crime and to reduce financial, reputation and regulatory compliance risk.

## Part Four:

### Additional measures to combat organised crime

promote use of confidential phone lines and release of information about both the threat of and successes against organised crime. There is evidence that initiatives in the NIEA and SSA fields have been successful, although in others such as extortion, achievement seems less (and ways to promote usage should continue).

- 4.7 Consultants were appointed by the NIO to make recommendations in this area: some have been implemented, although the main one – the appointment of a communications manager to oversee activity in this area – was not accepted due to lack of available finance. This is to be regretted, given the potential benefits, not least in the fiscal field, and we recommend that the decision be reviewed.

#### Non-jury trials

- 4.8 The Justice and Security (NI) Act 2007 provides for non-jury trials in certain limited circumstances in Northern Ireland. Under this system organised crime offences may be tried without a jury if there is evidence of a connection between the offence or defendant and a paramilitary group, or the offence arose out of a sectarian incident. Before issuing a certificate for non-jury trial the Director of Public Prosecutions for Northern Ireland must be satisfied that one or more of the conditions in the legislation are met, and that there is accordingly a risk that the administration of justice might be impaired. This will include cases where paramilitaries act for either personal or organisational gain. The provision has already been used in relation to several trials.

#### Data exploitation

- 4.9 Perhaps the most important point to emerge from this review is the potential for more extensive use, in the drive against organised crime, of existing data held by the public sector. Government departments and public bodies hold very large amounts of information and data on individuals and bodies, collected in the normal course of business, whether for individual benefits, amenities, grants, statutory registration and so on. We recommend that this potentially enormous asset in countering organised crime be exploited to the full. (Chapter 5 of the Attorney General's Fraud Review, published in 2006, which contains a very constructive account of both the potential of co-ordinated use of data in combating fraud in general and also constraints upon it, recommends extended use of data interrogation/sharing.)
- 4.10 We recommend that two ways of maximising its exploitation should be explored in particular – both are already in use in differing degrees, but could potentially be extended. First, as some of the case studies in Appendix 1 show, a very powerful way of detecting organised crime (and indeed fraud more widely) is the intelligent and frequent interrogation of databases for patterns and consistency, for example, unexpected patterns of applications or common features



of applicants - profession, geographical area - that had not been anticipated. These patterns should prompt further questions and investigation, with a conclusion either that no irregularity has occurred, or that appropriate action is suggested. But they might also suggest that further work involving other agencies is required. (The NAO and HM Treasury good practice guide mentioned in paragraph 3.20 offers useful guidance.) We found examples of this sort of cross-checking in the NIO Compensation Agency **Case Example 12** in Appendix 1.

- 4.11 The second way to exploit available data arises when it is shared with other agencies, and it is often this that provides the greatest potential for acting against organised crime in the form of data matching. This has been exploited by the Audit Commission's National Fraud Initiative (NFI) since 1998 and in Audit Scotland since 2004. The Serious Crime Act 2007 conferred powers on the Comptroller and Auditor General for Northern Ireland to provide data from public bodies in Northern Ireland for data-matching for the prevention of fraud, financial irregularity and crime. The first exercise commenced in October 2008 with 70 bodies participating on a mandatory basis, and a number of others taking part voluntarily.
  - 4.12 Participation in NFI is aimed at fraud generally, but may in itself make a contribution to combating organised crime. We recommend that the OCTF Strategy Group consider if the underlying technique could usefully be applied to countering the activities of prolific offenders. It is likely that some, if not all of these, will have transacted a range of business with Government departments and public bodies, whether in the normal course of events or as part of their criminal activities. Examination of their transactions may provide a powerful tool in detecting offences which may be prosecutable or which may provide wider investigative leads.
  - 4.13 Clearly, such initiatives for data exploitation must comply with the terms of the Data Protection Act 1998, the Human Rights Act 1998 and the Commissioners for Revenue and Customs Act 2005 (and measures must be in place to prevent loss or abuse of such data collected). But these statutory restrictions have not prevented the development of data matching, notably by the Audit Commission. The Attorney General's Fraud report suggests that privacy legislation is not a bar to well-founded investigations of this kind and our discussions with the Northern Ireland Information Commissioner suggested that our recommendation should not be inhibited by well planned arrangements for data sharing and matching. A good example of a considered policy approach is embodied in DSD's Catalogue on Data Sharing, which highlights both the potential of, and obstacles facing, this tool. Arrangements of this kind are central to DSD's and SSA's business: information available at present suggests that other Northern Ireland departments are less advanced in their data sharing policies and practices.
  - 4.14 In order to encourage data exploitation, the OCTF Strategy Group might consider commissioning work in conjunction with the Northern Ireland departments to:
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## Part Four:

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- identify current holdings of data in the Northern Ireland departments, NIO and HMRC (and other public bodies and UK departments) that might be relevant;
- with the law enforcement agencies, assess together which data might be of particular assistance in countering the organised crime threat;
- identify those departments and agencies which might be materially helped to detect, prevent, investigate or prosecute organised crime if they had access to that data;
- examine ways of enabling that data to be shared in the light of any statutory or other restrictions, with the aim of overcoming obstacles;
- establish a mechanism for controlled and efficient sharing of data amongst departments and agencies entitled to receive it for the purpose of countering organised crime, perhaps involving the development of memoranda of understanding such as DSD's Catalogue on Data Sharing;
- explore the use of the Audit Commission's NFI as a potential vehicle for data matching for these purposes; and
- set up a unit composed of representatives from NIO, departments, PSNI, HMRC and SOCA, with others co-opted as the case demanded (and perhaps supported by some central analytical capability of the kind developed by the PSNI Analysis Centre), to manage the application of data analysis to investigate individual, or groups of, prolific offenders.

This work should take account of Sir Ian Magee's Review of Criminality Information<sup>20</sup>.

- 4.15 The Home Office consultation that preceded the Serious Crime Bill estimated that more data sharing between the public and private sectors had the potential to deliver between £137 million and £273 million a year in benefits to the public sector. Pilot exercises conducted by CIFAS<sup>21</sup> have shown that criminals who defraud the private sector also defraud the public sector, and it is characteristic of organised criminals that they cross those boundaries. CIFAS members in the UK as a whole (including a number of banks in Northern Ireland) have reported that by sharing data they prevented fraud losses of almost £1 billion during 2007.
- 4.16 The closest public sector equivalent to CIFAS is the NFI but the crucial distinction is that, whereas the NFI detects fraud that has already been perpetrated, CIFAS members can search their database in real-time, thereby enabling the pre-emption of fraud. Although, in general, public bodies are not members, the Serious Crime Act designated CIFAS as a body with which data can be shared by departments and local authorities. We recommend that NIO and

20 Sir Ian Magee's Review of Criminality Information, published in July 2008, looked at the way in which criminality information is shared between agencies both in the UK and abroad. The Review focuses on the problems in information sharing and what needs to be done to better protect the public from harm.

21 CIFAS is a body established and financed by its constituent private sector company members, whose purpose is to prevent fraud. It has 270 members spread across banking, credit cards, asset finance, retail credit, mail order, insurance, savings and investments, telecommunications, factoring, and share dealing.

Northern Ireland departments consider the merits of subscribing to a CIFAS-type service, once data sharing among Northern Ireland bodies is more advanced. While this may have modest resource implications, we believe this is an area where the “spend to save” principle applies.

## Recommendations in Part 4

- I. Prosecution and sentencing for organised crime must be sufficient to deter criminals (paragraph 4.2).
  - II. Regulatory and licensing regimes should be regularly reviewed to determine if appropriate and well-judged assessments have been completed in each area, whether the correct balance has been struck and whether appropriate guidance is in place (paragraph 4.3).
  - III. It is important that proposed developments in certain Northern Ireland department’s regulatory and licensing functions be pursued vigorously and as a priority (paragraph 4.4).
  - IV. DETI, in conjunction with HMRC and the PSNI, should monitor the effectiveness of the new petroleum retail licensing regime to ensure that it meets the objectives endorsed by the NIAC and IMC (paragraph 4.4.2).
  - V. Proposed legislation for strengthening the road haulage licensing regime should be implemented as soon as possible (paragraph 4.4.5).
  - VI. The new taxi licensing scheme should be implemented as soon as possible (paragraph 4.4.6).
  - VII. The new charities regulatory regime, including establishment of a Northern Ireland Charity Commission, should be implemented as soon as possible (paragraph 4.4.8).
  - VIII. DSD should monitor the effectiveness of its new powers and proposed arrangements (paragraph 4.4.9).
  - IX. TSS, PSNI and HMRC should review the best deployment of their overall resources and powers in relevant fields with a view to seeing if TSS could enhance its role. (If this produced a resource cost, then that should be considered by DETI and DFP) (paragraph 4.4.10).
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## Part Four: Additional measures to combat organised crime

- X. The regulation of credit unions should transfer to the FSA (paragraph 4.4.11).
  - XI. DETI and the PSNI should review whether there should be stricter requirements relating to the preparation of company accounts and qualification standards for book-keepers (paragraph 4.4.12).
  - XII. NIO should evaluate the effectiveness of crime proofing, in 12 months time, with a view to making any appropriate adjustments (paragraph 4.5).
  - XIII. Efforts by the OCTF and its constituent members to increase levels of public understanding and reporting should be continued, including use of confidential phone lines (paragraph 4.6).
  - XIV. The NIO should review its response to the consultant's report on public relations initiatives (paragraph 4.7).
  - XV. The potential for increased use of data sharing/matching/mining should be fully explored in the ways recommended in paragraphs 4.9 – 4.16.
  - XVI. The "spend to save" principle should be carefully considered in relation to all cases in which additional resources are sought to combat organised crime (paragraph 4.16).
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## Appendix One: Case Studies

### Case studies

#### Case Example 1

##### **Fuel Fraud**

(paragraph 1.6.5).

This case concerned the supply and sale of illegally imported hydrocarbon oils, both petrol and diesel, from the Republic of Ireland to two business addresses in Northern Ireland at Toomebridge, Co. Antrim and Omagh, Co. Tyrone. Both businesses were subject to various HMRC operations and between December 2002 and December 2003, a total of nine seizures of fuel were made. On each occasion, HMRC Officers requested staff at both stations to produce invoices to prove that the fuel being sold in the stations was legitimate UK excise duty paid product. No invoices were ever produced and none of the subsequent seizures of fuel or vehicles have ever been appealed.

Observations were conducted and video footage taken which showed the defendants making regular covert deliveries of both smuggled diesel and petrol. They used a variety of vehicles with concealed tanks including a mini bus and a transit van that was covert but posed a serious risk to public health and safety.

In February 2004, three people were arrested and warrants were executed at the two business premises. Further searches of both home addresses and vehicles were conducted resulting in further documentary evidence including, business records, diaries and mobile phones. A fourth person was arrested in July 2004 and a further search was conducted.

The evidence was subsequently collated and clearly showed how the fraud worked and linked all four defendants.

From the readings taken from fuel pumps at both stations on each occasion that HMRC Officers visited it was possible to calculate how much fuel was sold and then calculate the amount of excise duty and VAT evaded. The total loss of revenue was alleged to be £975,725.

All four people were charged with the fraudulent evasion of excise duty and a report was submitted to the Office of the Director for Public Prosecutions (Northern Ireland). On the direction of the Public Prosecution Service NI (PPSNI), additional charges were subsequently added to the indictment, including conspiracy to evade excise duty and evasion of VAT. The conspiracy charges covered the entire period between December 2002 and February 2004. Specific charges of evasion of excise duty were also added in relation to each date that surveillance evidence, (or an admission) was available to support a charge.

Restraint Orders were served on two of the defendants under the provisions of The Proceeds of Crime (Northern Ireland) Order 1996. Items restrained included properties, cars, bank accounts and cash.

In September 2006, the case was listed for what was expected to be a contested trial at Antrim Crown Court. The four defendants faced a total of fourteen charges on the indictment including conspiracy to fraudulently evade the duty payable in respect of hydrocarbon oils. However, pre-trial agreement was reached between Counsels to accept pleas in relation to the nine specific charges that were supported by surveillance evidence, or admissions made, where the revenue evaded was relatively low.

As a result, an offender who entered guilty pleas to five counts of evasion of excise duty (revenue evaded £7,916) was sentenced to nine months imprisonment suspended for three years; an offender who entered guilty pleas to two counts of evasion of excise duty (revenue evaded £1,666) was sentenced to nine months imprisonment suspended for three years; an offender who entered guilty pleas to three counts of evasion of excise duty (revenue evaded £4,583) was sentenced to six months imprisonment suspended for three years; and an offender who entered a guilty plea to one count of evasion of excise duty (revenue evaded £833) received a conditional discharge for two years.

This also had the effect of significantly reducing the amounts for confiscation. Orders were imposed on two of the accused for £17,810.13 and £4,452.26 respectively. This in no way reflected the benefit either man had gained from the fraud.

## Case Example 2

### Fuel Fraud

(paragraph 1.6.5).

This case centred on the procurement of commercial quantities of low duty kerosene (home heating fuel) and UK rebated (red) or Republic of Ireland (green) marked gas oil or diesel; the illicit mixing (kerosene) and/or laundering of the red/green diesel; and the subsequent sale of the fuel as duty paid road diesel, inclusive of VAT.

Between August 2004 and February 2005, in excess of 1.5 million litres of controlled oil were collected from a licensed oil distributor based in Stourport Upon Severn. Evidence was gathered to show that this oil had been laundered or mixed and sold on to the retail market as road diesel. Over an eight-month period the revenue loss equated to just over £1 million. However, analysis of the seized product by the Laboratory of the Government Chemist revealed that samples of fuel seized from the mixing/laundrying sites and seized vehicles had, in most cases, been mixed with large proportions of green diesel. As a result, the amended duty calculation amounted to 4,600,000 litres of fuel and, based on this amount 4.6 million, the amended duty figure was calculated as £2.5 million. This figure was ultimately put before the court and accepted, uncontested, by Defence.

## Appendix One: Case Studies

During January 2005, two separate seizures of adulterated fuel and an HGV tanker were made. Following this, observations were carried out on the driver of the seized tanker. After collecting fuel from a distributor he drove the fuel tanker to rural premises near Telford, Shropshire and later to premises at Swadlincote, Derbyshire. These observations led to the suspicion that one or both of these sites were involved in the laundering of illicit fuel.

On 2 March 2005, the tanker driver was arrested and search warrants were executed at addresses used by him in Coventry and Maghera, Northern Ireland and at the premises near Telford. Officers also carried out control visits to the premises at a Telford warehouse and a Birmingham-based coach company. At the premises near Telford, apparatus common to a mixing plant was dismantled and quantities of kerosene and green diesel were seized. At the Swadlincote warehouse, an oils laundering plant was dismantled and in excess of 34,000 litres of laundered fuel was seized. At the Birmingham coach company, eight coaches were found to have illicit fuel within their running tanks resulting in their seizure and subsequent restoration upon payment of a £25,000 civil penalty. On 4 August 2005, the director of the coach company was arrested and interviewed.

Evidence obtained from the arrests, including business records and mobile phones, provided links to the alleged principal, known to have previously operated a Northern Ireland oil fuel distribution business, and who was connected to previous seizures of illicit fuel in Northern Ireland.

Ultimately, four men were charged with being knowingly concerned in the evasion of Excise Duty. One man is still being sought – an arrest warrant has not yet been executed. The trial took place in November/December 2006.

The alleged principal was sentenced to six years imprisonment; the tanker driver was sentenced to five years imprisonment; and the director of the coach company was sentenced to two years and six months imprisonment. A fourth man was acquitted.

A confiscation hearing took place in April 2009, at which the alleged principal was ordered to pay £500,000 within 6 months or face an additional 5 years imprisonment and the tanker driver was ordered to pay £200,000 or face an additional 3 years imprisonment. A third defendant had already been ordered to pay £30,000.

### Case Example 3

#### **Cigarette Smuggling and Distribution - Joint Operation Between PSNI And HMRC** (paragraph 1.6.12)

This operation, involving cigarette smuggling and distribution by a significant organised crime gang, was investigated and reported jointly by HMRC and PSNI. On 16 November 2005, officers from PSNI



entered premises in County Armagh under the authority of a search warrant issued under Article 92 of the Trade Marks Act 1994. They found an articulated lorry and trailer in the process of leaving the site. A lorry was being directed out of the premises by Mr A, whilst Mr G was found in a Transit van on the laneway near the exit point to the public road. A search of the trailer and the sheds at the premises uncovered a total of 15,434,540 cigarettes of which 10,434,620 cigarettes were found in the sheds, and 4,999,920 cigarettes were found on the trailer concealed in a cover load of Irish moss peat: several million were also counterfeit. The potential loss of revenue on these 15,434,540 cigarettes was £2,976,402.

The search of the premises continued for three days with a considerable amount of material being recovered for further examination, including DNA samples. Items consistent with use as cover loads to conceal the illegal importation of cigarettes were also found, including cardboard boxes, car radiators and documentation indicating that consignments of car radiators originating in Spain had arrived at the premises. The car radiators appeared to have been manufactured mainly by a company in the Tarragona region of Spain, an area where Mr G had been observed meeting associates by Spanish authorities.

Following the initial arrests and search, joint PSNI and HMRC searches also took place at five other premises with evidential material consisting of documents, computers, mobile telephones, etc, being retained for further examination.

Joint caution interviews of all suspects were conducted by PSNI and HMRC at Armagh PSNI Station on 17-18 November 2005, and on 18 November 2005, Mr G, Mr A and the lorry driver were charged by HMRC with the offence of handling excisable goods contrary to Section 170 of the Customs and Excise Management Act 1979. They were also charged by PSNI with an offence of handling criminal property contrary to section 329 of the Proceeds of Crime Act 2002.

On Thursday 20 July 2006, police arrested Mr L under Section 41 of the Terrorism Act 2000 for possession of "terrorist property", namely the illegally imported cigarettes recovered at the premises searched on 16 November 2005. Searches were carried out at his home and two nearby addresses during which over £55,000 cash was recovered and seized. PSNI also found, concealed in the roof of a pigeon loft at the rear of a shed, various ledgers and notebooks containing names and details of accounts pertaining to the sale, movement and distribution of various brands of cigarettes. Notebooks recovered from the premises in Armagh contained ledger details and references to similar cigarette products.

Mobile phone analysis showed significant contact between Mr L and Mr G and the lorry driver before the seizure of the cigarettes in Armagh on 16 November 2005. Over the course of nine interviews at Antrim PSNI Station, Mr L declined to answer any questions put to him and on 21 July 2006, he was charged with using or possessing money or property for the purposes of terrorism contrary to Section 16(2) Terrorism Act 2000, and concealing criminal property contrary Section 327(1)(a) Proceeds of Crime Act 2002.

## Appendix One: Case Studies

Subsequent enquiries included a significant number of overseas investigations conducted under Commission Rogatoire<sup>22</sup>, some of which were conducted jointly by PSNI and HMRC.

In addition to the investigation being conducted in tandem, this case demonstrates a clear determination to achieve a common goal through joint reporting of offences to the PPSNI. A clear reporting strategy was adopted with full inter-agency sharing of evidence that was being prepared and submitted. The sharing of resources was particularly helpful with, for example, PSNI taking the lead on forensic/DNA analysis and HMRC taking the lead on phone analysis. Meetings with PPSNI were conducted jointly and at trial stage senior managers from both agencies agreed decisions in respect of acceptance of pleas by the three defendants who were later tried.

At Armagh Crown Court on 18 November 2008, the three defendants eventually pleaded guilty to the evasion of duty in respect of the cigarettes found on the lorry trailer, an offence under s.170 of the Customs and Excise Management Act.

Mr G was sentenced to three years, suspended for two years.

Mr A was sentenced to two years, suspended for two years.

Mr L was sentenced to two years, suspended for two years.

In addition, each defendant was served with a Serious Crime Prevention Order that prevents them from holding more than 3,200 EU duty paid cigarettes or 200 non-EU duty paid cigarettes at any one time.

Confiscation Orders totalling £729,000 were also handed down. Mr G was served with an Order for £500,000 with 12 months to pay, with a default penalty of three years imprisonment for non-payment. Mr L was ordered to pay a Confiscation Order of £100,000, with six months to pay or a default penalty of 18 months imprisonment. Mr A also had a Confiscation Order of £129,000 placed upon him though he has no identified assets and the Order will sit on file in case he acquires assets at a later date.

### Case Example 4

#### **Major Drugs and Firearms Trafficking Network**

(paragraph 1.6.21)

This operation took place against a major drugs and firearms trafficking network and involved joint working between PSNI, An Garda Síochána, Dutch National Crime Squad, HMRC, SOCA, Revenue Commissioners and the Criminal Assets Bureau.

In September 2008, eight arrests were made across three jurisdictions and seizures were made as follows:

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<sup>22</sup> This is a legal instrument allowing co-operation between foreign countries.

### Northern Ireland

- 10 Glock pistols
- 1,050 rounds of 9mm ammunition
- €402,350 recovered from principal suspect
- in addition, PSNI 'bought' another 4 Glock pistols and 400 rounds of 9mm ammunition – currently in the Dutch Forensic Laboratory

### Ireland

- 19 Glock pistols – including 4 Glock automatic pistols
- 6 Berettas
- 2 Smith and Weston revolvers and 100 rounds of ammunition
- 6 silencers
- assorted magazines/speed loaders
- 14kg of heroin
- 5kg of herbal cannabis

### Holland

- 4 Glock firearms and 400 rounds of ammunition acquired by the Dutch in 2008
- between 2nd and 3rd September 2008, a house search was carried out in Amsterdam – 192 firearms (mainly Glock pistols and Steyr machine guns) were seized
- 8,000 rounds of 9mm ammunition
- €20,000
- 3 hand grenades
- assorted accessories including silencers/laser pointers for firearms etc
- on 30 August 2008 an additional search was carried out in Amsterdam which recovered another 37 firearms.

In total this operation resulted in the recovery of 270 firearms, 9,450 assorted rounds of ammunition, 6 silencers, assorted magazines and speed loaders, €428,350 cash ( €408,350 in Northern Ireland), 14kg of heroin, 5kg of herbal cannabis, and 100 illegal knives.

An extensive organised criminal network was dismantled by this successful operation. Success was only achieved through effectively using a multi-agency approach.

## Appendix One: Case Studies

### Case Examples 5 and 6

#### **Human Trafficking** (paragraph 1.6.25)

Operation Palladic was an investigation where SOCA Officers from Northern Ireland and Wales, working in partnership with PSNI, An Garda Síochána and Dyfed Powys Police, disrupted and dismantled an organised criminal gang that was trafficking women from Brazil, Nigeria and Namibia into the United Kingdom and Ireland. Searches and arrests were carried out in Northern Ireland, Republic of Ireland and Wales. A total of three people have been charged by SOCA with offences relating to Human Trafficking, Controlling Prostitution and Money Laundering. A number of others arrested by An Garda Síochána have been reported to prosecutors.

#### **Social Security Agency – Illegal Immigrants** (paragraph 1.6.25)

The Benefit Investigation Service works with the UKBA and PSNI to co-ordinate the arrest and deportation of illegal immigrants. These cases are detected by the SSA when the individuals apply for National Insurance numbers using false or forged documents.

During 2008-09, there were six arrest packages sent from the SSA to the UKBA, all acted upon.

### Case Example 7

#### **HMRC – VAT Evasion** (paragraph 1.6.27)

The creation of HMRC has enabled it to link up its compliance effort to tackle the highest risk alcohol traders and hauliers – referred to as the “Collaborative Approach”. Risk and Intelligence departments within HMRC now use all available intelligence and tax information to profile the highest risk businesses for intervention and Local Compliance and Detection departments, and together with other stakeholders, pool ideas and resources to tackle them.

The collaborative approach is the result of a trial conducted in 2006, in which high risk traders were identified, for joint control action by Local Detection, Compliance and other stakeholders. The trial concentrated on two of the traders who appeared to represent a significant risk – Traders A and B below.

In-depth audit and subsequent cross-referencing of transactions with other UK and EU traders proved to be lengthy and complex and work is on-going to resolve outstanding issues. However, it is clear that the traders concerned have operated - at best - on the very edge of HMRC control and have exploited potential weaknesses in the previous single-regime based approach to commit significant evasions of tax.

HMRC issued a series of assessments totalling approximately £1.7 million in Excise Duty against Trader A and hauliers involved in the declared movement of a number of consignments of alcohol. The assessments follow an analysis of the supply chains involved and the identification of diverted and undeclared consignments. HMRC also issued assessments for unpaid VAT against two hauliers operating on behalf of Trader B. The assessments are for approximately £50,000 and £10,000, (with further assessments expected as outstanding work is completed) and are for undeclared business – the existence of which was discovered during analysis of Trader B's accounts.

HMRC is currently preparing an assessment of approx. £5.2 million in Excise Duty against Trader B as a result of a series of carefully coordinated actions:

- targeted outbound interceptions by the Detection department which identified a series of exports of alcohol by Trader B that appear to have been diverted on the outward journey;
- compliance visits to the hauliers working for Trader B which indicated that consignments were delivered to overseas customers despite evidence to the contrary;
- a compliance visit to Trader B which highlighted a series of discrepancies, including cash receipts and further movements of cash by courier which do not appear to originate in the declared transactions;
- officers are cooperating closely to coordinate the issue of the assessment with a view to putting Trader B into the hands of a provisional liquidator in the High Court; and
- a VAT assessment is being prepared in relation to approximately £196,000 of undeclared business identified during analysis of Trader A's and related accounts.

Compliance visits to both of the main traders and their hauliers identified several significant discrepancies between the lifestyle of the directors and their declarations for direct tax. Details of the discrepancies are currently being investigated.

The trial identified a manipulation of "place of supply rules" which has led to VAT being evaded either in the UK or in France – it has not been paid in either country on consignments of alcohol sold to French cash and carries. The amount of VAT at risk in the case of Trader B alone is between £750,000 and £1 million and there appear to be a number of other high-risk alcohol traders who have adopted the same invoicing system. A meeting has taken place between the Fiscal Liaison Officers and other representatives of the UK and France. It was agreed to cooperate to tackle alcohol fraud and the consequent tax evasion in both countries that is facilitated by cash and carries in Northern France. Both sides agreed to identify the most effective method of cooperation and exchange of data and debt information so that a joint approach can be prepared.

## Appendix One: Case Studies

Enquiries at a German business to ascertain full details of eight loads of spirits claimed to have been exported on behalf of Trader A are currently delayed while authorities there investigate the local company. The excise duty and VAT which appears to have been evaded is at least £1.1 million.

“Collaborative Working” was adopted nationally in October 2006, as a result of the successful trial, and is now a top priority within the Excise Directorate of HMRC. To date, 18 high-risk traders have been identified as suitable for this approach and joint control action has commenced in these cases. This approach has resulted in assessments totalling almost £40 million being issued in relation to alcohol cases. The majority of these were issued for VAT and direct tax matters and probably would not have been discovered if this approach had not been taken.

Planned collaboration on the nominated cases has generated a valuable spin-off in that it has improved joint working against other traders. An example of this is a case involving an abuse where, as a result of an interception at the frontier, various departments within HMRC have joined up to identify and assess an evasion of excise duty totalling approximately £12 million. It is planned to expand the collaborative approach to other excise areas in the near future.

### Case Example 8

#### **Northern Ireland Environment Agency– Illegal Disposal of Waste** (paragraph 2.2.2)

The illegal cross-border disposal of waste has been growing since 2002 when new regulations in the Republic of Ireland led to the closure of many of its landfill sites. This has produced a situation where remaining licensed landfill sites can charge between €220 and €350 per tonne for the disposal of household waste. Therefore, to dispose of an articulated lorry load carrying approximately 22 - 23 tonnes of waste would cost between €5,000 and €8,000. A criminal who chose to dispose of the waste illegally could therefore make a huge profit by charging the originator of the waste a price at or close to the legitimate price range.

As disposal costs in Northern Ireland are in the order of £50 per tonne this produced an economic driver which was one factor that helped to create a large-scale cross-border illegal waste disposal industry. Waste is transported across the border and either dumped in illegal landfill sites; taken directly to licensed sites in Northern Ireland and passed off as Northern Ireland waste; taken to waste transfer stations in Northern Ireland, supposedly for recycling but then taken to a licensed site in Northern Ireland; or brought through Northern Ireland and taken to the UK mainland for disposal as Northern Ireland waste.

This case study relates to an individual who was a target of a PSNI Organised Crime Team based in Londonderry. The team had established that the individual was involved in organised crime including theft and ringing of plant and machinery, and he was also believed to have had paramilitary connections.

NIEA had established that the individual was involved in illegal cross-border transport and disposal of waste on a large scale. He had started this business during a period when responsibility for the regulation of the waste industry was passing from local district councils to NIEA. The individual had also begun to buy up a number of companies involved in local waste management in Northern Ireland. This caused great concern as the establishment of a major criminal base within an industry which is already prone to ignoring regulations would have serious detrimental effects. It also gave the individual a fig leaf of legality for his illegal cross-border operations.

Joint operations involving PSNI and NIEA staff resulted in successful stop and search operations in which a number of loads of waste were returned to the Republic of Ireland. A separate operation recovered three tractors which had been stolen and 'ringed'.

PSNI prepared a complex prosecution case involving prosecution witnesses from PSNI, NIEA, local authorities and the Scottish Environment Protection Agency, amongst others. During the progress of the case they also received advice from NIEA on waste management legislation.

The case was heard at Dungannon Crown Court in April 2007. The individual and his associates were charged with 22 waste offences (other alleged offences under the Proceeds of Crime Act were not proceeded with). Two persons were convicted and await sentence.

In this case, joint working between PSNI and NIEA has resulted in an organised criminal gang being prevented from operating. NIEA could not have achieved this operating alone and PSNI was able to use environmental legislation as an additional tool to deal with criminality.

It is important to understand that although the criminality involved in this case has major environmental repercussions, it is essentially an economic crime as it is driven by the desire to make financial gain. The involvement of criminal gangs in the waste management industry would make it impossible for NIEA to regulate. In addition, the involvement of criminality prevents the legitimate waste industry from being able to compete economically in the market for waste disposal and recycling and would result in its disappearance.

## Case Example 9

### Extortion

(paragraphs 2.2.14)

In March 2005, an investigation commenced into reports regarding extortion which police believed to be linked to a dissident republican group. Within a short period in early March, a number of shots had been fired at the home of the victim on two occasions, narrowly missing family members. The victim received a telephone call from a person claiming involvement in this incident. The caller suggested that a contract had been issued and that in order to buy this contract, the victim should pay £25,000.



## Appendix One: Case Studies

Between 16 March 2005 and 21st March 2005 the victim received a number of threatening telephone calls and agreed at an early stage to assist police in corroborating the evidence of blackmail.

A covert operation was mounted as the telephone calls escalated in number and seriousness. All involved threatening demands for money and threats on the life of the victim and his family.

The last calls evidenced in this investigation related to arranging a meeting at which the handover of money should take place. During a series of calls, the victim arranged to meet the suspects at Dargan Crescent, Belfast. When the money was handed over at this location two arrests were made by police for blackmail and threats to kill.

Subsequent enquiries relating to these arrests led police to uncover a number of weapons and explosives at the home address of one defendant.

On 24th March 2005 one of the defendants was charged with:

- Attempted Murder
- Blackmail
- Threats to kill
- Offences under the Terrorism Act
- Possession of Firearms and ammunition with intent
- Possession of explosives.

On the same date the other defendant was charged with:

- Attempted Murder
- Blackmail
- Threats to kill.

An extensive prosecution case was produced when all evidence had been gathered and, at trial, successful convictions were achieved for the offences charged. One of the accused was sentenced to a total of nine years imprisonment and the other sentenced to four years imprisonment with one year probation.

### Case Example 10

#### **Social Security Agency – Benefit Fraud and Money Laundering** (paragraph 2.2.18)

In September 2004, a case was referred to the Benefit Investigation Service (BIS) of the SSA which suggested that Ms B, who was claiming means-tested and other benefits, owned a number of properties and had not informed the SSA of her ownership of these. At the time, Ms B was in receipt of means-tested

Income Support, for various periods from 10 December 1993 (at the time of the referral continuously from June 2002), and Incapacity Benefit from 7 December 1993. The referral also mentioned that Ms B had claimed a disablement grant from the Northern Ireland Housing Executive (NIHE) at one property, which it was obliged to consider on the basis of her underlying entitlement to Income Support.

Pre-referral investigations by BIS (using its powers as conferred under the Social Security Fraud Act (NI) 2001) identified some 32 properties held in the name of Ms B, on which she had applied for mortgages from various financial institutions, in her own name or as a director of a company – a house letting agency. The majority of the mortgage applications were made during the same time period when she was claiming means-tested benefits. Ms B quoted on some of her mortgage applications that she had an annual income of £50,000 from this business. Operating such a business, along with the possibility of her being a landlord and the ‘capitalisation’ of any additional properties she owned, would have disqualified her from receiving income support, and would have been likely to disqualify her from receiving Incapacity Benefit, on the basis that she was involved in ‘work activity’.

At this point BIS should have interviewed Ms B under caution to establish any explanation she might have, and to determine if her case should be referred to the PPSNI for prosecution of any social security fraud offences identified. However, repeated efforts to interview her met with claims of various illnesses, which meant BIS was unable to progress the investigation as a criminal prosecution. The final contact on this matter was from Ms B’s solicitor on 24 September 2004, who said that, due to ill health, Ms B would not be attending for the required interview under caution. BIS concluded that, in not presenting for the interview under caution, Ms B was pursuing a deliberate strategy to evade a criminal investigation.

As a result, it seemed that Ms B would escape criminal prosecution of a suspected major benefit fraud simply by avoiding an interview under caution with BIS. ARA was contacted on 30 September, to discuss the case, and it agreed to take the case on for civil recovery investigation, on the basis of the large amount of evidence that BIS had uncovered regarding the 32 properties. The case was formally referred to ARA on the same day.

The ARA investigation proved to be hugely complex. Some 60 properties that Ms B has or had an interest in, as well as various and multiple accounts with 27 different financial institutions, were identified.

On 9 September 2005, ARA successfully made an application to the High Court for the authority to search Ms B’s home address and to appoint an Interim Receiver to investigate the origins of her various properties, while simultaneously managing these. The Receiver’s final report on this matter supported the position of ARA, and concluded that Ms B had amassed her considerable property portfolio using funds which were the proceeds of crime, and her properties were therefore recoverable under the Proceeds of Crime Act.

The evidence amassed by ARA (i.e. evidence to prove Ms B was involved in actual ‘undeclared work’), was supplied to the respective SSA decision makers to help them reach determinations on the amounts of actual overpayments. (Overpayments were raised of £11,310.53 for Income Support and £66,593.87

## Appendix One: Case Studies

for Incapacity Benefit, so there was a quantified debt in a specified time frame for ARA to pursue). The SSA suspended payment of Income Support in March 2004 and Incapacity Benefit on 21 October 2005 (disallowing the latter on 18 November 2005). Ms B subsequently lodged appeals with the SSA in relation to the disallowance of both benefits.

During the course of the ARA investigation it was identified that Ms Anon (resident with Ms B and who is believed to be her sister) was a co-director in the house letting agency with Ms B, and had been in receipt of Retirement Pension, Pension Credit and Carer's Allowance for looking after Ms B. (Pension Credit was stopped from March 2005 but the Carer's Allowance was still in payment.) When BIS attempted to make contact with Ms Anon they were informed she had recently moved to the United States of America.

ARA made enquiries with the United States Office of Homeland Security and were told that Ms Anon had not been out of the USA since 1982. BIS has started a fresh investigation into Ms Anon's case and have collected all the original claim forms that Ms Anon completed for possible fingerprint examination. BIS suspect that Ms B may have completed the application forms, as the monies paid into Ms Anon's account by the SSA have been transferred over into accounts owned by Ms B from which the funds were dissipated. The BIS investigations were hampered by its inability to interview Ms Anon and by Ms B's unwillingness to cooperate.

ARA's belief, (supported by the findings of the Interim Receiver), was that Ms B was involved in money laundering in relation to the benefits claimed by Ms Anon (whether Ms Anon was aware of these claims or not).

ARA also worked closely with NIHE regarding the quantification of fraudulent activity in relation to repair grants claimed as landlords by Ms B, and in the name of Ms Anon, while not fully disclosing the extent of their property portfolio. Again the findings of the Interim Receiver supported ARA's belief that these grants were obtained by fraud and the proceeds are therefore recoverable under the Proceeds of Crime Act 2002. This case is still being pursued by SOCA.

### Case Example 11

#### **Social Security Agency – Benefit Fraud and Money Laundering - a joint PSNI/SSA/HMRC operation** (paragraph 2.2.18)

This case, which involved extensive co-operation between PSNI and HMRC, resulted in the arrest of nine individuals. Sixteen properties were searched by police officers as part of the investigation by the Organised Crime Team in Londonderry. One aspect of the police investigation focussed on potential offences committed against the social security system by a man, Mr A, who was claiming Incapacity

Benefit and was in receipt of Income Support as a single person from 2000 until October 2005. His wife was in receipt of Income Support as a lone parent and Housing Benefit under her maiden name, from 2003 to September 2005.

The PSNI referred the matter to the SSA for investigation alleging that:-

- Mr and Mrs A lived together;
- Mr A owned other properties that he rented out;
- Mr A was a farmer who received a considerable amount in grants from DARD ; and
- Mr A had large amounts of monies moving through his bank.

SSA staff worked closely with the PSNI over a period of months in establishing the extent of the social security fraud. Intelligence gathered by the SSA supported the allegations and indicated that Mr A may have fraudulently received around £19,000 in benefits.

According to the PSNI, Mr A is a senior member of a criminal organisation involved in the sale and distribution of contraband cigarettes. In September 2006 his home was searched and numerous illegal items were seized along with £27,000 in cash and cheques.

Mr A was formally charged with 'obtaining property by deception' from the SSA (Income Support) and the NIHE (Housing Benefit). He also faces charges in connection with cigarette smuggling.

The PSNI will be serving Mr A with a Restraint Order, restraining his assets, and intends requesting an order for the recovery of the full amount of benefits he wrongly received.

Mr A and one other person were remanded in custody; two other individuals have been charged with offences relating to cigarette smuggling and firearms offences; and five other individuals, including Mrs A, have been released pending further enquiries.

It is anticipated that the PSNI will publicise this operation in the local media, making reference to the social security offences of 'obtaining property by deception'. The police investigation continues.

## Case Example 12

### **NIO Compensation Agency**

(paragraph 4.10)

The Terrorism Act 2000 provides a right to claim compensation for loss or damage suffered as a result of action taken under the Act – in this case damage caused by the Army in the course of its operations, typically to fences, agricultural produce, machinery or buildings. Despite a marked reduction in the level of military patrolling, claims for compensation rose from under 3,500 in 1998-99 (under previous legislation) to nearly 8,000 in 2001-02 under the Terrorism Act.

## Appendix One: Case Studies

The Compensation Agency (the Agency) carried out a review of the workings of the scheme, analysing in detail the incidence and pattern of claims and reviewing procedures. It discovered among other things that, while the Act required that claims be lodged within 28 days of the damage being incurred, claims were frequently being re-submitted every 28 days.

The Agency used the existing applications database to compare claims lodged under the same applicant's name. This fairly simple analysis highlighted a number of irregularities. For example, multiple claims were sometimes lodged in respect of the same damage and claims were lodged where no damage had been caused (sometimes no patrol had taken place). It also identified other linkages in cases where patterns of applications emerged. Cases which the Agency believed to be suspect were referred to the police for criminal investigation.

As a result of this analysis, the Agency was able to identify new procedures which would ensure a robust investigation of future claims:

- a new claims form was developed, which required proof of ownership of the land in question;
- a weblink with the Land Registry was established to facilitate this;
- the introduction of mandatory photographs of damage (by varying the terms of contracts with the loss adjusters who investigate the claims on the Agency's behalf) provided some evidence that damage had occurred (or otherwise), but also allowed comparison with the photographs for different claims (which typically came in on a monthly basis for the same general area);
- more detailed inspection reports were required from loss adjusters and closer liaison with the Army introduced to verify patrolling activity against specific claims made; and
- liaison with HMRC over relevant claim details.

Prior to the introduction of the new application arrangements in May 2003, claims had been running at around 630 per month. Over the following year, this figure had dropped to some 67 a month, with a saving of £2.8m in 2003-04 alone. Two years later, claims had further reduced to about 4 a month.

## Appendix Two: HMRC Options (paragraph 1.6.7)

**As a revenue-collecting Department, HMRC has a range of options for dealing with those who avoid or evade duties or taxes. These options are:**

- civil assessment with interest and penalties, as appropriate e.g. VAT, corporation tax, income tax liabilities;
  - civil investigation of suspected serious fraud in respect of complex and/or high risk cases of evasion across customer groups, taxes and duties, which are normally concluded by way of an agreed financial settlement to include the tax lost, interest and penalties;
  - seizure of goods liable to forfeiture e.g. smuggled cigarettes, alcohol, fuel oils etc and under the provisions of s141 of the Customs and Excise Management Act 1979 officers may also seized anything used in the carriage, handling, deposit or concealment of the thing liable to forfeiture and anything mixed, packed or found with the thing so liable. Thus, a car being driven on red diesel can also be seized (and restored upon payment of a significant restoration fee). In February 2009 HMRC visited a 'huckster' site selling diesel at 30p per litre below normal pump prices. In an attempt to permanently close this illicit outlet officers engaged contractors to locate and remove a 20,000 litre tank that supplied the pump;
  - adoption by the Criminal Taxes Unit, a small team that taxes unexplained wealth, adding interest and penalties as appropriate;
  - seizure of cash under Proceeds of Crime legislation;
  - criminal prosecution, including restraint and confiscation as appropriate; and
  - referral to SOCA for civil actions where criminal investigation has either failed or is deemed too difficult.
-

## Appendix Three: SOCA Harm Framework (paragraph 1.14)

### SOCA Harm Framework for Serious Organised Crime

This framework sorts the harms caused or affected by serious organised crime (SOC) by type and scale. Some harms are the direct and immediate result of specific serious organised criminal activities, others are wholly or partially the consequence or long-term effect of such activities. In practice, the harms are not neatly boxed, and the effects of a particular activity may be felt in various ways and at different levels.

	INDIVIDUAL/LOCAL	COMMUNITY/REGION	UK/INTERNATIONAL
<b>PHYSICAL</b>	<b>Individual death, injury or illnesses:</b> <ul style="list-style-type: none"> <li>through use of commodities or services controlled by serious organised criminals (e.g. through drug abuse, or as a facilitated illegal migrant)</li> <li>as a consequence of personal involvement in serious organised criminal activity (e.g. as a victim of inter-gang violence)</li> </ul>	<b>Incidence of deaths, injuries or illnesses within a particular community or geographical area:</b> <ul style="list-style-type: none"> <li>through use of commodities or services controlled by serious organised criminals (e.g. concentrations of drug-related deaths, or of sexually exploited human trafficking victims)</li> <li>as a consequence of direct involvement in serious organised criminal activity (e.g. drug debt kidnaps or spates of SOC-linked violence)</li> </ul>	<b>Levels and patterns of deaths, injuries, illnesses within UK (broken down as appropriate into England, Scotland, Wales and Northern Ireland):</b> <ul style="list-style-type: none"> <li>through use of commodities or services controlled by serious organised criminals (e.g. total annual drug-related deaths)</li> <li>as a consequence of direct involvement in serious organised crime (e.g. drug debt kidnaps or spates of SOC-linked violence)</li> </ul>
<b>SOCIAL</b>	<b>Damage to individuals through their criminal and other undesirable behaviours, and the effects on others:</b> <ul style="list-style-type: none"> <li>behaviour of those involved in serious organised crime or using its commodities or services (e.g. propensity to violence, prolific offending resulting from drug addiction, spiralling criminal behaviour)</li> <li>negative influences on others (e.g. young people drawn to criminal lifestyles by easy money and power)</li> <li>effects on victims of serious criminal activity (e.g. distress/inconvenience caused to a victim of identity fraud)</li> </ul>	<b>Damage to sense of 'well-being' in a particular geographical area, or within or between ethnic or other identifiable social groups:</b> <ul style="list-style-type: none"> <li>as a result of serious organised criminal activity (e.g. low levels of confidence in local law enforcement and wider criminal justice system)</li> <li>as a result of the availability of its commodities or services (e.g. high rates of acquisitive crime near drug markets leading to increased fear of crime and community tension)</li> </ul>	<b>Damage to UK society, undermining social responsibility, belief in the rights of others, respect for the law:</b> <ul style="list-style-type: none"> <li>as a consequence of serious organised criminal activity, or the availability of its commodities or services (e.g. 'low -level' criminal/non-compliant behaviours, such as 'recreational' drug use or personal tax evasion; unwillingness to support the criminal justice system, for example to act as witness to a crime or to perform jury service)</li> </ul>

	INDIVIDUAL/LOCAL	COMMUNITY/REGION	UK/INTERNATIONAL
<b>ENVIRONMENTAL</b>	<b>Degeneration of a locality (inc. a single property):</b> <ul style="list-style-type: none"> <li>as a result of serious organised criminal activities (e.g. physical damage to a dwelling or other premises used to manufacture or sell drugs, or through its use for prostitution linked to human trafficking)</li> <li>or of the actions of those using its commodities or services (e.g. discarded drug paraphernalia)</li> </ul>	<b>Damage to an area (e.g. an estate, neighbourhood, town):</b> <ul style="list-style-type: none"> <li>as a result of serious organised criminal activity, including any hidden health and safety hazards (e.g. unsafe disposal of chemical waste from drug production)</li> <li>from those using its commodities or services (e.g. the creation of deprived/'abandoned' areas through the concentration of drug users or illegal immigrants, leading to further degeneration)</li> </ul>	<b>Damage to the UK as a whole, or to large areas, or to other countries:</b> <ul style="list-style-type: none"> <li>as a result of serious organised criminal activity, or the availability of its commodities or services (e.g. demand in UK for class A drugs causing deforestation in South America)</li> </ul>
<b>ECONOMIC</b>	<b>Costs to/economic impacts on individuals or families</b> <ul style="list-style-type: none"> <li>using serious organised crime commodities or services (e.g. loss of current employment and long-term employability through drug addiction)</li> <li>costs to victims and the wider public (e.g. from thefts, costs of private security, higher insurance premia and other costs passed on to consumers)</li> </ul>	<b>Costs to/economic impacts of serious organised criminal activities on businesses, services and communities in a particular town, city or region:</b> <ul style="list-style-type: none"> <li>on legitimate businesses (e.g. losses as a result of fraud or robbery, or loss of trade or failed businesses as a result of illegitimate competition)</li> <li>to local public and social services (e.g. costs of health services for criminals and victims)</li> <li>to local communities (e.g. through overall downturn in trade or lost opportunities for inward investment)</li> </ul>	<b>Costs to /economic impacts on the UK of serious organised criminal activities and trades:</b> <ul style="list-style-type: none"> <li>direct (e.g. consequences of illegal working on the availability of jobs and competitiveness of UK industry; loss of direct and indirect tax and duty revenue from smuggling of goods and from fraud)</li> <li>indirect (e.g. public expenditure required to combat serious organised crime through law enforcement and through regulation and controls)</li> </ul>



## Appendix Four:

### List of bodies consulted in preparing this report

Assets Recovery Agency  
Association of Chartered Certified Accountants  
Audit Commission  
Barclays Bank plc  
Confederation of British Industry (NI)  
Central Finance Group DFP  
Central Procurement Directorate DFP  
Chartered Institute of Management Accountants  
CIFAS  
City of London Police  
Council of Mortgage Lenders  
Criminal Justice Inspection Northern Ireland  
DARD  
DCAL  
DEL  
DE  
DETI  
DHSSPS  
DOE  
DRD  
DSD  
DVTA and DVLNI  
NIEA  
Federation of Small Businesses (NI)  
Financial Services Authority  
General Registrar's Office DFP  
HMRC  
HSENI  
Institute of Chartered Accountants in Ireland  
Inter-Departmental Group on Organised Crime  
Law Society of Northern Ireland  
NI Bankers' Association  
NI Chamber of Commerce and Industry  
NI Construction Employers Federation  
NI Court Service  
NI Housing Executive  
NI Information Commissioner  
NI Legal Services Commission  
NIO

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OFMDFM  
Organised Crime Task Force Strategy Group  
Planning Service (DOE)  
PSNI Analysis Centre  
PSNI Economic Crime Bureau  
Public Prosecution Service  
Serious Organised Crime Agency  
Trading Standards Service (DETI)

## Appendix Five:

### List of abbreviations

ACPO	Association of Chief Police Officers
ARA	Assets Recovery Agency
BACS	Banks Automated Clearing System
C&AG	Comptroller and Auditor General for Northern Ireland
CDs	Compact disks
CAB	Irish Criminal Assets Bureau
CCM	Construction contract monitor
CJINI	Criminal Justice Inspection NI
CPD	Central Procurement Directorate
CRJ	Community Restorative Justice
DARD	Department for Agriculture and Rural Development
DCAL	Department of Culture, Arts and Leisure
DE	Department of Education
DEL	Department of Employment and Learning
DETI	Department for Enterprise, Trade and Investment
DFP	Department of Finance and Personnel
DHSSPS	Department of Health, Social Services and Public Safety
DoE	Department of the Environment
DRD	Department for Regional Development
DSD	Department for Social Development
DVDs	Digital Versatile Disks
DWP	Department for Work and Pensions
EU	European Union
FSA	Financial Services Authority
GLA	Gangmasters Licensing Agency
HSENI	Health and Safety Executive for Northern Ireland
HMRC	HM Revenue and Customs
ID	Identity
IDGOC	Inter-Departmental Group on Organised Crime
IMC	Independent Monitoring Commission
IPC	Intellectual property crime/counterfeiting
IT	Information Technology
LPG	Liquefied Petroleum Gas
MLRO	Money Laundering Reporting Officer
NAO	National Audit Office
NFI	National Fraud Initiative
NIAC	House of Commons Northern Ireland Affairs Committee
NIAO	Northern Ireland Audit Office
NICS	Northern Ireland Civil Service

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NIEA	Northern Ireland Environment Agency
NIHE	Northern Ireland Housing Executive
NIO	Northern Ireland Office
OCTF	Organised Crime Task Force
OECD	Organisation for Economic Co-operation and Development
OFMDFM	Office of the First and Deputy First Minister
PPSNI	Public Prosecution Service NI
PSNI	Police Service of Northern Ireland
SAR	Suspicious Activity Report
SOCA	Serious Organised Crime Agency
SSA	Social Security Agency
TSS	Trading Standards Service
UKBA	UK Border Agency
VAT	Value Added Tax
WHO	World Health Organisation

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Title	HC/NIA No.	Date Published
Absenteeism in Northern Ireland Councils 2007-08	–	9 January 2009
Obesity and Type 2 Diabetes in Northern Ireland	NIA 73/08-09	14 January 2009
Public Service Agreements – Measuring Performance	NIA 79/08-09	11 February 2009
Review of Assistance to Valence Technology: A Case Study on Inward Investment	NIA 86/08-09	25 February 2009
The Control of Bovine Tuberculosis in Northern Ireland	NIA 92/08-09	18 March 2009
Review of Financial Management in the Further Education Sector in Northern Ireland from 1998 to 2007/ Governance Examination of Fermanagh College of Further and Higher Education	NIA 98/08-09	25 March 2009
The Investigation of Suspected Contractor Fraud	NIA103/08-09	29 April 2009
The Management of Social Housing Rent Collection and Arrears	NIA 104/08-09	6 May 2009
Review of New Deal 25+	NIA111/08-09	13 May 2009
Financial Auditing and Reporting 2007-08	NIA 115/08-09	20 May 2009
General Report on the Health and Social Care Sector in Northern Ireland 2008	NIA 132/08-09	10 June 2009
The Administration and Management of the Disability Living Allowance Reconsideration and Appeals Process	NIA 116/08-09	17 June 2009
The Pre-School Education Expansion Programme	NIA 133/08-09	19 June 2009
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A Review of the Gateway Process/The Management of Personal Injury Claims	NIA 175/08-09	8 July 2009
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