# REPORT ON THE OPERATION IN 2008 OF THE TERRORISM ACT 2000 and of PART 1 OF THE TERRORISM ACT 2006

BY

LORD CARLILE OF BERRIEW Q.C.

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# INTRODUCTION

1. This is my review as independent reviewer of terrorism legislation of the operation in 2008 of the *Terrorism Act 2000* and of *Part 1* of the *Terrorism Act* 2006.

2. I write this report seven years after my original appointment as Independent Reviewer of the *Terrorism Act 2000 [TA2000]*. My reports can be found most easily online, via www.homeoffice.gov.uk and following the 'security' links.

3. For consistency and ease of reference, this report follows a similar sequence to those I have written previously on this subject. However, the presentation of statistics has changed. The production of this report was delayed by my awaiting updated statistics on counter-terrorism legislation covering the period 2001 to date. Through what I must say has been the persistence of Home Office officials, reliable national statistics have become available on quarterly basis. Annex C is the entirety of the first such bulletin, to the 31st March 2008. As this new form of bulletin is issued, it will be possible for the reviewer in future to present more reliable and recent statistics than before.

4. In 2001, I was appointed also as the reviewer of the detention legislation contained in the *Anti-Terrorism Crime and Security Act 2001*[*ATCSA2001*]. That was repealed and replaced by the Control Orders system provided by the *Prevention of Terrorism Act 2005*: I review those provisions too. My report on the fourth period of operation of that Act was published in February 2009[1].

5. Until 2007 I prepared separate reports on the provisions of *Part VII* of *TA2000*. That part applied to Northern Ireland only. It was replaced by continuance (subject to some repeal) in the *Terrorism (Northern Ireland) Act 2006* [TNIA2006]. Its continuance was time limited to the 31st July 2007 plus a possible one year extension. The *Justice and Security (Northern Ireland) Act 2007 [JaSNIA2007]* now in effect has replaced TA2000 Part VII altogether, subject to some transitional provisions: the replacement consists of public order (as opposed to counter-terrorism) legislation.

6. The remaining parts of the *TA2000* apply to Northern Ireland, as to the other parts of the United Kingdom.

7. A new reviewing mechanism, entirely domestic to Northern Ireland, replaces my role in relation to *Part VII*, with a different reviewer with responsibilities entirely particular to Northern Ireland. That reviewer is Robert Whalley C.B. I have discussed the Northern Ireland situation in some detail with Mr Whalley, and for convenience and better understanding we have conducted some joint meetings. I have also conducted some joint meetings with John Vine QPM, who is now the Chief Inspector of the UK Borders Agency [UKBA].

1 www.homeoffice.gov.uk and follow 'security' links

8. My last separate report on the operation of *Part VII* was in January 2006. It should be noted that the statistical material in the Annexes to this report now excludes Northern Ireland unless specifically stated in the Tables,

9. This is my seventh report on the working of the TA2000 as a whole. I am the first Independent Reviewer of the *TA2000* in its full range of applicability. I have been reappointed as independent reviewer until late 2010, when I shall be replaced. My predecessors' reports were principally upon the operation of the *Prevention of Terrorism (Temporary Provisions) Act 1989*. That Act, and the *Northern Ireland (Emergency Provisions) Act 1996* ceased to have effect when the *TA2000* came into force on the 19th February 2001.

10. *TA2000* was the subject of significant amendment by *ATCSA2001*. For example, *sections 24-31* were repealed from the 20th December 2001, and form no part of this review[2]. A consequence of the repeal of parts of the *TA2000* without substituting new sections into the same Act is that those parts are no longer subject to this form of review, whereas new sections inserted into the *TA2000* are. *The Prevention of Terrorism Act 2005* and the *Terrorism Act 2006*[3] *[TA2006]* add further elements. The *Counter-Terrorism Act 2008 [CTA2008]* has been passed recently, though without the controversial 42 day post-arrest extended detention provisions discussed in some detail in my report a year ago.

11. The website www.statutelaw.gov is a readily available and well-used resource for viewing legislation in its current state. Updating to include recent amendments is not immediate, but is becoming speedier. At the time of writing it was not completely up to date, and therefore must be used carefully. It is intended to provide a complete free online library of all UK primary and secondary legislation. There are commercial legal online libraries providing a faster updating service.

12. My reviewing tasks continue to demand a high proportion of my professional life. I do not have a fixed number of days for the work involved, but it occupies more than half of my working time.

13. I make myself available to Ministers, officials, the political parties throughout the UK, pressure groups and other outside bodies, the media and of course members of the public (on reasonable requirements), and give many lectures and speeches on the subject of terrorism. Generally the political parties have been ready to engage in discussion with me, it is to be hoped for the better performance of my task as well as to assist a more accurate approach to political debate. The level of engagement was greater in 2008 (especially the later part of the year) than in 2007.

14. When opposition (from any quarter, not just the political Parties) is voiced to proposals for changes in counter-terrorism law, it would be useful from time to time to see worked-up alternatives. This remains a rarity.

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

[3] Royal Assent 30th March 2006

15. I consider it important that the review of counter-terrorism legislation should be the subject of public knowledge and debate. I encourage government to make available to the public as much information as possible on terrorism and how it is countered, subject to the constraints of national security and necessary operational policing. A continuous narrative is needed from government as to the nature of current terrorist threats and how the authorities are progressing against those threats. Good counter-terrorism law is law understood by the public, as to rationale and means. The expanded statistics in Annex C to this report will contribute to that understanding.

16. I have been both supported in and criticised for my view that national security is a civil liberty of every citizen. I hold to it. The government for the time being has the duty to take steps proportional to our democratic system to keep citizens safe from unlawful violence, whether politically or, in the more ordinary sense, criminally motivated. Reciprocally, all citizens have a clear duty to assist their government in ensuring the security of themselves and their fellow citizens. The importance of reporting responsibly felt concerns and suspicions about terrorism is high. Members of the public of all ethnicities generally take this seriously. Nobody should feel reluctant about reporting a genuinely held concern. They will not be criticised: confidentiality will be respected. The terrorism hotline telephone number is 0800 789 321, and should be known widely.

17. My observations in relation to *TA2000* in 2008 and throughout the past seven years have confirmed the shift of emphasis towards international terrorism, as the process of normalisation in Northern Ireland has become more evident. There remains justification for continual vigilance in Northern Ireland, despite the progress of recent years. The political parties in Northern Ireland have profound philosophical and real policy differences, greater and of a higher intensity than those to be found between the main political parties in Great Britain. We owe political leaders and their supporters a debt of praise for the peace and progress there. Nonetheless, in 2008 I saw for myself, and was fully briefed in relation to, clear evidence that small, dissident, active and dangerous paramilitary groups do not accept the political settlement achieved there, to the extent of being set upon Murder and disruption. In early 2009 Murders of soldiers and a police officer showed that evidence to be all too grimly well-founded. However, my periodic contacts with the political parties and others in Northern Ireland leave me optimistic about the future of political and legal institutions there. The willingness of all political parties to be involved in political responsibility for the police service has been a real and important step in the normalisation process. There is no appetite for sectarian confrontation, save among a dangerous few.

18. Apart from that, the material I have seen and briefings received, together with the large volume of publicly available material, leave me pessimistic, as I was a year ago, about the future of international terrorism as promulgated by violent Islamist jihad. As the Director General of the Security Service has made clear, complacency founded upon the recent absence of fatal terrorist attacks would be misplaced and unwise. Terrorist conspiracies have been disrupted. The police and other control authorities have made numerous arrests. More trials are pending, and in those that have occurred many convictions for extremely

serious offences have been recorded. The prosecution have not always secured convictions of all offences charged, but there is no empirical evidence that juries are less satisfied by the evidence in terrorism trials than in other cases tried by jury.

19. There appears to be increasing evidence of terrorism being planned on a wider international front than before. Somalia and Sri Lanka are examples of countries in relation to which UK resident participants may be preparing acts of terrorism.

20. The police and security services are busy and have great demands placed upon them. This can never excuse lowering their standards. Allegations of complicity in activity by foreign intelligence personnel are being investigated, such activity being allegedly incompatible with the European Convention on Human Rights. I welcome the involvement of the Parliamentary Intelligence and Security Committee, which undoubtedly will perform a thorough scrutiny. In so far as any Inquiries use up the time and resources of the services concerned, they should not be allowed to diminish the funding or energy needed for ongoing counter-terrorism threats. Events late in 2008 in Mumbai, and early in 2009, involving attacks respectively on the iconic targets of a famous hotel and a national cricket team, were by the all too available method of shooting with automatic weapons. This is a worrying development in the deployment and *modus operandi* of suicide terrorists.

21. Defendants in UK terrorism trials continue to show a willingness to plead guilty in the face of a solid prosecution case and a realistic approach to pleas by prosecutors and judges. Plea agreements, and the obtaining from defendants of information useful in preventing and detecting terrorism, should be encouraged – in some cases by substantial discounts from sentences that otherwise would be served. The prevention and detection of terrorism offences are more important than the length of prison sentences, though it is right that terrorists should expect very long sentences especially if they have denied what has been proved against them.

22. Once again there has been an increased level of disruption and penetration of terrorism plots by the police and other control authorities. The growth of the Security Service is one reason for this improvement. Another reason is the impressive quality and organisation of the British Transport Police, who police the rail network including the intensely busy London Underground system.

23. I am grateful for the very considerable and patient help received from officials in the Home Office, the Northern Ireland Office, and elsewhere in government, as well as from my many consultees and correspondents from outside government. I am conscious that there are many people and organisations with much to offer my review. I attempted during 2008 to broaden as well as consolidate my range of such contacts, and to learn as much as possible from the experience and opinions of others.

24. I was provided during 2008 with all the resources I needed to complete this and my other reports. I note that Parliamentary written questions were asked about the days I have spent on my reviews and the fees earned (and one request to that effect was made by a national newspaper under the *Freedom of Information Act 2000*). These are matters of public record, and I am happy to answer any reasonable questions direct. My current daily fee received is £900, plus out of pocket expenses. The Home Office supplies me with some administrative facilities, with some office support, and with research support as needed.

25. I operate as independent reviewer from a private office in Central London. I am not part of the Home Office. I do have a secure room in the main Home Office building: I use this for the safe storage of documentary material that I am unable to take elsewhere, and for some meetings. I reject criticism made of this entirely practical arrangement, in part of the debates in the House of Lords Committee stage of the recent *Counter-Terrorism Bill*. It is consistent with the arrangements made, for example, in relation to the functions of the Intelligence Services Commissioner and the Interception of Communications Commissioner.

26. My purpose, and the requirement of this report, is to assist the Government and Parliament in relation to the operation of *TA2000 and TA2006 Part 1*. My terms of reference may be found in the letters of appointment to my predecessors and myself. They are to be found too in the Official Report of the House of Lords debate of the 8th March 1984, which shows clearly what Parliament intended when the post of reviewer was first established: the Reviewer should make detailed enquiries of people who use the Act, or are affected by it, and the Reviewer may see sensitive material. All this I have attempted to do to the extent necessary for the proper fulfilment of my function.

27. The statutory foundation for this report used to be found in *section 126* of *TA2000*. This has been replaced by *TA2006 section 36. Section 36(1)* simply provides:

> *"The Secretary of State must appoint a person to review the operation of the provisions of the Terrorism Act 2000 and Part 1 of this Act".*

28. It is outside my terms of reference to advise as to whether such legislation is required at all. Nevertheless I take it as part of my role to make recommendations, if it be my view that a particular section or part of the Act is otiose, redundant, unnecessary or counter-productive. I have been told that this is considered useful. Some repeals have occurred in consequence.

29. Once again this year I have received almost complete co-operation from all whom I have approached. There are still many, especially in the Muslim communities, whose interest in the subject I have yet to identify. However, there has been a significant increase in the number of informal contacts and suggestions I receive from members of the public, especially in connection with stop and search provisions. Such contacts can be of real value, and I welcome them all.

30. The worldwide academic community has been generous in its advice to me during the past year: this has included many contributions from the United States, Canada, Australia and New Zealand. My knowledge of the subject has been increased by attendance at numerous seminars and workshops, and I have been a speaker at some. There are so many such events that, unfortunately, I am unable to attend them all.

31. I do not offer any kind of appeal procedure for individual cases. However, I do read some documents referring to individual cases. Where appropriate I ask questions about them and can offer advice and comments. I am particularly anxious to obtain the assistance of more members of the public who have had some contact or involvement with the *TA2000* and *TA2006*, whether as observers, witnesses, persons made subject to powers given under the Act or as terrorist suspects. It is not always as easy as one would wish to make contact with those who have had these real-life experiences. In the past year numerous members of the public have complained to me about their experiences of being searched under *section 44*. Where appropriate, these have been referred to the appropriate authority for formal investigation or comment. I made a point in 2008 of witnessing some of the procedures, and spoke informally to members of the public following intervention by the authorities. Immediate reactions of that kind are revealing if unsystematic, and broadly favourable to the authorities.

32. I regret very much that lawyers who are instructed by persons arrested under the provisions rarely formally provide me with material even when they feel driven to make public comments. However, informally I have received sufficient comment from interested lawyers to inform my process. More feedback connected with terrorism trials would be welcome. I cannot realistically intervene in individual cases without statutory authority so to do, or a direct request.

33. Anyone wishing to provide me with information is very welcome to do so by writing to me at the House of Lords, London SW1A 0PW or sending me information via the Internet on carlilea@parliament.uk.

34. I travel from time to time seeking the views of as wide a range as possible of people, offices and departments having anything to do with *TA2000*. I have found it valuable to make some comparisons with foreign jurisdictions.

35. As in previous years, my activities have included visits to port units and other establishments listed in Annex B. I find it extremely valuable to watch and speak to police officers, UKBA officers and others as they do the real everyday work of policing those who enter and leave the UK, or who import and export freight.

36. The people I have seen or with whom I have had some other contact include those listed in Annex A; for reasons of requested or implicit confidentiality I have excluded some names from that list.

37. In preparing this report I have taken it once again as a basic tenet, not open to question as part of this review process, that specific anti-terrorism

legislation is necessary as an adjunct to and strengthening of the ordinary criminal law.

38. Now that the *Counter Terrorism Act 2008* is in force, I hope very much that a Consolidation Bill will be introduced, with the intention that all counter-terrorism legislation can be included in a single Act of Parliament. This would be of value to all whose work touches on terrorism.

39. I seek out and receive such briefings as are needed from time to time to ensure that I have an appropriate state of knowledge. I remain of the clear opinion that there are active and present threats to the security of the nation as a result of terrorist activity. The December 2008 Gaza War certainly has not diminished the events-led danger of radicalisation of young British people to violent Islamism. The December 2008 attacks in Mumbai demonstrated that suicide terrorists are prepared to use conventional firearms in crowded public places as a form of murderous attack: the easier availability of such weapons compared with improvised explosive devices, and their almost unerring lethal effect, are matters of real concern. The attack on the Sri Lanka cricket team confirmed this. The risk of a terrorist attack on places of public congregation remains real. There is no justification for complacency. The ways of perpetrating terrorist acts continue to be subtle, varying and difficult to anticipate and detect, and thereby present a greater challenge for the authorities than ever before. Asymmetrical warfare is threatened on as large a scale as the resources of terrorists permit.

40. The Glasgow/Haymarket bombing trial[4] provided evidence that some terrorists are highly educated and technically or scientifically qualified. Such terrorists, who by their nature are less likely to have come to the attention of the authorities, represent an especially dangerous threat to national security and the well-being of the public at large.

41. In so far as I have judged it necessary, I have seen and examined closed material relevant to the operation of the *TA2000*. I have not been refused access to any information requested by me. I have been briefed as fully as has been necessary, in my judgment. I receive briefings from the Security Service and the police. I have taken all that material into account on what I hope is a proportional basis, in preparing this report.

42. As in previous reports I highlight issues related to *TA2000 section 44*, which is used a great deal, especially in the Metropolitan Police area and by the British Transport Police. If there is a single issue that can be identified as giving rise to most assertions of excessive and disproportionate police action, it is the use of *section 44*. As I have reported repeatedly, difficult problems arise in connection with the utilisation of *section 44* by police around the country. There is inconsistency of approach among chief officers as to why, and if so when, *section 44* should be available. The section, which permits stopping and searching for terrorism material without suspicion, rightly is perceived as a significant intrusion into personal liberties.

[4] *R v Abdulla* 16 December 2008; widely reported, e.g. at www.timesonline.co.uk/tol/news/uk/crime/article5352199.ece

43. During 2008 there has been significant progress in re-examining the use of the *section 44* powers. New guidance has become available and shortly will be revised further with the intention of improving and refining the use of the section. It is still deployed far too much in England and Wales (all comments below about *section 44* relate to Great Britain, not to Northern Ireland). It should not be applied where there is an acceptable alternative under other powers. I echo as loudly as possible the words I heard at a meeting from one chief constable, that *section 44* is *"an exceptional power … not a rolling power to be renewed every 28 days"*.

44. Before each *section 44* geographical authorisation is made the chief officer concerned should ask him/herself very carefully if it is really necessary. I recommend that each chief officer personally should review at least annually the ambit and utility of *section 44* use in his/her police force area during the previous year. The geographical area covered by each authorisation should be as limited as possible. No chief officer can expect approval of a rolling 28 day authorisation for the whole of their police force area, save in exceptional circumstances.

45. It is fully recognised as important that police officers on the ground (in sometimes challenging situations) must have a fuller understanding of the differences between the various stop and search powers open to them. The aim should be that in all circumstances they stop and search in appropriate circumstances only, and that they use the powers most fit for purpose.

# 1 PART I OF THE ACT: DEFINITION OF TERRORISM

46. In 2006, I conducted a separate review of the definition of terrorism[5]. Consistent with that, *Section 75* of the *Counter-Terrorism Act 2008* has amended the definition of terrorism in *TA2000 section 1* to include reference to acts done for the purpose of advancing a racial cause. This amendment is a justifiable addition to the law, in our diverse society.

47. The *TA 2006 section 5* provided a new offence of preparation of terrorist acts. This offence is, in perceptual terms, a more acceptable way of dealing with some terrorists than *control orders*[6]. This may account in small part for the relatively small number of control orders, 15 at the end of 2008. All are agreed that it is better that state sanctions should follow conviction of crime, rather than being the result of administrative decisions.

[5] www.homeoffice.gov.uk/documents/carlile-terrorism-definition

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

## 2 PART II OF THE ACT: PROSCRIBED ORGANISATIONS AND THE PROSCRIBED ORGANISATIONS APPEAL COMMISSION [POAC].

48. The current list of organisations proscribed under *Schedule 2* of the Act at the end of 2008 is at Annex E. They comprise –

- 45 international terrorist organisations
- 14 organisations in Northern Ireland, proscribed under previous legislation.
- 2 organisations proscribed under powers introduced in the *Terrorism Act 2006* for glorifying terrorism (included in the 45 above)

The 45 international organisations proscribed (plus the MeK – see paragraph 53 onwards below) were placed in the list in the following order:

- 21 in March 2001
- 4 in October 2002
- 15 in October 2005
- 4 in July 2006
- 2 in July 2007

49. There were two amendments to the scheduled list in 2008. The Mujaheddin e Khalq [MEK] were removed[7] following decisions of the Proscribed Organisations Appeal Commission [POAC] and the Court of Appeal (see below). The name *"The Military Wing of Hizballah"* was substituted for a previous name[8] of the same organisation.

50. Proscription is a common measure around the world, seen as to some extent valuable by all comparable jurisdictions. The objectives of proscription are:

- To deter international terrorist organisations from coming to the UK in the first place, and to disrupt the ability of any terrorist organisations to operate here;
- To support foreign governments in disrupting terrorist activity and send out a strong signal across the world that we reject such organisations and their claims to legitimacy.

51. The value is limited. Proscription provides little in terms of protection of the public from terrorists. However, it does inform the public, and especially sympathisers with organisations, as to what is banned and therefore should not be joined. In enforcement terms, prosecution for membership of a proscribed organisation is a useful way of dealing with lower level activity, and early signs of involvement in terrorism. However, terrorist organisations generally do not provide membership cards or sigils of membership, and thus it can be difficult to prove.

[7] SI2008/1645, art1
[8] SI2008/1931, art1

52. I believe that there is general public acceptance that the proscription of organisations prepared to use or encourage terrorism is proportionate and necessary.

53. A working group has long existed within the government service, where relevant officials have met and scrutinised proscriptions. The process of scrutiny has been enhanced during recent months, and I have been kept aware of its progress. The Northern Ireland Office is in the process of examining the proscriptions of Ireland-related organisations. The Home Office currently is intensifying the process of scrutiny of international organisations. The aim, which I support, is that organisations which no longer have a real existence or scarcely so should be removed from the list, in the absence of evidence of revived actual or intended activity. The re-examination of the list is part of the learning derived from the deproscription of the MeK.

54. A programme of analytical work is being undertaken in government in relation to the impact of proscription and its future value. I welcome this analysis.

55. All proscriptions are reviewed at least every 12 months in the light of intelligence and other information, all of which is quality assessed. The Foreign and Commonwealth Office is involved in the process. Ministers are conscious of the human rights implications of rendering unlawful membership of political organisations whose targets are well outside the UK. The prospect of further proscriptions continues, though subject to the Parliamentary affirmative resolution procedure.

56. It is important that the scrutiny of proscribed organisations should be such as to enable organisations to be removed from the list particularly if they genuinely and permanently eschew violence as part of their policy.

57. The Iran opposition group the MeK did challenge its proscription before POAC. The papers were extensive and the issues complex both factually and in terms of law. The Commission, chaired by Sir Harry Ognall, was expeditious in its case management and procedure. Judgment was handed down on the 30th November 2007. The MeK were successful in securing an Order requiring the Secretary of State to deproscribe the organisation[9], effectively on the grounds that the organisation had desisted from terrorism in about 2001 and become a political and campaigning body, a kind of purported government of Iran in exile. The Secretary of State was unsuccessful in an appeal against the decision of POAC[10]. In that case the Court of Appeal said:

> *".. an organisation that has no capacity to carry on terrorist activities and is taking no steps to acquire such capacity or otherwise to promote or encourage terrorist activities cannot be said to be 'concerned in terrorism' just because its leaders have the contingent intention to resort to terrorism in the future'.*[11]

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9 http://www.siac.tribunals.gov.uk/poac/outcomes.htm

10 *Secretary of State for the Home Department v Lord Alton of Liverpool & ors* [2008] EWCA Civ 443

11 Ibid per Lord Phillips of Worth Matravers CJ at para 37

58. As I said in my previous report, and consider worth repeating, the MeK case shows the POAC system of law to be sound. Paragraph 57 of the revised open judgment is critical of the Secretary of State's refusal to deproscribe, and certainly provides robust guidance for the future. Special advocates were used to good effect during the hearing. Other organisations wishing to be deproscribed should be mindful of the POAC system. By clearly and genuinely removing itself from any terrorism purpose, over a significant period and with unlimited future intent, deproscription can be achieved even by a formerly terrorist group.

59. Of some concern is the slow recognition by international institutions of changes in such organisations. There were delays and difficulties in the removal by the European Union of the MeK from its list of terrorist organisations, despite the origin of the EU proscription in the UK legislation.

60. I received complaints during 2008 about the alleged ease with which charitable funds may be channelled to international terrorist organisations. There is a particular difficulty about funding said to be reaching Hamas, and asserted (and found in the USA) to be used for terrorist purposes. Amnesty International has reported extensively and with concern on some alleged activities of Hamas. Allegations have been made about the charity Interpal, and the associated Union for Good. The Charity Commission has carried out an investigation into Interpal. The Charity Commission concluded that the material looked at was of insufficient evidential value to support the allegations of terrorist support but the inquiry did conclude that the charity fell short in a number of areas and directed it to discontinue its relationship with the Union for Good. It is important that such allegations should be investigated fully, not only by the Charity Commission, but also by the police when appropriate. British contributors wishing to support charitable Palestinian causes are entitled to have confidence that their money is not being channelled in the direction of violence. Were there clear evidence (necessarily provided by complainants and possibly by NGOs) of terrorism financing through charitable funding, proscription of the offending organisations would be one of the sanctions to be considered.

61. It is fair to observe that the task of the security services in keeping up with changes in terrorist organisational structures (in so far as any formal structures exist) is extremely difficult. The Joint Terrorism Analysis Centre (JTAC), a multi-agency approach to information and evidence, appears to offer a good resource in the context of developing understanding of terrorist organisations. Taken as part of the *Contest Strategy* pursued by the control authorities under central government direction, JTAC's work contributes significantly towards effective public protection. Certainly JTAC's clients, for example the police, find their analysis very valuable.

62. The grounds of proscription were amended by *TA2006 section 21*. 'Glorification' of terrorism was added as a basis for proscription.

63. *Section 22* has the sensible effect of preventing a group of people evading proscription by simply changing the name of their group. There have

been consequential changes to secondary legislation[12], mainly to incorporate the procedural results of *section 22*.

64. I urge those who feel that their organisation or affiliations have been treated unfairly in the system to use it, by applying for deproscription. I apprehend that at least one such application will be made in 2009.

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

66. I have concluded that the retention of proscription is a necessary and proportionate response to terrorism.

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

68. POAC was established under *section 5* of the *TA2000*. Procedural provisions are made under *Schedule 3*. Where proscription has taken place, the proscribed organisation or any person affected by the organisation's proscription may apply to the Secretary of State to remove the organisation from the list contained in *Schedule 2*. The Secretary of State must decide within 90 days. Where an application under *section 4* is refused, the applicant may appeal to POAC. By *section 5(3):*

> *"The Commission shall allow an appeal against a refusal to deproscribe an organisation or to provide for a name to cease to be treated as a name for an organisation if it considers that the decision to refuse was flawed when considered in the light of the principles applicable on an application for judicial review."*

69. *Schedule 3 to TA2000* gives the basic requirements for the constitution, administration and procedure of POAC. One of the three members sitting on a POAC hearing must be a current or past holder of high judicial appellate office. The other members are not full-time judges, and are appointed by the Lord Chancellor. The MeK case at POAC was heard by a retired High Court Judge with considerable criminal judicial experience, sitting with two practising Queens Counsel with full judicial qualifications.

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[12] *Proscribed Organisations Appeal Commission (Human Rights Act 1998 Proceedings) Rules 2006* SI 2006/2290; *Proscribed Organisations (Appeals for Deproscription etc) Regulations 2006* SI 2006/2299

70. POAC sits in public in Central London. It is able to hear closed evidence in camera with the applicant and his/her representatives excluded. Where an organisation's appeal to POAC has been refused, a party to that appeal may bring a further appeal to the Court of Appeal (or its Scotland and Northern Ireland counterparts) on a question of law with the permission of POAC or the Court of Appeal. There may also be an appeal on a question of law in connection with proceedings brought before POAC under the *Human Rights Act 1998*, by virtue of *sections 6(1) and 9 of TA2000*. The procedural rules for appeals from POAC to the Court of Appeal[13] require that the Court of Appeal must secure that information is not disclosed contrary to the interests of national security. This enables the Court of Appeal, like POAC, to exclude any party (other than the Secretary of State) and his representative from the proceedings on the appeal[14].

71. Pursuant to *TA2000 Schedule 3 paragraph 7*, special advocates are appointed by the Law Officers of the Crown *"to represent the interests of an organisation or other applicant in [the] proceedings …"*[15]. They are selected for the purposes of this legislation from advocates with special experience of administrative and public law, and criminal law.

72. The role of the special advocates is to represent the interests of an organisation or other applicant, but they are not instructed by or responsible to that organisation or person. Like the members of POAC, the special advocates see all the closed material. They are not permitted to disclose any part of that material to those whose interests they represent.

73. Thus they may face the difficult task of being asked by or on behalf of those whose interests they are instructed to serve to present facts or versions of events in relation to which there is the strongest contradictory evidence, but evidence which they are not permitted to reveal in any form. Those whose interests they represent can and in practice do have their own lawyers too, but those lawyers are excluded from closed evidence and closed sessions of POAC. A dedicated team and office assists the special advocates, and they are given considerable informed help. For example, in each case the Security Service has lawyers and other staff (with operational experience) who can and do act as a resource for the special advocates. The former shortage of fully vetted lawyers in the government service has been addressed, and I received no complaints in this connection during 2008.

74. The quality of those instructed as special advocates continues to be very high. I have received no criticism of them, and considerable praise. It is a mark of their quality that former special advocates include some who have subsequently achieved high judicial office.

75. *Sections 11-13 of the TA2000* provide for offences in relation to membership (*section 11*), support (*section 12*) and uniform (*section 13*) in

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13 *The Court of Appeal (Appeals from Proscribed Organisations Appeal Commission) Rules 2002* and subsequent SIs amending the procedural rules

14 See rule 4

15 Paragraph 7(1)

connection with proscribed organisations. In the previous six years I have expressed concerns about the breadth of these offences.

76. The statistics at Table 3a of Annex C to this report continue to show a restrained use of the discretion to prosecute. There were 3 charges of this group of offences in 2007-8, fewer than in the previous year.

77. Such problems as I have encountered with these provisions relate not to the existence of the offences, but rather to whether certain organisations are correctly proscribed. As stated above, the appropriate response to that objection is to apply for deproscription.

# 3 PART III OF THE ACT: TERRORIST PROPERTY

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

79. The offences provided under *sections 14 to 19* impose considerable responsibilities on members of the public. They include the offence of providing money or other property in the knowledge, or having reasonable cause to suspect, that it will or may be used for the purposes of terrorism.

80. The effect of *section 15* is that a person raising money for any cause, charitable or otherwise, who *"has reasonable cause to suspect that it may be used for the purposes of terrorism",* is guilty of an offence. The threshold is deliberately low, given the use of *'suspect'* and *'may'* in the description of the offence, and given the effect of fund-raising as a necessary precursor to terrorism. By *section 15(3)* the same low threshold is applied to the donor of such funds.

81. Money laundering with a terrorism connection is very broadly defined in *Section 18*. If charged, the statutory defence made available under *Section 18(2)* places a reverse burden upon the accused to show *"that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property"*. The maximum sentence on indictment for a money laundering offence is 14 years' imprisonment.

82. *Section 19,* to be read with *section 21A* which applies to the 'regulated sector' as defined in *Schedule 3A*, imposes the positive duty on a citizen to disclose to the police a suspicion of an offence connected with terrorism funds, if the suspicion comes to his/her attention in the course of a trade, profession, business or employment. This is a wide and still under-publicised duty, to which the only major statutory exception is genuine legal professional privilege. There is also a defence of reasonable excuse. It was amended for reasons of clarification in the *CTA2008*. Also relevant are broader money-laundering and disclosure requirements, for example the *Proceeds of Crime Act 2002 sections 327-329*[16]

83. As shown in Table 7(a) to Annex C below, there were 3 convictions of funding offences in the year to 31st March 2008. There are some charges pending, and statistics to appear during 2009 are likely to demonstrate a high degree of vigilance by the authorities against the possession, potential transfer and use of terrorist funds. This is a particular focus for inquiries.

84. *Section 20 and section 21B* provide essential whistle-blower protection to any person making such a disclosure. Like all material provisions in *TA2000*, this section has been amended to take into account the role of the Serious Organised Crime Agency established in 2005.

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[16] A very useful summary of these provisions can be found in *Millington and Williams: The Proceeds of Crime [2nd Edition] OUP 2007, Chapter 26*

85. *Section 21ZA* was inserted from the 26th December 2007[17]. This permits persons to carry out what would otherwise be unlawful acts, if they have the consent of an authorised officer. This enables the easier detection of offences, with the assistance of participating informants. New *section 21ZB* protects disclosures made after entering into such arrangements. New *section 21ZC* provides a defence of reasonable excuse for failure to disclose on a reverse onus provision: the person charged must prove on the balance of probabilities their intention to make a disclosure, together with a reasonable excuse for failure to do so.

86. So far there have been no trials in which these very new sections have been tested.

87. *ATCSA2001* inserted new *sections 21A and 21B* into the *TA2000*. These have been in force since the 20th December 2001, and were amended by regulation in 2007[18]. They deal with the regulated sector, as defined in new *Schedule 3A*. These provisions have led to a terrorism based focus on compliance in financial sector firms. Generally issues of money-laundering and similar type information are being taken extremely seriously, and the aims of the various items of legislation in this broad context are recognised and effective.

88. The December 2007 amendments were made to take account of *Chapter 3* of the *Directive 2005/60/EC* of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (*The Third EU Money Laundering Directive*).

89. *Article 28.1* of the Directive prohibits the persons covered by the Directive from disclosing to the customer concerned or to other third persons the fact that information about known or suspected money laundering or terrorist financing has been transmitted in accordance with *Articles 22 and 23* or that a money laundering or terrorist financing investigation is being, or may be, carried out. The remainder of *Article 28* provides a number of exceptions. The 2007 regulations amended *TA2000* to give effect to *Article 28*. New *section 21D* contains a new offence of tipping off and new *sections 21E to 21G* set out the exceptions from *Article 28.*

90. *Article 21* of the Directive requires Member States to establish a Financial Intelligence Unit ("FIU"). The Serious Organised Crime Agency is the United Kingdom's FIU. This is further expanded upon in *Recital 29* of the Directive. *Recital 29* makes it clear that reports of suspicious activity may be made to persons other than the FIU so long as the information is forwarded promptly and unfiltered to the FIU. *TA2000* allows disclosures to be made to a person other than the Serious Organised Crime Agency and so new *section 21C* of the *TA2000* as inserted by the regulations gave effect to the requirements of *Article 21* together with *recital 29.*

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17 *Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007* SI 2007/3398

18 See footnote 17

91. The regulations amended *TA2000 sections 21A and 21B*, in order to give full effect to the requirements of *Article 22.1* of the Directive. *Article 22.1* requires those covered by the Directive to make reports of knowledge and suspicions of money laundering and terrorist financing that have been attempted as well as committed. The regulations further amended *TA2000 section 21A* to give effect to *Article 23.2* of the Directive, which provides that Member States are not required to apply the reporting obligations to legal and other professionals when giving legal advice.

92. *TA2000 Schedule 3A*, which defines the regulated sector, has been amended by the *Terrorism Act 2000 (Business in the Regulated Sector and Supervisory Authorities) Order 2007*[19] to take account of the Directive.

93. The powers for the seizure and forfeiture of terrorist cash and property remain useful and necessary powers, though there are some problems with the collection of statistics. The powers under *TA2000 section 23* arise only when there has been a conviction of a terrorist finance offence. Other powers are available where there has not been a conviction. The amount of money seized in 2008 under those other powers was £597,000 and US$18,000 (£543,000 in 2007). All of this was seized by the National Terrorist Financial Investigation Unit (NTFIU) under the *Proceeds of Crime Act 2002*. The NTFIU is based in the Metropolitan Police. Other police forces' terrorism cash seizures are not collected centrally. Thus the NTFIU seizures do not give the full picture. I suggested last year that, for the future, the sums collected should be collated centrally, so that a judgment can be made as to the effectiveness of the provisions. I am disappointed that this has not occurred as yet. It should be borne in mind that terrorist devices can be extremely cheap to make, and cash remains a difficult area for detection. Terrorists are astute in relation to such statutory provisions.

[19] SI2007/3288

# 4 PART IV OF THE ACT: TERRORIST INVESTIGATIONS

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

95. Cordoning under the TA2000 may occur as a matter of urgency under the direction of any constable. It must be recorded fully and placed under the supervision of a police officer of at least the rank of superintendent as soon as reasonably practicable. The maximum initial period for designation is 14 days, subject to extension to a total maximum of 28 days (*section 35(5)*). Police powers are provided by *section 36* to clear persons and vehicles from cordoned areas. Maximum sentences in relation to offences of failure to comply were increased in 2003 from three months to 51 weeks, but this has yet to be brought into force.[20]

96. In my report for 2007 I included as Annex E a breakdown of cordons used in London during 2007 by, respectively, the Metropolitan Police and the City of London Police. Full data were not available for the Paddington Division of the Metropolitan Police as in that area the appropriate systems for collecting the information were not in place. I said:

> *"This unsatisfactory position should and need not have occurred; it is currently being remedied. In the future cordons data will be collected under the Home Office's statutory Annual Data Requirement. It is to be hoped that there will be a full data set for 2008".*

97. Annex D this year shows the far from extensive cordoning by 3 police forces, City of London, Greater Manchester and Derbyshire. My understanding is that, those forces apart, no cordons were imposed under *section 33*.

98. In 2008 the Metropolitan Police showed no cordoning under section 33. I was told that no policy had been put in place to make cordons under the section: there just had been none. I have been told that specialist officers responded to 438 incidents of suspicious articles during 2008. None resulted in the finding of any explosive device or led to a subsequent terrorist investigation. In most of these cases cordons would have been in place for a matter of minutes, under Common Law powers.

99. With welcome assistance from officials, I have reviewed the legal position. The issue arises from the provision that the recording of a cordon is required if the cordon was *"for the purposes of terrorist investigation"*.[21]

100. A *terrorist investigation* is defined in *TA2000 section 32* as including –

*(a) the commission, preparation or instigation of acts of terrorism,*

*(b) an act which appears to have been done for the purposes of terrorism*

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[20] Criminal Justice Act 2003, Schedule 26, para55.

[21] *TA2000 section 33(2)*

101. That definition refers back to the definition of terrorism itself in *TA2000 section* 1.

102. There is a common law power for the police to set up cordons for the safety of the public, irrespective of the cause; and that such cordons can be maintained for as long as is reasonably required in the circumstances. A person breaching such a cordon, or not complying with properly made police requests to move, may commit an offence of obstruction of the police. Common law cordons require no administrative procedures at all – a snap decision may be made by a constable according to his/her perception of circumstances.

103. There is no doubt that, in terms of strict statutory interpretation, for terrorism investigations the police are not obliged to go through the *section 33* procedure, which is permissive (*'may'*) rather than obligatory (*'must'*). However, it is arguable that, given the existence of the statutory provisions in *TA2000*, members of the public have a legitimate expectation that the police will use the statutory procedures in appropriate circumstances.

104. It is important that the police use counter-terrorism legislation proportionately and maintain public confidence that they are not over-reacting. I am sure that the recently appointed Metropolitan Police Commissioner will recognise that cordoning under *section 33* is a special power to deal with special circumstances, for which he may properly be held accountable. Such cordons may cause extensive inconvenience and even loss to the public. The use of *section 33* and the consequent designation procedure and keeping of records in my view should occur where the circumstances involve a device known or strongly believed to be explosive (e.g. in a multiple incident, or when there has been a telephone warning), or realistically suspected of being explosive on examination by officers – but not for what appears to be a forgotten shopping bag or the like.

105. I received no representations during 2008 in relation to the operation or merits of *sections 32 to 36*. They are proportional and necessary.

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

107. A cadre of Circuit and District Judges has experience of dealing with applications under this part of the Act. The judges concerned have specific training. Reasons are given at the conclusion of hearings.

108. I have concluded again this year that the *Schedule 5* procedure works smoothly. I remain confident that genuine judicial inquiry, and the regular experience of presenting police officers, act as quality control mechanisms. The Metropolitan Police view is that the judges involved are far from acquiescent, but rather are aware of the implications of their orders and scrutinise carefully the material placed before them. Defence lawyers are much less confident in their general comments about the degree of scrutiny of applications. On balance, I am satisfied that the system is fair and functional.

109. During 2008 I received no specific complaints from lawyers or others about the operation of these provisions.

110. *Schedule 6* relates to financial information. A parallel regime is provided to the *Schedule 5* system. Most of the applications heard by Judges relate to bank and credit card accounts. *Schedule 6* ranges widely over the kind of information financial institutions hold about their customers.

111. During 2008 I received no representations of concern about the operation of *Schedule 6*. There is the necessary level of cooperation between the police and the financial services industry.

112. It is necessary to be able to obtain financial information under compulsion in some potentially significant cases, subject to solid judicial protection against arbitrariness. That appears to be accomplished by *Schedule 6*. Most other countries now have similar provisions. An increasing level of international co-operation on the financial front undoubtedly is proving fruitful in the countering of terrorism.

113. I have concluded once again this year that *Schedule 6* as amended works well and is an essential part of the legislation.

114. *Section 38A*, together with *Schedule 6A*, deals with account monitoring orders. An account monitoring order may be made only by a circuit judge, or, when the amending provision is brought into force, a District Judge (Magistrates' Courts)[22] or equivalent in Scotland and Northern Ireland. The schedule makes it clear that there must be an evidential basis for the Order if it is to be made: speculation or a 'fishing expedition' will not do. The measure and the control of its use are necessary and proportionate.

115. *Section 38B* covers information about acts of terrorism. It is widely drawn. Its clear intention is to secure the maximum possible information so as to avoid acts of terrorism that might otherwise be prevented. In my view it remains necessary and proportional, given the danger to human life and to the economy posed by terrorist acts. It was used in 2008 – as Table 7a to Annex C shows, there was one conviction under the section in the year to 31st March 2008 (1 in the previous year, 5 in 2005-6).

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

116. The Court of Appeal (Criminal Division) gave a guideline judgment on sentencing for *section 38B* offences on the 21st November 2008[23]. They said that in most cases it would be the seriousness of the terrorist activity about which a defendant had failed to give information that would determine the level of criminality, rather than the extent of information that could have been provided. There was nothing wrong in principle with consecutive sentences when both limbs of the section were charged. The message is clear: although the maximum for a single *section 38B* offence is 5 years' imprisonment, both the maximum and consecutive sentences are realistic possibilities.

117. *Section 39*, which corresponds to *sections 17(2)-(6)* of the former *Prevention of Terrorism (Temporary Provisions) Act 1989*, makes it an offence punishable on indictment by up to 5 years' imprisonment for a person to disclose to another anything likely to prejudice a current or anticipated terrorist investigation of which he has knowledge or has reasonable cause to suspect. Although not used in the period 2006-2008, this remains a reasonable and proportional provision, similar in effect to other offences against justice such as doing an act tending and intended to obstruct the course of justice.

[23] R v Abdul Sherif & ors [2008] EWCA Crim 2653

# 5 PART V OF THE ACT: COUNTER-TERRORIST POWERS: ARREST AND DETENTION; STOP AND SEARCH; PARKING; PORT POWERS

118. *Part V* of the Act contains counter-terrorism powers available to the police to deal with operational situations.

119. *Section 41* provides a constable with the power to arrest without warrant any person whom he reasonably suspects of being a terrorist. The ordinary powers of arrest available to the police under the *Police and Criminal Evidence Act 1984 [PACE]* require them to have reasonable grounds for suspecting that the person concerned has committed or is about to commit an offence. In his report on terrorism legislation Lord Lloyd of Berwick considered[24] that the pre-emptive power of arrest under *Section 14(b) of the PTA* was useful, because it enabled the police to intervene before a terrorist act was committed. If the police had to rely on their general powers of arrest, he argued, they would be obliged to hold back until they had sufficient information to link a particular individual with a particular offence. In some cases that would be too late to prevent the prospective crime[25]. However, Lord Lloyd expressed concern that the *Section 14(b)* power under the *PTA* contravened a fundamental principle that a person should be liable to arrest only when he was suspected of having committed, or being about to commit, a specific crime. He was especially mindful of *Article 5(1)(c) of the European Convention on Human Rights*, now part of our domestic law. Since then ECHR rights have been capable of assertion in British courts, and have been relied on extensively and successfully in cases involving terrorism and suspected terrorists.

120. *Section 41 of the TA2000* was the government's response to the concerns expressed by Lord Lloyd and others. The government of the time rejected his view that it was necessary to introduce a new offence of being involved in the preparation etc. of an act of terrorism[26]. Such an offence is included now by *Terrorism Act 2006 section 5*, and has been used for the purposes of prosecution.

121. The basis for the power of arrest, set out in *Section 41* subject to definition of 'terrorist' in *section 40*, works satisfactorily in my view. I have not been presented with arguments for its amendment or repeal. It is used in most situations where there is an arrest in connection with terrorism.

122. *Section 41* and the accompanying procedural system for detention set out in *Schedule 8*[27] were designed to bring the UK into compliance with *ECHR Article 5(3)-(5)* following the decision of the European Court of Human Rights in 1988

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24 1996 Cm 3420, Chapter 8.

25 1996 Cm 3420 paragraph 8.5.

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

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

the case of *Brogan v UK*[28] that there had been a breach of *Article 5(3)* where a person had been detained for 4 days and 6 hours without judicial authorisation. In its decision on the narrow facts of that case the Court held that the power of arrest had been justified, in the light of the fact that on arrest the applicants had been questioned immediately about specific offences of which they were suspected. Substantially as a consequence of that case the UK government derogated from the relevant parts of the ECHR and of the UN International Convention on Civil and Political Rights – clearly not a desirable position. There have been various procedural changes to *Schedule 8*, none of substantive concern[29].

123. Annex C page 1 shows the level of arrests under the *TA2000* and associated legislation as a whole in the year to 31st March 2008. Table 1 shows that 156 persons were arrested under *TA2000* powers (down on the previous year). In general terms the rate of conviction for terrorism charges compares with other parts of the criminal calendar, though it is much higher than the rate of conviction for rape (for example). Because trials take place over an extended period after arrest, and almost never in the same year as arrest, it is not possible to compare the arrest and conviction figures for a single year.

124. 35 per cent of terrorism arrests resulted in a charge. This is a slightly higher figure than for general crime.

125. The nature of terrorism investigations means that those associated with or accompanying a suspect may well find themselves arrested out of an abundance of caution by the authorities. This should be avoided whenever possible, but the realities of this kind of policing increase the possibility of arrests later found to be of innocent members of the public. It may be small comfort to those arrested, but in other comparable countries the same issue arises commonly. As last year, I am satisfied that the level of arrests is proportionate to perceived risk, especially when set alongside the high level of vigilance operated by the statutory services and the large number of stops at ports of entry. Indeed the statistics, though pliable in argument, suggest broadly similar release and acquittal rates as with other crime.

126. Detention under *section 41* and under *Schedule 7* is subject to the regime set out in *Schedule 8*. Codes of Practice have been issued under *Schedule 8*. By *section 306 of the Criminal Justice Act 2003, Schedule 8 of the TA2000* was amended to allow up to 14 days' detention for the purposes of questioning and associated investigation. This was extended further to 28 days by the *TA2006 sections 23-24*. The adequacy of this extended period remains the subject of heated and frequent debate. High Court Judges supervise 14-28 day detentions, pursuant to amendments made by the *Terrorism Act 2006*.

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28 Brogan v United Kingdom [1988] 11 EHRR 193

29 See Courts Act 2003, section109(1), Schedule 8 paragraph 391; section 109(3), Schedule 10.

127. Despite the defeat during 2008 of the proposal to extend the maximum period of detention before charge to 42 days, in my view Judges scrutinising extended detention should have vested in them the power to request specific explanations or material from the prosecution side and possibly from the suspect too, albeit the failure of the suspect to respond could not be used against him/her at any subsequent trial. A suspect has every right to complain about unjustified extended detention; but equally might be seen to have a reasonable duty not to delay police enquiries by, for example, refusing to provide the security settings needed to unlock electronically protected material. I would expect experienced defence lawyers to welcome the possibility of judicial intervention as broadly described here, at a very early stage of the post-arrest period.

128. Annex C Table 6 shows the time in days from arrest under *section 41* to charge or release without charge. Of the 156 people arrested in 2007-8, 11 were released after 8 days. Only 1 person was released after 14 days, in that case on the 19th day. This provides evidence that the need for extended detention before charge is rare; and that police are not treating the situation as though detention for up to 28 days is the norm. The Crown Prosecution Service is well aware that nobody should be detained for a moment longer than is necessary. That notwithstanding, I expect in the course of time to see cases in which the current maximum of 28 days will be proved inadequate. They will be very rare, but inevitably extremely serious.

129. There have been developments in the past year of the custody suites in Scotland and Northern Ireland. I have seen both, and regard them as adequate for detention within the present law, and possibly longer if the law were to change again. The Scottish provision, in the Glasgow area, has been refurbished following wide consultation, and in my view meets all requirements. The adequacy of the Northern Ireland provision has been questioned recently, but my opinion that it is adequate is unchanged provided that flexible arrangements for more spacious exercise facilities for longer detentions are facilitated (they are available). A brand new facility is to be constructed in Manchester. The Greater Manchester Police have discussed this with me, and I have been able to assist with modification of the plans. I expect the GMP new build detention centre to be entirely fit for purpose, and sufficiently future-proof.

130. I have been and continue to be consulted by the Metropolitan Police about the intended replacement for Paddington Green, which is sufficient but not ideal and should be replaced. I expect an appropriate decision shortly, to replace Paddington Green with a reasonably central custody suite converted for the purpose. There are considerable resource issues, but the team working on the project has handled these skilfully.

131. The above is based on my view that it is only acceptable for prisoners detained after 14 days to be held overnight in conditions equivalent in levels of comfort, food and exercise to prison conditions. Detainees are generally transferred to prison after 14 days' detention[30].

[30] See Code H pursuant to the *Police and Criminal Evidence Act 1984.*

132. District Judges (Criminal) with particular knowledge and experience of the system for extension of detention under *section 41* and *Part III of Schedule 8* have dealt with extended detention up to 14 days, up to now. They do a valuable job, and are careful and consistent. Their role includes dealing with the detention of persons stopped at a port and dealt with under *Schedule 7*, and subsequently arrested under *section 41*.

133. *Section 42* permits the search of premises under a warrant issued by a justice of the peace on the application of a constable if the justice of the peace is satisfied that there are reasonable grounds for suspecting that a person "falling within *Section 40(1)(b)* is to be found there". There has been no evidence presented to me during the past year that this provision is misused or presents any problems. It is not a rubber-stamping process by the magistrate: the evidence must be given on oath, and must establish reasonable suspicion.

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

135. Each year since I became independent reviewer there have been severe criticisms of the provisions of *sections 44 and 45*, and of their operation. 2008 was no exception.

136. Despite an intensive amount of work, especially by the Metropolitan Police and ACPO, towards providing a clearer understanding throughout police forces of the utility and limitations of *sections 43-45*, *section 44* remains controversial.

137. *Section 44* was considered by the House of Lords in *R (Gillan) v (1) Commissioner of Police for the Metropolis (2) Secretary of State for the Home Department*[31]. It was held there that *section 44* is *ECHR* compliant. It was decided that the powers are lawful, if properly authorised and confirmed under the Act. However, the precision of the legislation means that any person stopped and searched must be given all the information s/he needs to know, and the police in stopping and searching cannot act arbitrarily. Thus, if a citizen is stopped pursuant to a lawful *section 44* authorisation, and is searched in a lawful way, and has explained to him/her that the search is for terrorism materials pursuant to the Act, that is lawful. Any arbitrariness on the part of the police is unlawful, and gives rise to potential civil liability.

138. From the above it can be seen that it is essential that the police must know what they are doing, with every officer being accurately briefed. This means that police officers on the ground, exercising relatively unfamiliar powers

[31] [2006] UKHL 12; and via www.parliament.uk and follow House of Lords and judgments links

sometimes in circumstances of some stress, should have a reasonable degree of knowledge of the scope and limitations of those powers.

139. Most important, I repeat my mantra that *terrorism related powers should be used only for terrorism-related purposes*; otherwise their credibility is severely damaged. The damage to community relations if they are used incorrectly can be considerable. The use of *section 44* has attracted particular criticism as having a negative effect on good community relations. Its purpose and deployment are poorly understood.

140. Examples of poor or unnecessary use of *section 44* abound. I have evidence of cases where the person stopped is so obviously far from any known terrorism profile that, realistically, there is not the slightest possibility of him/her being a terrorist, and no other feature to justify the stop. In one situation the basis of the stops being carried out was numerical only, which is almost certainly unlawful and in no way an intelligent use of the procedure. Chief officers must bear in mind that a *section 44* stop, without suspicion, is an invasion of the stopped person's freedom of movement. I believe that it is totally wrong for any person to be stopped in order to produce a racial balance in the *section 44* statistics. There is ample anecdotal evidence that this is happening. I can well understand the concerns of the police that they should be free from allegations of prejudice; but it is not a good use of precious resources if they waste them on self-evidently unmerited searches. It is also an invasion of the civil liberties of the person who has been stopped, simply to 'balance' the statistics. The criteria for *section 44* stops should be objectively based, irrespective of racial considerations: if an objective basis happens to produce an ethnic imbalance, that may have to be regarded as a proportional consequence of operational policing.

141. Useful practice guidance on stop and search in relation to terrorism was produced during 2008 by the National Policing Improvement Agency on behalf of the Association of Chief Police Officers [ACPO]. This guidance emphasises crucial requirement, which include that –

- These powers are exceptional
- The geographical extent of section 44 authorisations must be clearly defined
- The legal test is expediency for the purposes of preventing acts of terrorism
- Community impact assessments are a vital part of the authorisation process
- The Home Secretary should be provided with a *detailed* justification for a *section 44* authorisation
- Chief officers must expect the Home Office to apply detailed and rigorous scrutiny in considering whether to confirm authorisations
- Leaflets should be made available to the public in an area where the power is being deployed
- Officers must keep careful records

142. During 2008 I have continued to discuss the nature and use of section 44 and section 45 with police and others wherever possible. It causes concern at all police levels.

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

144. In contrast, *section 44* provides for the authorisation of geographical areas for the purposes of *section 45 searches*, which do not have to be founded on reasonable suspicion. Authorisations may be given only by an ACPO rank officer[32], and solely *"if the person giving it considers it expedient for the prevention of acts of terrorism"*[33]. Pursuant to *section 46* the Secretary of State must be informed as soon as possible, and authorisation lapses if not confirmed by the Secretary of State within 48 hours[34].

145. Routinely now, I am given details of *section 44* activity. It is used throughout London on a continuous basis, and in other police areas. I have examined every authorisation issued during 2008 in England and Wales. The Home Secretary deals with all *section 44* applications in England and Wales.

146. My view remains as expressed in the past four years, but reinforced: that I find it hard to understand why *section 44* authorisations are perceived to be needed in some force areas, and in relation to some sites, but not others with strikingly similar risk profiles. Where other stop and search powers are adequate to meet need, there is no need to apply for or to approve the use of the section. Its primary purpose is to deal with operationally difficult places at times of stress, when there is a heightened likelihood of terrorists gaining access to a significant location. For example, I have no criticism of its careful use at the time of a major demonstration at London Heathrow Airport: terrorists might well use the opportunity of participation in such a demonstration to enter, photograph or otherwise reconnoitre, and otherwise add to their knowledge of a potential target such as Heathrow. Nor do I criticise its use at or near critical infrastructure or places of especial national significance.

147. I now feel a sense of frustration that the Metropolitan Police still does not limit their *section 44* authorisations to some boroughs only, or parts of boroughs, rather than to the entire force area. I cannot see a justification for the whole of the Greater London area being covered permanently, and the intention of the section was not to place London under permanent special search powers. However, a pilot project is about to start in which the section is deployed in a different way. I shall examine that project closely. The alarming numbers of usages of the power (between 8,000 and 10,000 stops per month as we entered 2009) represent bad

[32] Sections 44 (4)-(4C)
[33] Section 44(3)
[34] Section 46(4)

news, and I hope for better in a year's time. The figures, and a little analysis of them, show that *section 44* is being used as an instrument to aid non-terrorism policing on some occasions, and this is unacceptable.

148. I am sure that safely it could be used far less. There is little or no evidence that the use of *section 44* has the potential to prevent an act of terrorism as compared with other statutory powers of stop and search. Whilst arrests for other crime have followed searches under the section, none of the many thousands of searches has ever resulted in conviction of a terrorism offence. Its utility has been questioned publicly and privately by senior Metropolitan Police staff with wide experience of terrorism policing.

149. It should not be taken that the lesser usage of *section 44* in places other than London means that such places are less safe, or more prone to terrorism. There are different ways of achieving the same end. The effect on community relations of the extensive use of the section is undoubtedly negative. Search on reasonable and stated suspicion, though not in itself a high test, is more understandable and reassuring to the public.

150. I emphasise that I am not in favour of repealing *section* 44. Subject to the views expressed above, in my judgment *section 44* and *section 45* remain necessary and proportional to the continuing and serious risk of terrorism.

151. *Section 44* was amended by the *Energy Act 2004 section 57* to allow authorisations by an officer of the rank of Assistant Chief Constable in the British Transport Police Force, the Ministry of Defence Police and the Civil Nuclear Constabulary. These were appropriate changes and are causing no difficulty. It was amended too by *section 30* of the *TA2006*. This amendment extended its scope to internal waters: this was a sensible and necessary change in the law, and is being used by relevant police forces. The Mumbai attack demonstrated the use that can be made of waterways: in that case a small vessel seized at sea was used to transport the terrorists and their materiel to the city's port.

152. *Sections 48-51* provide similar powers for the designation of areas by ACPO rank officers, in this instance to prohibit or restrict the parking of vehicles on roads specified in the authorisation. This remains a proportionate provision in the public interest. As in past years, there is no evidence of excessive use, nor of insensitive use of prosecution for contravention. It is noted that possession of a disabled person's badge is not of itself a defence to a contravention offence.[35]

153. *Section 53* and *Schedule 7* provide for port and border controls. This remains a very important aspect of *the TA2000*. In the past I have suggested repeatedly that the number of random or intuitive stops could be reduced considerably. During 2008 there has been much discussion as to how to improve the way in which *Schedule 7* has been and can be used. This has been led by the National Co-Ordinator of Ports Policing, the Metropolitan Police, and ACPO. It has been a strong focus for provincial police forces: for example, it featured as

[35] Section 51(3)(4)

a significant part of the annual conference of the Wales Extremism and Counter-Terrorism Unit [WECTU], a group formed from all four police forces in Wales.

154. One discrete issue that has arisen in relation to *Schedule 7* relates to the examination of mail, whether sent through the Royal Mail or via one of the several private mail services.

155. By *Regulation of Investigatory Powers Act 2000* [RIPA] *section 1* it is a criminal offence to intercept in the UK any mail between despatch and destination. *TA2000 Schedule 7 Paragraph* 9 allows an examining officer to 'examine goods'. Whether this trumps RIPA has not been decided by any court so far as I am aware. However, the advice generally given to ports staff is that they cannot intercept post under *schedule 7* during its postal transit. This is an inhibition on ports officers in their dealings with freight (as opposed to articles in the possession of a passenger). During 2008 I visited one postal transit depot, where this problem was raised by police as being of real concern. In my view post should be treated like all other freight and, if necessary, the law should be amended accordingly.

156. There is increasing development of the system known as behavioural analysis and the better use of intelligence in relation to *schedule 7* and *section 44*. This is entirely consistent with my view that there should be a policy and practical drive towards a stronger intelligence base for all counter-terrorism activity.

157. I certainly do not reject the value of intuitive stops by police officers with observational experience. I saw a remarkable example of their potential effectiveness at an airport: this resulted in a foreign national being refused entry for very sound reasons unconnected with the current terrorism threat. If modern analytical methods can distil something of the operation of quality intuition, and use it for training purposes, that is to the benefit of all. Nevertheless, I remain as last year of the strong view that stops at ports can still be reduced in number without risk to national security.

158. Once again I repeat that a great deal of information about terrorist activity can be gleaned from the travel patterns of individuals. If all passports were read electronically on departure from the United Kingdom, the prevention and detection of terrorist plans and offences would be assisted greatly. Whilst this suggestion may give rise to some civil liberties concerns, these could be met by clear protocols limiting the period for which such information could be retained, in what form and by whom. To achieve this would require the best possible of the several passport-reading technologies on the market, and its reliable co-ordination with the e-borders information processing facility.

159. Recently I have seen demonstrated the very latest in passport reading technology. Small, portable equipment is being rolled out into pilot projects at air and sea ports. The development and use of versatile and fast electronics for this purpose will enable checks to be made on passports with virtually no delay, so that important information will reach ports officers almost immediately. The

Home Office and UKBA in particular should remain engaged with the companies producing such technology, to ensure that (in particular) delays at airports are kept to a minimum.

160. The development and improvement of *schedule 7* procedures will be essential if there are not to be unacceptable delays in processing passengers entering the UK for the 2012 Olympic Games.

161. I continue to be impressed by the level of co-operation regionally and nationally between police forces, supervised by ACPO and its Scottish equivalent ACPOS, and the PSNI, together with the chief officers of the other, non-territorial police forces. Cooperation between police and Security Service appears to be very high in frequency and quality. Real-time and other exercises continue to occur regularly, and lessons are learned from them.

162. There is continuing and effective work at ACPO/ACPOS and Home Office level to ensure national co-ordination and consistency in the operation of counter-terrorism policing. Within the police service there is not unanimity as to the future structure of these special police services. The Conservative Party has some interesting proposals, which I understand envisage a borders agency/police including current police officers, in effect a merger of all border 'policing' agencies to something like the French PAF. Without delving into what are essentially political questions, I would add merely that performance is more important than structure. Provided that there remains a good level of co-operation, variations in practice can augment rather than diminish overall performance. One of the interesting developments recently has been in Kent, where the equivalent of its former special branch now wear a police uniform: whilst I would not expect all forces to adopt this, it should be taken seriously. The visibility of some special branch officers as police has much to commend it.

163. I remain as concerned as before about the career structures of some very expert police officers serving in special branches and counter-terrorism units. Some have developed levels of knowledge that add measurably to national security. Under the present system, it would make operational sense if the role of special branches and their London equivalent SO15 was recognised fully by raising the ranks available to experienced, and to younger highly capable officers. There are many Detective Constables and Detective Sergeants performing work important to national security. The increased availability of promotion of to higher ranks within counter-terrorism policing (whilst enabling officers to continue their existing work) would in my view recognise the importance of that work. I remain unconvinced that this career issue is being addressed with full recognition of counter-terrorism policing as a specialism requiring continuous professional development, and a high degree of retention given good appraisal systems.

164. Even now, from time to time police officers are still being abstracted from counter-terrorism work to other police duties. This is rarely acceptable, especially where the special branch is small. There should be an assumption that such abstractions will only take place in exceptional circumstances.

165. There remain problems about the exchange and sharing of information. Despite some legislative changes made in the *Counter-Terrorism Act 2008,* police and UKBA still complain to me that they do not have as much access to each other's systems as would best meet the public interest, through decent and updated technology. These impediments to the effective countering of terrorism must be removed, if the results of intelligence-gathering and its analysis are to have full value. The National Policing Improvement Agency has been doing some exceptionally useful work on a Police National Database: this might provide the foundation for more successful sharing of important data, especially if the UKBA were to become a PND contributor/client. I am surprised that UKBA involvement is not under consideration currently.

166. The absorption of Customs officers into UKBA is still consuming the attention of management and training. I remain optimistic that the effect will be beneficial. My contact with UKBA at various levels in 2008 has left me with the clear impression that counter-terrorism is now at the forefront of their minds, though I am disappointed by the slow development of performance indicators so that information and actions in that connection can be appraised alongside the revenue considerations conventionally evaluated by Customs managers.

167. UKBA includes in its coverage issues concerning visas, overseas students, overseas citizens working in the UK, residency, citizenship and asylum. On the 3rd April 2008 it assumed responsibility for border, immigration, customs and visa checks at all UK ports. It is bound to take at least another two years for the aspirations of the organisation to be met, but there are clear signs of determination and success. The office of the Chief Inspector of UKBA will provide a strong element of quality control, especially in the context of counter-terrorism.

168. I have continued to take note of search arrangements developed for airports and seaports. These have continued to improve. Various technologies are being tested and piloted around the country. The trend away from traditional check-in procedures at airports will present a challenge.

169. In relation to *Schedule 7*, there is no requirement that the officer should have conceived any suspicion in the initial stages of an examination about the passengers, crew, vehicle or goods subject to the stop. This means that it is a wider power than is normally available to police, immigration or customs officers. I and past reviewers have commented before that the obvious presence of port officers is a deterrent to terrorists. This has not changed. Knowledge on their part that a port is manned efficiently and the subject of strong and well-informed vigilance is a significant inhibition against targeting that port.

170. I remain firmly of the opinion that the terrorist traveller has at least as great a prospect of being caught at UK ports of entry as anywhere else. I am less confident about cargo, including parcels as stated above.

171. Whilst the adequacy of accommodation for police at seaports and airports still remains a matter of less than universal contentment, I have received fewer complaints this year. There has been a considerable improvement at Heathrow,

against the difficult background of the imminent closure of Terminal 2 for several years of reconstruction and refurbishment. The importance of decent police facilities is generally recognised. *Paragraph 14(1) (b) of Schedule 7,* whereby port managers can be required to provide at their own expense specified facilities, is always an available option.

172. I have received a small number of complaints about the treatment of members of the public at ports in 2008, in particular that complainants had been selected for stop and question because of their ethnicity. There is plainly a risk of this perception, which will be difficult to dispel in the present climate. I commend the efforts being made to engage with community leaders and explain how the law works, and why it is used. The utmost sensitivity is required of police and UKBA staff.

173. Other such complaints are made to the police, UKBA and the Home Office. Most relate to being stopped at all. My own conversations with passengers at air and sea ports suggest general public acquiescence that searches and other forms of vigilance are reassuring as long as they are proportional, and conducted with courtesy. The use of specially trained dogs is increasing, and has the potential to reduce the number of stops. However, it is important to respect the views of some Muslims, who object to intrusive nature of dog searches. Objection is perfectly legitimate, but may lead to unobjectionable and greater human intrusion in the search for explosives and other material.

174. Language difficulties do occur from time to time and will be liable to cause occasional problems at ports of entry. Considerable sums are spent on the provision of interpreters, though the system is bound to be imperfect in some places. Suitable interpreters of Arabic and other languages are not always available. The use of telephone-based interpretation facilities is now well developed, and a useful stop-gap. However, inevitably problems arise where the authorities are under-staffed or hard-pressed. I repeat as before that the provision of interpretation to a good standard is an increasingly important aspect of the protection of travellers against unjustified suspicion.

175. In my previous reports I have expressed concern on the subject of business and general aviation.

176. I continued to give close attention this year to the organisation, supply and security of business and general aviation. Once again, I have received very good cooperation from the industry, through both industry representatives and individual companies.

177. The industry is aware of the risks. There are some very solid protocols for the scrutiny of new customers. Industry leaders now have security manuals and corresponding procedures which leave little room for danger. This is an approach that should be followed by all who charter or share aircraft, or otherwise particulate travel in non-scheduled planes. The principles can be distilled into short form, and require the keen participation of pilots and other crew. I remain willing to discuss this with any industry participant, and there are officials who have developed relevant expertise.

178. The business aviation industry in the UK is now very substantial. One has only to visit Farnborough Airport to see the existing scale and potential; and there are hubs in Scotland, Manchester, Doncaster and elsewhere. Whatever controls are placed on the industry, they should bear closely in mind the value of such aviation as part of the economy, and be proportional to risk. If protocols and procedures can be designed to assist companies whose procedures are sound, others will soon catch up. The British Business and General Aviation Association [BBGA] is a very active and well-organised trade association, and I feel sure that they would assist in extending good practice and the delivery of any training.

179. The potential use of small aircraft as vehicle bombs against places of public aggregation is a risk that must be guarded against. This is not founded on any particular intelligence, or on any operation as such. However, I know that some knowledgeable police officers and officials have ongoing concerns about the relative simplicity of terrorism conducted in this way, given the very large number of private aircraft and small airfields. This has led to ever-developing local policing plans, involving special branch and other police officers working together and with local communities. There is real co-operation from pilots of all kinds of aircraft and owners/operators of air fields of all sizes. I am pleased to report that in every police area now there are designated officers and others engaged on policing smaller aviation, with the capacity to share information and keep each other informed of concerns. Specific training courses are organised methodically. These are encouraging developments, which are making the country safer.

180. The operators of airfields to which volume business and general aviation fly are well aware of terrorism concerns.

181. The Maritime and Coastguard Agency continues to play an important role in the policing of small ports and general aviation issues. The Agency should always be seen as a full participant in the stemming of the threat of terrorism.

182. Joint UK and French operations are now in being on both sides of the English Channel. These are designed to secure better quality of information sharing between the two countries, a freer flow of legitimate passengers, and the stemming of the tide of hopeless asylum seekers. This last aspiration is being achieved, with a continuing reduction in the number of illegal entrants through Dover and Folkestone, and the Channel Tunnel. The juxtaposed controls (British and French alongside each other) on each side of the Channel are operating with improved efficiency. I visited them during 2008. ‘Juxtaposed’ does not mean ‘joint’: moving to joint British/French controls where currently they are juxtaposed would be a welcome next step.

183. It is part of my annual litany to repeat in connection with aircraft and passenger shipping that manifests are a cause for concern. As has been said by me and previous reviewers again and again, the information provided by shippers and carriers is of great value to port officers. If police know who is on board an aircraft or vessel, or what is being carried, their knowledge is increased, and they may be able to further important enquiries. If the manifest information

is inaccurate, inadequate and given a low level of importance by transport operators, a vital clue may be missed. Good manifest information can save lives, and minimise delays.

184. As in previous years, given the fluidity of terrorist organisations, I trust that attention to crew-related terrorism issues is kept under continuing review and the advice of the police and security services heeded.

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

186. Whilst I am not able to scrutinise every port stop, I have observed many. I am satisfied that in 2008 the port powers and the checks and balances on those powers worked well and remained necessary. Recording systems are sound and accountable. Each port examination (as opposed to short stop) is recorded in written form, and senior officers examine written records routinely. Special Branch officers generally function to a very high professional standard.

# 6 PART VI OF THE ACT: ADDITIONAL TERRORIST OFFENCES

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

188. *Section 54,* widened by *CTA2008 section* 35, contains the power of the court to order forfeiture of *"anything which the court considers to have been in the person's possession for purposes connected with the offence".* It has inserted a new *section 23A* to *TA2000*, to enable forfeiture of property in the possession or control of a person convicted of a terrorism finance offence.

189. Lord Lloyd reported that the precedent for this offence applicable only in Northern Ireland had never been used, and presented real evidential difficulties[36]. The government responded in its consultation paper prior to the *TA2000*[37] with references to international terrorism and its recruitment methods.

190. In my reports for the previous four years I have expressed the view that the events of September 11th 2001, and of July 2005 in the UK, and evidence available since then demonstrate that international terrorists have recruited young people in the UK, with the potential for use against the UK and around the world. This remains of extreme concern.

191. Any person who invites people to receive instruction or training in terrorist violence (wherever in the World such instruction or training was to be given) is guilty of an offence[38]. In the present international climate of general terrorist threat this provision is proportionate and necessary, and a necessary instrument against the radicalisation of young people especially. The threat of terrorist use of weapons capable of injuring whole communities is serious enough to warrant the measures of which *sections 54-55* are part. New offences in relation to preparation for terrorism, training and training camps were included in the *TA2006 sections 5-9.* I have seen much material in 2008 to convince me that terrorism training camps provide a dangerous allure for headstrong young men. Their attendance at the camps presents a real risk of harm to the United Kingdom and its assets, including the men and women of the armed services.

192. I remain satisfied that the existing provisions are potentially very useful and effective for dealing with aspects of international terrorism. They have been used for the purposes of prosecutions, and feature in some pending trials. One person was convicted of a weapons training offence in 2007-8 (see Table 7(a)). As can be seen from Table 3a to Annex C, 12 persons were charged under *sections 54-58* during the year to 31st March 2008, a small decrease on the previous year.

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36 CM 3420 Volume 1 Paras 14.26-14.28
37 CM4178 Para 12.12
38 Section 54(3)

193. *Sections 56-58* deal, respectively, with directing terrorist organisations, possession of articles giving rise to a reasonable suspicion of a terrorist purpose, and possession or collection of information likely to be useful for terrorism.

194. It is not part of my terms of reference to debate the merits or otherwise of evidential reverse onus provisions of the type contained in *sections 57 and 58*, unless they do not work satisfactorily. They were considered by the House of Lords in *R v DPP ex p Kebilene*[39]. The working of *sections 56-58* is satisfactory, and they remain a necessary and proportionate part of the legislation.

195. *Section 58A* has been added by *CTA2008 section 76(1)*, and has been in force since the 16th February 2009. It has proved controversial. It provides:

> *(1) A person commits an offence who –*
>
> *(a) elicits or attempts to elicit information about an individual who is or has been –*
>
> *(i) a member of Her Majesty's forces,*
>
> *(ii) a member of any of the intelligence services, or*
>
> *(iii) a constable,*
>
> *which is of a kind likely to be useful to a person committing or preparing an act of terrorism, or*
>
> *(b) publishes or communicates any such information.*
>
> *(2) It is a defence for a person charged with an offence under this section to prove that they had a reasonable excuse for their action.*

196. A number of professional and amateur photographers have approached me to complain that this provision is being used to threaten them with prosecution if they take photographs of police officers on duty. In one case a correspondent informed me that a police officer used the section to force him to delete from his camera a photograph of a police officer on traffic duty, in circumstances in which the member of the public had a legitimate reason for taking the photograph in connection with his own impending traffic case.

197. It should be emphasised that photography of the police by the media or amateurs remains as legitimate as before, unless the photograph is *likely* to be of use to a terrorist. This is a high bar. It is inexcusable for police officers ever to use this provision to interfere with the rights of individuals to take photographs. The police must adjust to the undoubted fact that the scrutiny of them by members of the public is at least proportional to any increase in police powers – given the ubiquity of photograph and video enabled mobile phones. Police officers who

[39] [2000] 2 AC 326

use force or threaten force in this context run the real risk of being prosecuted themselves for one or more of several possible criminal and disciplinary offences.

198. *Sections 59-62* provide for offences of inciting terrorism overseas. These provisions incorporate the substance of what was formerly *Sections 5-7* of the *Criminal Justice (Terrorism and Conspiracy) Act 1998*. Whilst the provisions are wide, the consent of the DPP is required before a prosecution can be brought. With the protection of the requirement of such consent, the existence of an offence to criminalize, for example, incitement by a person within the UK to murder a British ambassador abroad is a proportionate response. As I observed in my previous reports, the deaths of a senior British diplomat and others in Istanbul in 2003 demonstrated the reality of the worst fears that such events may occur. Five persons were charged with a principal offence under these provisions in 2007-8 (Table 3(a)), and there were three convictions (Table 7(a)).

199. *Section 63* extended jurisdiction so that if a person does anything outside the UK that would have constituted a terrorist finance offence contrary to *sections 15-18*, he shall be guilty of the offence as if it had been done in the UK. It is my continuing view that this provision remains useful and necessary.

200. *Sections 63A-63E* made further provision for extra-judicial jurisdiction for terrorist offences, in accordance with the *Crime (International Co-operation) Act 2003, section 52*. These provisions extend domestic law to take into account various treaty obligations, which in broad terms apply 'zero tolerance' to terrorism acts wherever they are committed and whatever their purpose or political or other target. Criminal liability in our own jurisdictions is extended to any UK national or resident who commits outside the UK any act which would be a terrorism offence within the UK. The extension of UK jurisdiction applies too to terrorism acts by any person (whatever their nationality or residence) wherever committed, against UK nationals, residents and diplomatic staff. *Section 63D* makes a similar provision in relation to terrorist attacks or threats abroad in connection with UK diplomatic premises and vehicles. All such prosecutions are subject to the consent of the Attorney General, or the Advocate General for Northern Ireland.

201. *Section 64* has been repealed.

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

202. As before, in Northern Ireland I have been greatly assisted by the patient and purposeful support which I have been given by officials of the Northern Ireland Office, the Police Service of Northern Ireland and other law enforcement bodies, those involved in administering justice and running the courts, the regional political parties, human rights organisations, and many, many other organisations and individuals who have contacted, advised and helped me. I have drawn extensively upon their generously given time and documentation.

203. *Part VII* of the Act was replaced from the 16th February 2006 by the *Terrorism (Northern Ireland) Act 2006 [TNIA2006]*. The main (and temporary) purpose of that Act was to extend the life of Part VII for a limited period[40].

204. *The Justice and Security (Northern Ireland) Act 2007 [JaSNIA2007]*, in force since the 31st July 2007[41], provided from the 1st August 2007 for a considerably revised system of non-jury trial, to be used in restricted circumstances.

205. That system is now subject to separate review. *JaSNIA2007* introduced other important changes to the law concerning the Northern Ireland Human Rights Commission, powers of the military and the police to stop and search, road closures, compensation and connected criminal justice matters, and the private security industry. In effect, *Part VII* has now been replaced by *JaSNIA2007*, and former counter-terrorism laws have been succeeded by new public order legislation.

206. The Independent Reviewer of the new provisions for Northern Ireland is Robert Whalley CB. Mr Whalley and I have co-operated closely, and will continue to work together and share experience where appropriate.

207. Of course, my role as independent reviewer continues in relation to Northern Ireland, as part of the United Kingdom. In addition, I act in a non-statutory role as the independent reviewer of the new national security arrangements for Northern Ireland. I am also the chair of the Northern Ireland Committee on Protection [NICOP]. NICOP has been established to determine the policy in relation to the provision of close armed protection to individuals living in Northern Ireland, having regard to the State's obligations under *Article 2* of the *European Convention on Human Rights*; and to consider applications for the provision of armed close protection to any individual and decide what level of protection, if any, is required.

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40 See the explanatory notes to the Act at www.opsi.gov.uk/acts/en2006/2006en04.htm

41 See *section 53* for commencement provisions; and *The Justice and Security (Northern Ireland) Act 2007 (Commencement No. 1 and Transitional Provisions) Order 2007* [2007] No. 2045; and *The Justice and Security (Northern Ireland) Act 2007 (Commencement No. 2) Order 2007* [2007] No. 3069

208. I have been briefed by the Police Service of Northern Ireland, the Security Service and the military. The continuing reduction in Army activity, together with the dismantling of watch towers and some other military infrastructure, are clear signs of normalisation. Troops in Northern Ireland are now doing other work, for example training for activities in the Middle East. Rear-based troops stationed outside Northern Ireland remain ready for the unexpected in Northern Ireland, and are brought over if required. I have witnessed training for possible civil unrest.

209. I have discussed the legal checks and balances in the Northern Ireland situation, having spent time in discussions with (amongst others) the Lord Chief Justice of Northern Ireland and other senior judges, the Public Prosecution Service for Northern Ireland, senior management of the PSNI, the Police Ombudsman, the Chief Commissioner of the Human Rights Commission, as well as the political parties as mentioned above. Their contributions have helped my work greatly.

210. *Schedule 9* set out in three parts offences subject to special provisions in *Sections 65 to 80* and *Section 82* of the Act. *Schedule 9* was repealed and ceased to have effect on the 31st July 2007, as a result of the *Terrorism (Northern Ireland) Act 2006 section 1.*

211. The same applies to the remainder of *Part VII*. In the circumstances, I have removed from this aspect of my reporting cycle any separate consideration of Northern Ireland statutes or statistics, which will be covered by the Northern Ireland Reviewer Mr Whalley and his successors.

# 8 PART VIII OF THE ACT: GENERAL PROVISIONS

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

213. *Sections 114-116* have provoked some additional complaints in the past year, particularly concerning the taking of photographs, and the exercise of *section 44* powers. These issues are dealt with in detail above. In general, the power to use reasonable force to exercise the provisions of the Act is a reasonable provision, but must be used sparingly by police officers. The nature of the experience of a member of the public encountering the Act should be as positive as the circumstances allow.

214. *Section 117* requires the consent of the DPP or the Attorney General to prosecutions in respect of most offences under *TA2000. Section 117 (2A)* and *(2B)* provides added protection in relation to offences committed outside the United Kingdom. These are important safeguards against the arbitrary use of wide powers that could be misused in the wrong hands. The effectiveness of consent to prosecute as a protection against arbitrariness depends on far more than the astuteness and level of knowledge held by the DPP or Attorney General concerned. It depends too on the accuracy and integrity of the information provided for the purpose of the exercise of consent. The importance of this level of consent as part of our unwritten constitutional settlement should not be underestimated.

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

216. *Sections 119 to 125*, as amended to reflect other legislative changes, are largely formal or definitions consequent upon the Act as a whole. *Section 120A* has been added by the *CTA2008*, in force from the 18th June 2009. It supplements court powers of forfeiture following convictions. The new section provides a balanced procedure, and specifies the right of third parties to be heard if they wish to claim an interest in the property proposed for forfeiture.

217. I have reviewed the *Part VIII* provisions fully, and have no basis for suggesting that they do not work to meet purpose.

218. The transitional provisions contained in *section 129* worked satisfactorily, and now are historic.

## 9 SCHEDULES TO THE ACT

219. Since enactment, all the schedules have been the subject of amendment and partial repeal.

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

221. *Schedule 3* provides for the constitution, administration and procedure of POAC. New procedural rules were introduced during 2007, and remain appropriate and durable[42]

222. *Schedule 3A* defines the regulated sector and supervisory authorities. It was amended substantially to take account of post-2000 legislation. Nothing has been drawn to my attention in 2008 to indicate any real concern. Although I have looked for any effect of the Act on the regulated sector during the past year, nothing of significance has been drawn to my attention.

223. I wonder sometimes if the regulated sector, which includes credit and investment institutions, is fully aware of its potential responsibilities under the Act. I would welcome their reassurance that they are.

224. *Schedule 4* was amended by *ATCSA2001* and subsequently. The schedule covers forfeiture, restraint and connected compensation orders. It remains a necessary part of the Act, and its mechanisms work. The enforceability of freezing orders was considered during 2008 by the Court of Appeal.

225. In *A, K, M, Q & G v HM Treasury*[43], the Court of Appeal held that the Crown has wide discretion to decide what particular provisions fall within the permitted scope of the power to make freezing orders to implement UN Security Council directives. A state could properly conclude that it was expedient to provide that reasonable grounds for suspicion was an appropriate test, provided that the person concerned had proper opportunity to challenge that decision, Additional offending words could be severed. The courts had to be relied upon to ensure that there were sufficient procedural safeguards to protect applicants.

226. *Schedule 5* deals with procedures for search warrants. The Schedule was amended by *ATCSA2001*, *TA2006*, and by the amending Northern Ireland legislation referred to above. Again I have received no representations from the police or elsewhere during the past year concerning the working of these provisions. They appear to be fit for purpose.

227. *Schedule 6* concerns the obtaining by the police of financial information relating to a terrorist investigation. I have received no suggestions of concern about the operation of this provision.

228. *Schedule 6A* introduced the system of account monitoring orders. They can be obtained only by order of a circuit judge or equivalent, and on grounds set

[42] Proscribed Organisations Appeal Commission (Procedure) Rules 2007, *SI 2007/1286*
[43] Proscribed Organisations Appeal Commission (Procedure) (Amendment) Rules 2007, *SI 2007/3377*

out in reasonably clear terms in *paragraph 2*. Their potential as a route towards useful evidence is self-evident. There has been no complaint about their use.

229. *Schedule 7* (port powers) is discussed above. It too was amended, albeit not extensively, by *ATCSA2001* and *TA2006*. It allows police, and officers of the new UK Borders Agency, to stop and question, and detain, a person for the purpose of determining whether he appears to be a terrorist. The power is available on ships, in aircraft, and in premises at ports and in the Northern Ireland border area. There are requirements that the questioned person must fulfil, relating to identification and documents. Powers extend to vehicles. The maximum period of detention of a person under the provision is 9 hours, and 7 days of a thing. I have watched the powers being exercised at many ports in recent years, and continued to do so in 2008. Generally they are exercised politely and with restraint – but still more frequently than is necessary in the protection of national security. These powers have produced significant material of assistance to the authorities in preventing and detecting terrorism. On one occasion in 2008 I happened to be present at an airport at a time that enabled me to observe at close quarters what I took to be an extremely effective and necessary *Schedule 7* procedure.

230. *Schedule 8* contains the procedures concerning the detention of terrorist suspects under *section 41* or *Schedule 7*, as discussed above. A significant amendment introduced by *ATCSA2001* allowed authorisation for the obtaining from a detained person of fingerprints, restricted to cases of refusal of identity or where there are reasonable grounds to doubt the claimed identity[44]. Used fairly, this is a proportional and reasonable provision, and should work adequately. Four years ago I recommended that statistics should be kept by the Home Office of the use of this power. Frustratingly, I have yet to see them.

231. *Schedule 8A* was inserted by *CTA2008 Section 76*. It provides supplementary provisions relating to the offence in section 58A (eliciting, publishing or communicating information about members of the armed forces etc). Any effects of this schedule will emerge during the current year.

232. *Schedules 9-13* related to Northern Ireland. Subject to transitional provisions, they ceased to have effect on the 31st July 2007. The new Northern Ireland legislation (not subject of this review) incorporates some aspects of the Schedules.

233. The remaining schedules, *14-15*, have not given any cause for comment.

[44] See Schedule 8 paragraphs 10-15, 20

## 10 SCOTLAND

234. As in previous years, I have visited Scotland on several occasions. Scottish special branches have close working relationships together, and I am impressed by their commitment to sharing information. They operate well at both the macro and micro level. There exists in Scottish police forces a very high level of expertise on terrorism matters, and a real sense of purpose. There remains a very impressive level of partnership between police and coastal communities in parts of Scotland, with reference to any terrorism threat from incoming boats. I have received no complaints in relation to Scotland, from either the authorities or the public.

235. Since my last report *section 44* has continued to be used very sparingly in Scotland.

## 11 CONCLUSIONS ON THE TA2000

236. My conclusions in general are as before. As always, throughout my travels, reading and discussions in connection with the *TA2000* I have been fully conscious of the delicate nature of the balance between political freedoms and the protection of the public from politically driven violence and disorder. This is nowhere more evident than in relation to *section 44*, the use of which should be less frequent; and in relation to the use of ports stops.

237. I always have in mind and repeat that national security is a civil liberty, to which every citizen is entitled.

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

## 12 THE TERRORISM ACT 2006, PART 1

239. This is the second time I have prepared a report on the operation of *TA2006 Part 1* in conjunction with my responsibilities in respect of the TA2000.

240. Last year the absence of meaningful statistics to date in relation to *TA2006* made this a task that could only be incomplete. A full statistical bulleting has now been devised and became available in early 2009: this is the material reproduced in full in Annex C to this report.

241. *Section 1* contains the offence of *encouragement of terrorism* by statements. Although the section contains the word '*glorifies*[45]', *subsection (1)* makes it clear that the section has limited applicability, to –

(a) "*a statement that is likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement or other inducement to them to the commission, preparation or instigation of acts of terrorism or Convention offences*".

242. *Section 1(3)* provides –

"(3)*For the purposes of this section, the statements that are likely to be understood by members of the public as indirectly encouraging the commission or preparation of acts of terrorism or Convention offences include every statement which –*

*(b) glorifies the commission or preparation (whether in the past, in the future or generally) of such acts or offences; and*

*(c) is a statement from which those members of the public could reasonably be expected to infer that what is being glorified is being glorified as conduct that should be emulated by them in existing circumstances*".

243. *Section 2* renders it an offence to disseminate terrorist publications, in circumstances parallel to those criminalised in *section 1*.

244. Three suspects were charged in 2007-8 with a *section 1-2* offence of encouragement of terrorism as principal offence, with two convictions [Table 7(a)]. Although I remain unattracted by the use (uniquely in this legislation) of the word '*glorifies*', it is linked so closely to the more conventional inchoate concept of incitement that the criminalisation of the conduct described is proportionate. However, I think I reflect judicial opinion that it is desirable that as many prosecutions as possible should be linked to specific terrorism acts and conspiracies.

245. The purpose of the section is to tackle the undoubted problem of radicalisation. There has been considered and repeated concern about the effect of the section on the freedom of speech. Such criticism must be taken very

[45] *Section 1(3)(a)*

seriously, and I shall continue to observe the operation of the provision with that in mind.

246. Prosecution is an instrument of last resort against radicalisation. The '*Prevent*' strand of counter-terrorism strategy recognises this. It is better by far to discuss and persuade at community level, so that those minded to radicalise or to be radicalised have the opportunity to consider and reflect upon their own and their community or group's interests before charging offences under section 1. Prosecution should be reserved for blatant and evidentially strong cases. Debates before juries about the freedom of speech understandably are unpredictable. My consultations in 2008 have confirmed my earlier view that criminal prosecutions can sometimes risk fuelling the radicalisation of others rather than removing it.

247. A statutory defence is provided under *section 1(6)*. This should protect academics, journalists, commentators and others who quote from material for legitimate reasons and in an appropriately detached way. It has not arisen as a difficulty.

248. *Sections 3* and *4* apply to statements and publications appearing electronically. They provide for a system of notices to lead to the removal from the internet of terrorism-related unlawful material.

249. I have received no complaints from any source about these provisions. It is important to be reassured that they are working fairly and are used only when appropriate. I am unaware of any use of these provisions in 2008.

250. *Section 5* makes the preparation of terrorist acts an offence if done with the intention of committing acts of terrorism, or assisting another to commit such acts. This section is consistent with recommendations made by Lord Lloyd of Berwick prior to the introduction of the *TA2000*, and by me since 2001. It has been used, with four convictions of it as principal offence in 2007-8 [table 7(a)]. and is a sensible provision. It applies to a broad range of potential actions, whether a particular act or target of terrorism has yet been identified by the offender or not.

251. *Section 6* makes it an offence to provide training for terrorism, and to receive such training. The section has been used successfully in prosecutions, and other trials are pending. There were no convictions of the offence in 2007-8. The offence is reasonably tightly defined, and is proportionate. It is now beyond doubt that terrorism training has occurred within Great Britain, sometimes using the facilities of regular businesses providing outdoor and combat-themed activities. I have little doubt that such businesses are aware of the need to scrutinise their customer base and to inform the authorities of any suspicions. I am aware that the police are actively vigilant about such training.

252. *Section 7* reasonably provides for the forfeiture of anything found in a convicted offender's possession for purposes connected with an offence under *section 6*.

253. *Section 8* has caused me some concern since it was first proposed. Reasonably, it makes it an offence to attend any place, worldwide, used for terrorism training. However, as I have said before, it has the effect of also criminalising a journalist who enters a terrorist training camp for the purposes of reporting on the activities there. He or she would not commit an offence if they stood outside the perimeter reporting upon activities inside; but an investigative journalist who went inside the perimeter could be prosecuted. I would feel more comfortable with the section if there was a statutory defence for bona fide journalists acting in a legitimate professional fashion. Nevertheless it is right that I should say that I have received no representations on this matter from the media during the past year, and they seem able to live with the restraint it imposes.

254. *Section 9* provides that it is an offence to make or possess a radioactive device, or to possess radioactive material with a terrorist intention. This is an extremely serious offence, with a maximum sentence of life imprisonment. This is a necessary and proportionate provision. Fortunately, it has not been tested in the courts.

255. *Sections 10* and *11* provide for other offences concerning the misuse of radioactive devices or material, and the damage of a nuclear facility; and terrorist threats relating to devices, materials or facilities. These too attract maximum sentences of life imprisonment, and are proportionate to the risk involved.

256. *Section 12* amends the *Serious Organised Crime and Police Act 2005*, in relation particularly to trespass on nuclear sites. It is an offence to trespass within the outer perimeter boundary of a nuclear site. Whilst this inhibits the ambition of some anti-nuclear protesters, effective protest can be and is mounted at or near to the perimeters of such sites. The risk of infiltration of legitimate protests by terrorists is real, and the amended law is proportionate. Peaceful protest groups have expressed serious misgivings about this provision: whilst the provision itself is proportionate, I hope that its application will be equally so.

257. *Sections 13* and *15* provide for increased penalties for certain offences. These are uncontroversial provisions. *Section 14* has been repealed and replaced[46].

258. *Section 16* provides revised arrangements for preparatory hearings in the Crown Court in terrorism cases. Preparatory hearings sometimes have the effect of shortening trials considerably. They appear to be working satisfactorily.

259. *Section 17* makes it an offence in the UK to do anything outside the UK which, if done in a part of the UK, would constitute a terrorism offence under the Act. The provision applies to attempts and other inchoate offences. Thus, for example, the dissemination of a publication designed to encourage terrorist action against the despotic ruler of a foreign State is rendered a criminal offence in the UK.

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[46] *Criminal Justice and Immigration Act 2008 section 148, and Sch. 27 para.26*

260. Predictably, this provision has resulted in expressions of concern about the legitimacy of support for freedom fighters, as they are often described. Whilst I well understand that concern, one must not forget that under various treaty obligations reached through the United Nations and the Council of Europe, *section 17* puts into effect an obligation on all member States of the UN and the Council. In international law there is zero tolerance of terrorism, whatever the nature of the regime proposed for attack.

261. In a great many cases there is no criticism of the extra-territorial provision made in *section 17*. Where there is potential controversy, an important protection is the discretion that is exercised whether or not to prosecute. Whilst informal in its process, the exercise of that discretion and the involvement of the Director of Public Prosecutions, the Attorney General, and their equivalents in Northern Ireland should provide reassurance. The discretion is enshrined in *section 19*: the Attorney General's consent (Advocate General in Northern Ireland) is required for all extra-territorial matters. I have seen no evidence of inappropriate use of the section, though a year ago I expected that I might.

262. *Section 18* provides that where a body corporate or a Scottish firm commits an offence under *Part 1*, a director, manager, partner or person purporting to act as such is also liable to be proceeded against personally for the offence. This has not given rise to any difficulties in the operation of the Act.

263. *Section 20* is an interpretation and definition provision. This section has caused no problems to date.

## 13 COUNTER-TERRORISM ACT 2008

264. The *CTA2008* does not require a reviewer's report, save in so far as its provisions amend the legislation reviewed above. However, in my judgment it would be unsatisfactory and inconsistent to exclude the new Act's provisions from the process of review. My intention is to include those provisions in the ambit of my work in 2009.

**Lord Carlile of Berriew Q.C.**
**9-12 Bell Yard, London WC2A 2JR**
**May 2009.**

**265.**

## ANNEX A: PERSONS AND ORGANISATIONS SEEN AND/ OR INVOLVED IN CONSULTATIONS AND ACTIVITIES AND CORRESPONDENCE INCLUDED:

- **Aberystwyth University**
- **ACPO**
- **ACPO TAM**
- **ACPOS and Scottish Terrorist Detention Centre**
- **Aedeas Architects Manchester**
- **Amnesty International UK**
- **Dr Abdullah Ansari**
- **The Army, HQ Northern Ireland**
- **Australian High Commission**
- **The Australian Security Intelligence Organisation**
- **Umar Azmeh**
- **BBC and many other broadcasters and columnists**
- **Bindmans LLP**
- **The Hon Pierre Blais, Federal Appeals Judge, Canada**
- **Professor Philip Bobbitt**
- **British Business and General Aviation Association**
- **British Irish Rights Watch**
- **British Library**
- **British Muslim Federation**
- **British Transport Police**
- **Cage Prisoners**
- **Government of Canada (including expert evidence)**
- **Canary Wharf Group plc**
- **Chamber of Shipping**
- **Fiona Chambers**
- **Charity Commission**
- **Chatham House**
- **Christ College Brecon**
- **Civitas**
- **Citizens Against Terror**
- **City Forum**
- **City of London Police**
- **Civil Nuclear Police Authority**
- **Civitas**
- **Cold Command Consultants**
- **Clove Systems**
- **Mr JS Coduri**
- **William Collis**
- **Dr David Cole (Georgetown University)**
- **Columbia University**

- **Committee for the Administration of Justice, Northern Ireland**
- **Council of Europe**
- **Alan J Crocket**
- **Mr Tim Crowther**
- **The Rt. Hon David Davis (when not an MP)**
- **DHL**
- **Doughty Street Chambers**
- **DUP**
- **Dyfed-Powys Police**
- **Mark Dziecielewski**
- **Eden Intelligence**
- **Edinburgh University Politics Society**
- **Oliver Edwards**
- **Phil Edwards**
- **Jacqueline Eginton**
- **Equality and Human Rights Commission**
- **Christine Evans-Pughe**
- **Faith Matters**
- **Fatima Women's Network**
- **Fife Constabulary**
- **Foreign and Commonwealth Office (home and abroad)**
- **Gangmasters Licensing Authority**
- **Joyce Garner**
- **Professor Conor Gearty**
- **Parliamentarians from Germany**
- **University of Glamorgan**
- **Shaista Gohir**
- **Neil Graffin**
- **The Hon Society of Gray's Inn (Barnard's Inn Reading 2008)**
- **Greater Manchester Police**
- **Dr Peter Green and other forensic examiners**
- **Peter Gristwood**
- **Djamel Guesmia**
- **Hampshire Constabulary**
- **University of Hertfordshire**
- **Her Majesty's Inspectorate of Constabulary**
- **Home Affairs Committee, House of Commons**
- **Home Office Ministers and officials**
- **Many House of Lords members**
- **Howard League**
- **Human Rights Lawyers' Association**
- **Human Rights Watch**
- **Azeem Ibrahim**
- **Independent Monitoring Commission**

- **Independent Police Complaints Commission**
- **Intelligence and Security Committee**
- **International Commission of Jurists**
- **Islamic Human Rights Commission**
- **Embassy and Government of Israel**
- **ITT Tourism**
- **Michael Jacobson (Washington DC)**
- **Joint Border Operations Centre**
- **Joint Committee on Human Rights**
- **Joint Terrorism Analysis Centre (JTAC)**
- **Lord Judd**
- **Judges (various)**
- **JUSTICE**
- **Mr Tim Kavanagh**
- **Kent Police; and juxtaposed controls at Coquelles**
- **King's College London**
- **Yousif al-Khoei**
- **The Labour Party**
- **Liberal Democrat Party**
- **Liberty**
- **London School of Economics, Centre for the Study of Human Rights**
- **Lord Advocate**
- **Lord Chief Justice of Northern Ireland**
- **Manchester University**
- **Ian MacDonald**
- **Mrs MI McLaughlin**
- **James Mallinson**
- **Paul Martin**
- **Patrick Mercer MP**
- **Metropolitan Police**
- **John K Milner**
- **Ministry of Justice**
- **WJ Moore**
- **Fiyaz Mughal**
- **Paddy Murray**
- **Muslim Council of Great Britain**
- **Muslim and other Communities representatives, Glasgow**
- **Gabe Mythen**
- **NaCTSO**
- **National Coordinator of Ports Policing**
- **National Coordinator of Special Branches**
- **National Joint Unit**
- **National Council of Resistance of Iran**
- **NPAC**

- **National Policing Improvement Agency**
- **Netjets**
- **Rebecca Newton**
- **John B Nicholles**
- **Northern Ireland Human Rights Commission**
- **Northern Ireland Office**
- **Northern Ireland Policing Board**
- **Northern Ireland Office Ministers and Officials**
- **Northern Ireland Policing Board**
- **Northern Ireland Public Prosecution Service**
- **National Ports Analysis Centre**
- **Mr Saif Osmani**
- **Palestinian Authority**
- **Parliamentary Intelligence and Security Committee**
- **PICTU (Police International Counter Terrorism Unit)**
- **Police Service of Northern Ireland**
- **Police Ombudsman of Northern Ireland**
- **Policy Exchange**
- **Privy Council Review of Intercept Evidence**
- **PUP**
- **Pysdens Solicitors (Samuel Perez-Goldzveig)**
- **Haras Rafiq**
- **Raj Law Solicitors**
- **Mrs Rajavi, NCRI, Paris**
- **Ramadhan Foundation**
- **Aasim Rashid**
- **Nathan Rasiah**
- **Refugee Council**
- **Royal College of Defence Studies**
- **Royal United Services Institute**
- **Professor Martin Rudner**
- **St Johns College Southsea Political Society**
- **Professor Philippe Sands Q.C.**
- **Scottish Parliament and Government**
- **Scottish Police College, Tullyallan**
- **SDLP**
- **Joseph Sebastian**
- **Secret Intelligence Service**
- **The Security Institute**
- **Security Service**
- **Sinn Fein**
- **Smiths Detection**
- **South Wales Police**
- **Statute Law Society**

- **Stena Line**
- **Strathclyde Police**
- **Sufi Muslim Council**
- **Sussex Police**
- **Chambers of Rock Tansey QC**
- **Tayside Police**
- **The Rt Hon Lord Tebbitt**
- **Travellers Club**
- **Glenmore Trenear-Harvey**
- **Parliamentarians from Turkey**
- **Mrs MJA Turner**
- **UKBA**
- **Ultrasys**
- **Unisys**
- **University College London**
- **UUP**
- **John Vine QPM (UKBA Chief Inspector)**
- **Vodafone**
- **Professor Clive Walker**
- **WECTU Wales Special Branches Conference**
- **Robert Whalley CB**
- **Roger Whittaker**
- **Professor Paul Wilkinson**
- **Adam Wilson**
- **World Muslim Sikh Federation**
- **South Yorkshire Police**
- **West Yorkshire Police**
- **Daniel Youkee**
- **Masoud Zabeti**
- **Yossi Zur**

266.

**267.**

**268.**

## ANNEX B: PORTS etc. VISITED

- Belfast City Airport
- Belfast International Airport
- Belfast Port
- Birmingham Airport
- Channel Tunnel Folkestone
- Port of Dover
- East Midlands Airport
- Edinburgh Airport
- Farnborough Airport
- Port of Felixstowe
- Glasgow Airport and Port
- Israel
- Port of Larne
- London City Airport
- London Gatwick Airport
- London Heathrow Airport
- London Stansted Airport
- Luton Airport
- Manchester Airport
- Palestininian West Bank
- Paris Eurostar
- RAF Northolt Airport
- Port of Portsmouth
- Prestwick Airport
- Robin Hood Airport Doncaster
- St Pancras International
- Port of Stranraer
- Wapping
- Numerous UK railway stations

## ANNEX C: Statistics on terrorism arrests and outcomes Great Britain 11 September 2001 to 31 March 2008

## MAIN POINTS

269. For the period between the start of the data collection on 11 September 2001 to 31 March 2008:

- There were 1,471 terrorism arrests. This excludes 38 arrests made between the introduction of the Terrorism Act 2000 on 19 February 2001 and 11 September 2001 and 119 stops at Scottish ports under Schedule 7 of the Terrorism Act 2000.
- In 2007/8 there were 231 terrorism arrests compared with an annual average of 227 since 1 April 2002.
- Thirty-five per cent of terrorism arrests (521) resulted in a charge, of which 340 (65%) were considered terrorism related. The proportion of those arrested (35%) who were charged is similar to that for other criminal offences with 31% of those aged 18 and over arrested for indictable offences prosecuted. For a further 9% of terrorism arrests some alternative action was taken (e.g. transferred to the immigration authorities).
- The main offences for which suspects were charged under terrorism legislation were possession of an article for terrorist purposes, membership of a proscribed organisation, and fundraising, all offences under the Terrorism Act 2000.
- The main offences for which suspects were charged under non-terrorist legislation, but considered as terrorism related, were conspiracy to murder and offences under the Explosive Substances Act 1883.
- Forty-six per cent of those arrested under s41 of the Terrorism Act 2000 were held in pre-charge detention for under one day and 66% for under two days, after which they were charged, released or further alternative action was taken. Since the maximum period of pre-charge detention was increased to 28 days with effect from 25 July 2006, 6 persons have been detained for the full period, of which 3 were charged and 3 were released without charge.
- At 31 March 2008 125 persons were in prison for terrorist-related offences and 17 persons were classified as domestic extremists/separatists. The majority (62%) of the 125 persons imprisoned were UK nationals.

**Persons arrested (Table 1)**

The relatively small numbers of annual terrorism arrests mean that proportionally large fluctuations in arrests can result from particular police operations.

1. Since 11 September 2001, when the current data collection was set up by the Office of the National Coordinator of Terrorist Investigations, there have been 1,471 terrorism arrests. These data exclude:

   a. 38 arrests made between the introduction of the Terrorism Act 2000 on 19 February 2001 and 11 September 2001 when the current data collection began, because only limited data is available;

   b. 119 stops made at Scottish ports since 11 September 2001 under Schedule 7 of the Terrorism Act 2000 for which again less information is available.

2. Since 11 September 2001 there were 1,286 arrests under the powers in s41 of the Terrorism Act 2000 and 185 under other legislation (e.g. the Police and Criminal Evidence Act 1984).

3. In 2007/8, there were 231 terrorism arrests of which 156 were arrested under s41 of the Terrorism Act 2000 and 75 under other powers. This was similar to the level of average annual arrests since 1 April 2002 (227).

**Persons charged (Table 2)**

4. Of the 1,471 terrorism arrests since 11 September 2001, 521 (35%) resulted in a charge, 131 (9%) had alternative action taken and 819 (56%) were released without charge. Sixty-five per cent of all charges were considered terrorism related, of which 222 (65%) were under terrorism legislation and 118 (35%) under other legislation (e.g. conspiracy to murder). In addition there were 19 charges for port stops under Schedule 7 Terrorism Act 2000 which were excluded from later analysis.

5. A comparison was carried out between terrorism related offences and all criminal offences for which a suspect can be arrested and charged (see Notes). The basis for the method used was as follows:

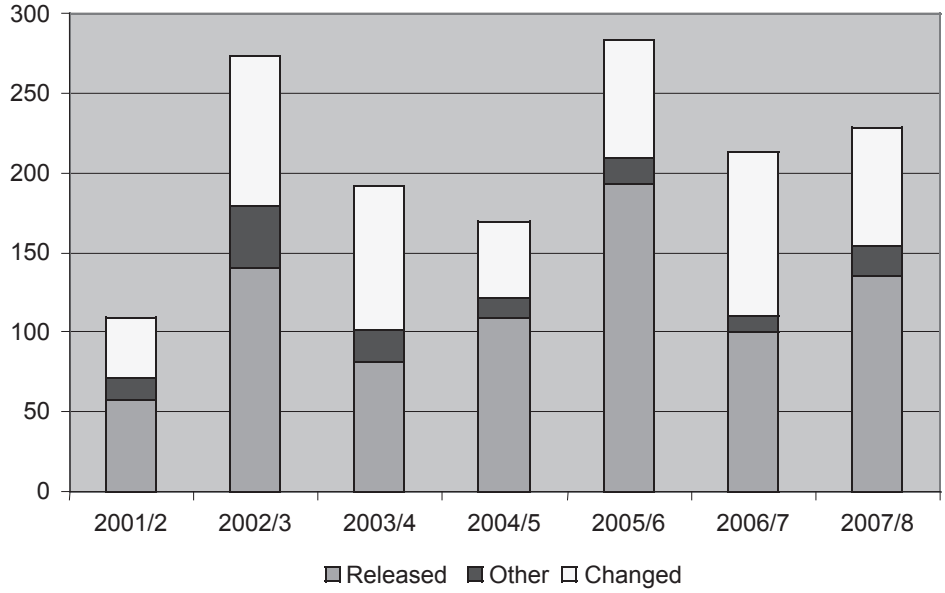
   a. No comparable data exist for Great Britain so the comparison was restricted to England and Wales.

   b. The number of persons proceeded against was used as a proxy for offences charged because no statistics are collected centrally in England and Wales on persons charged for criminal offences.

   c. To provide a more accurate comparison only those aged 18 and over were considered.

This comparison showed 31% of those aged 18 and over arrested for indictable offences were prosecuted, compared with 35% of terrorism arrests resulting in a charge.

**Figure 1: Outcome of terrorist arrests**




**Offences charged (Tables 3a, b and c)**

6. In line with the practice in criminal court statistics each suspect has been classified in terms of a single principal offence, i.e. the most serious offence. This means that where an individual has received several charges they are recorded only against the principal offence charged. Therefore, it is not possible to show a total number of individuals charged against specific offences since some have been charged with more than one offence. For arrests since 11 September 2001 the main charges under terrorism legislation have been:

- possession of an article for terrorist purposes (32% of such charges);
- fundraising (15%);
- membership of a proscribed organisation (14%);
- provision of information relating to a terrorist investigation (9%);
- collection of information useful for a terrorist act (7%);
- other offences under terrorist legislation (23%).

7. For those charged under non-terrorism legislation but where the offence was considered terrorist related the main charges were:

- conspiracy to murder (31%);
- offences under the Explosive Substances Act 1883 (17%);
- murder (2%);
- other offences under criminal legislation (50%).

8. A total of 162 arrests resulted in charges which were identified by the Office of the National Coordinator of Terrorist Investigations to be non-terrorist related. Such charges covered a wide range of offences with the main offences under:

- Forgery & Counterfeiting Act 1981 (23%);
- Theft Acts 1968 and 1978 (11%);
- Firearms Act 1968 (7%);
- Misuse of Drugs Act 1971 (5%);
- other offences under criminal legislation (54%).

**Age group and ethnicity of suspects for terrorism arrests and charges (Tables 4 and 5)**

9. For terrorism arrests since 1 April 2005, 43% of suspects were aged over 30 years and 11% aged under 21 years. For those charged for offences but where the offence was considered terrorist related a slightly lower percentage (38%) were aged 30 years and over, with those aged under 21 years at 9%.

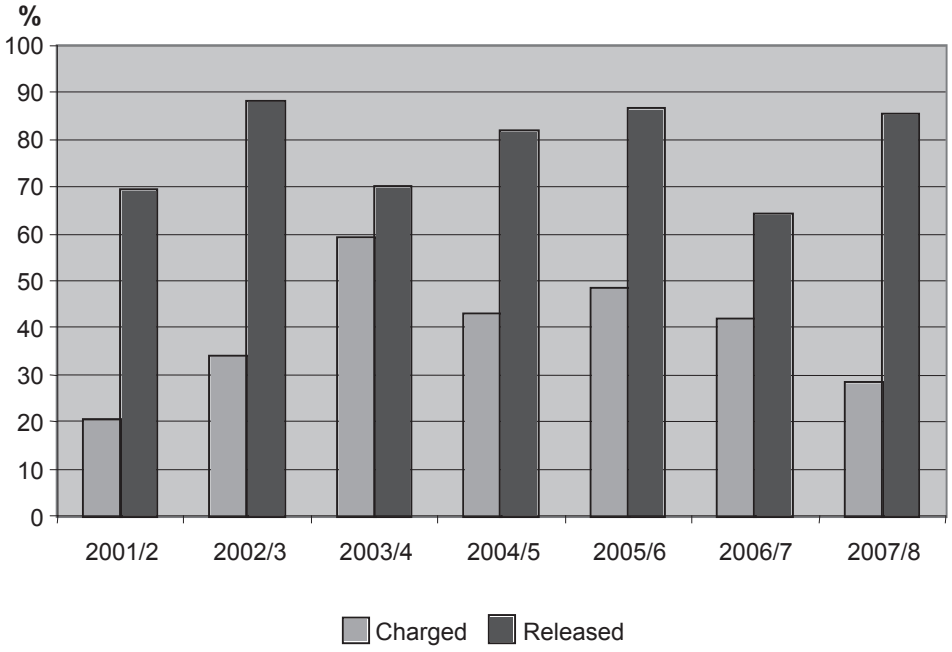
10. For terrorism arrests since 1 April 2005, 42% of suspects were of Asian ethnic appearance, 23% of which were charged with a terrorism related offence. For those suspects of White ethnic appearance the percentage of those arrested who were charged with a terrorism related offence was 29%, while 37% of those of Black ethnic appearance arrested were charged with terrorism related offences.

**Time from arrest to charge/release (Table 6)**

11. Under s41 of the Terrorism Act 2000, introduced on 19 February 2001, suspects can be arrested without a warrant. After 48 hours in pre-charge detention, an officer of at least the rank of Superintendent may make an application to a Judge for a Warrant of Further Detention. The period of detention has varied considerably. From the commencement of the legislation to the 20 January 2004, the maximum period of pre-charge detention was 7 days. From 20 January 2004 to 25 July 2006, the maximum period was extended from 7 days to 14 days. From 25 July 2006, the maximum period was extended to 28 days. Extended detention is not available for those arrested under other legislation.

12. Most arrestees only spend a short time in custody. Since 11 September 2001, 46% of those arrested under s41 were held for under one day in pre-charge detention and 66% for under two days. Forty-two per cent of those charged were charged within two days and 80% of those released were released within two days.

**Figure 2: Percentage of those charged and released within 48 hours for arrests under s41 of Terrorism Act 2000**




13. Since 25 July 2006, from when the maximum period of pre-charge detention was extended to 28 days, six individuals have been held for 27-28 days (in 2006/7), of which three were charged and three were released without charge.

**Convictions (Tables A, 7a and b)**

14. Figures shown here relate to the principal offence only. In many cases the final offence will be for a different terrorism offence or a non-terrorism related offence then charged initially.

15. Table A below gives the number of persons charged with a terrorism related offence before 31 March 2008 that have been convicted, recorded by the year in which the arrest took place. It will exclude persons charged before this date where the trial had not been completed due to the scale and complex nature of some terrorism investigations. It can therefore be expected that the final conviction rate will be higher than shown. The data available from the Office of the National Coordinator of Terrorist Investigations does not give the final conviction rates relative to those tried as opposed to those charged. However information from the Crown Prosecution Service Counter Terrorism Division indicates that relative to the number tried the conviction rate in England and Wales is 91% (2007) and 80% (2008) respectively (for further information concerning CPS CTD see http://www.hmcpsi.gov.uk/documents/services/reports/LCT/CTD_Apr09_ExecSum.pdf).

16. Since 11 September 2001, around 60% of terrorism related charges have resulted in a conviction. For charges under terrorism legislation the conviction rate relative to the numbers charged for terrorism related offences was 46% while the rate for non-terrorism offences was 80%. For the most recent years lower conviction rates will be expected as a number of individuals arrested in those years were still awaiting the completion of their trial.

**Table A Comparison of charges with terrorist related offences to convictions 2001/2 to 2007/8, based upon principal offence [(1)]**

| | | 2001/2 | 2002/3 | 2003/4 | 2004/5 | 2005/6 | 2006/7 | 2007/8 | **Total** |
|---|---|---|---|---|---|---|---|---|---|
| **Total** | | | | | | | | | |
| Charges | | 22 | 62 | 51 | 34 | 44 | 76 | 51 | **340** |
| Convictions | | 12 | 34 | 21 | 18 | 38 | 45 | 28 | **196** |
| | % | 55 | 55 | 41 | 53 | 86 | 59 | 55 | **58** |
| **Terrorism Legislation** | | | | | | | | | |
| Charges | | 15 | 36 | 33 | 14 | 30 | 55 | 39 | **222** |
| Convictions | | 6 | 9 | 6 | 2 | 24 | 33 | 22 | **102** |
| | % | 40 | 25 | 18 | 14 | 80 | 60 | 56 | **46** |
| **Non-terrorism Legislation** | | | | | | | | | |
| Charges | | 7 | 26 | 18 | 20 | 14 | 21 | 12 | **118** |
| Convictions | | 6 | 25 | 15 | 16 | 14 | 12 | 6 | **94** |
| | % | 86 | 96 | 83 | 80 | 100 | 57 | 50 | **80** |

(1) Excluding charges under Schedule 7 of the Terrorism Act 2000

17. For convictions since 11 September 2001 under terrorism legislation:

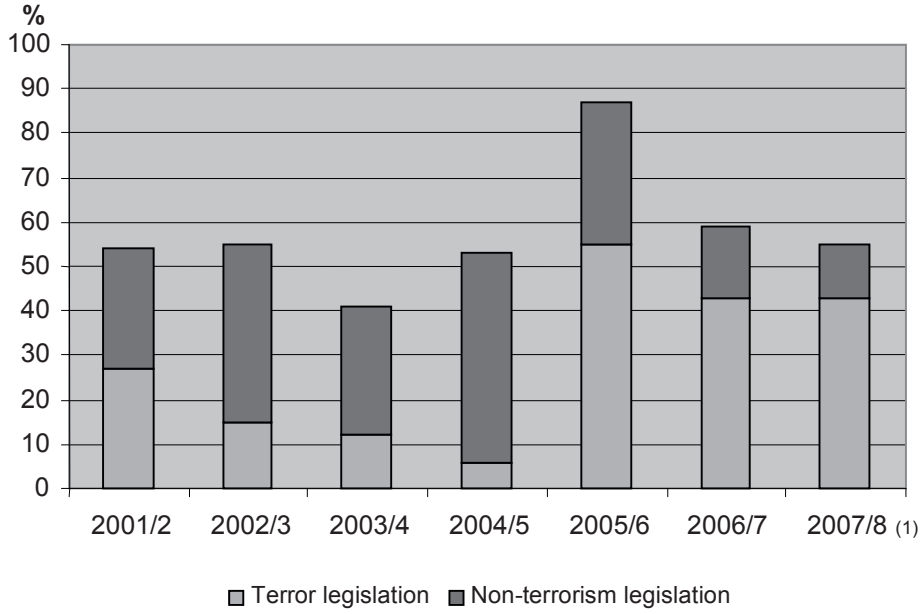
- 22% were for possession of an article for terrorist purposes;
- 15% were for membership of a proscribed organisation;
- 11% were for collection of information useful for a terrorist act.

18. For convictions considered terrorism related but under non-terrorism legislation:

- 16% were under Forgery & Counterfeiting Act 1981;
- 15% were under the Explosive Substances Act 1883;
- 13% were for conspiracy to murder;
- 9% were under the Firearms Act 1868;
- two murder convictions.

**Figure 3 Proportion of charges resulting in a conviction by year of arrest**

(1) (1)




(1) maller values may be due to cases yet to be completed

## Sentencing (Tables 8a and b)

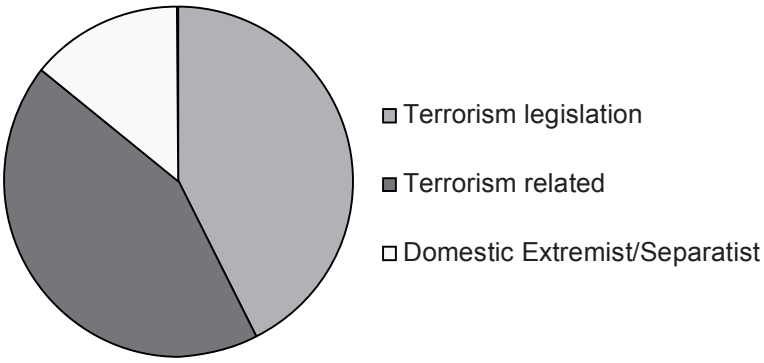
19. Currently sentencing information is only available for the more recent terrorist trials based upon data collected by the Home Office since January 2007 (see Notes). This data will exclude a small number of less serious offences and it is intended to update this information in future reports using data collected by the Crown Prosecution Service.

20. In 2007/8, based upon year of conviction and principal offence, there were 31 convictions under terrorism legislation and 25 convictions under non-terrorism legislation which were considered significant. Shorter sentences were given under terrorism legislation with the majority (76%) under 10 years. The more serious nature of offences dealt with under non-terrorism legislation has meant that only 1 custodial sentence was under 4 years with 19 (84%) over 10 years, including 9 life sentences and a single Indeterminate sentence for Public Protection (IPP). Fifty-four per cent of all suspects in these cases pleaded guilty.

## Prison population (Table 9)

21. At 31 March 2008, there were 142 extremist/terrorist prisoners in England and Wales, of which 125 were terrorism related (including 8 prisoners convicted before the introduction of the Terrorism Act 2000). Excluding these 8 prisoners, 51 of the 125 terrorist prisoners were either remanded or convicted under terrorism legislation, with 52 for terrorism related offences not under terrorism legislation. Fourteen prisoners were awaiting deportation or extradition. Just under one-third of prisoners were on remand.

**Figure 4 Proportion of terrorist/extremist prison population**




22. Seventeen were classified as domestic extremists/separatists, of whom 5 were on remand.

**Ethnicity of prisoners (Table 10)**

23. Based on self-classified ethnicity, just over one-half (56%) of prisoners remanded or convicted for terrorism related offences were of Asian ethnic origin while all but one domestic extremist was of White origin.

**Prisoners discharged (Table 11)**

24. Eleven terrorist prisoners were discharged in England and Wales during the period from July 2007 to 31 March 2008, of whom 2 were released following the completion of their sentences, 5 were extradited, 1 deported and 3 transferred to hospital. No domestic extremists were discharged.

**Nationality of prisoners (Table 12)**

25. Sixty-two per cent of terrorist prisoners in England and Wales were recorded as UK nationals, 21% of African nationality, 9% of Middle Eastern nationality and 4% of Asian nationality. Nationality was spread over 26 countries with the highest after the UK being Algerian nationals, although this accounts for only 6 prisoners.

**Religion of prisoners (Table 13)**

26. The majority (91%) of terrorist prisoners classified themselves as Muslims. For the 17 domestic extremists/separatists, 3 classified themselves as Church of England, 3 Buddhist and 8 gave no religion or described themselves as agnostic.

**27.**

## Table 1 Terrorism arrests under section 41 of the Terrorism Act 2000 or under other legislation

| | Year of Arrest | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 2001/2[1] | 2002/3 | 2003/4 | 2004/5 | 2005/6 | 2006/7 | 2007/8 | Total |
| Sec. 41 Terrorism Act 2000 | 94 | 237 | 178 | 157 | 273 | 191 | 156 | 1,286 |
| % | 87 | 86 | 93 | 93 | 96 | 90 | 68 | 87 |
| | | | | | | | | |
| Other Legislation[2] | 14 | 38 | 13 | 11 | 12 | 22 | 75 | 185 |
| % | 13 | 14 | 7 | 7 | 4 | 10 | 32 | 13 |
| | | | | | | | | |
| **Total** | **108** | **275** | **191** | **168** | **285** | **213** | **231** | **1,471[3]** |
| % of all arrests | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |

Source: Office of the National Coordinator of Terrorist Investigations.
(1) From 11 September 2001. There were an additional 38 arrests following a terrorist investigation from 19 February 2001 to 10 September 2001
(2) Mainly s1 Police and Criminal Evidence Act 1984
(3) Excludes 119 port stops carried out in Scotland over this period.

## Table 2 Outcome of terrorism arrests

| | Year of arrest | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 2001/2[1] | 2002/3 | 2003/4 | 2004/5 | 2005/6 | 2006/7 | 2007/8 | Total |
| Total arrests | 108 | 275 | 191 | 168 | 285 | 213 | 231 | 1,471[2] |
| **Charged:** | **38** | **94** | **90** | **47** | **75** | **103** | **74** | **521** |
| :Terrorism legislation[3] | 15 | 36 | 33 | 14 | 30 | 55 | 39 | 222 |
| :Failure to comply with duty at Port and Border Controls (Schedule 7) | 0 | 2 | 1 | 1 | 6 | 5 | 4 | 19 |
| :Other terrorism related criminal offences[4] | 7 | 26 | 18 | 20 | 14 | 21 | 12 | 118 |
| :Other non-terrorism related criminal offences | 16 | 30 | 38 | 12 | 25 | 22 | 19 | 162 |
| **Released without being charged** | **58** | **141** | **81** | **109** | **193** | **101** | **136** | **819** |
| **Alternative action:** | **13** | **39** | **21** | **13** | **16** | **10** | **19** | **131** |
| Cautioned | 0 | 3 | 3 | 4 | 1 | 0 | 2 | 13 |
| Transferred to immigration authorities | 13 | 34 | 9 | 5 | 11 | 5 | 11 | 88 |
| Transferred to PSNI [5] | 0 | 0 | 2 | 1 | 1 | 1 | 0 | 5 |
| Dealt with under mental health legislation | 0 | 2 | 5 | 1 | 2 | 1 | 5 | 16 |
| Other | 0 | 0 | 2 | 2 | 1 | 3 | 1 | 9 |

Source: Office of the National Coordinator of Terrorist Investigations
(1) From 11 September 2001.
(2) Excludes 119 port stops in Scotland.
(3) Includes Terrorism Act 2000 (excluding Schedule 7), Terrorism Act 2006, Anti-Terrorism, Crime and Security Act 2001, Prevention of Terrorism Act 2005.
(4) Based upon assessment by the Office of the National Coordinator of Terrorist Investigations.
(5) Police Service of Northern Ireland.

## Table 3(a) Principal offences[1] for which terrorism suspects charged[2] under terrorism legislation

| | Year of arrest | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 2001/2[3] | 2002/3 | 2003/4 | 2004/5 | 2005/6 | 2006/7 | 2007/8 | Total |
| | **Terrorism Act 2000** | | | | | | | |
| Membership of a proscribed organisations (sec. 11, 12 & 13) | 6 | 2 | 8 | 3 | 3 | 7 | 2 | 31 |
| Fundraising (sec.15 – 19) | 6 | 8 | 1 | 7 | 4 | 2 | 6 | 34 |
| Provision of information relating to a terrorist investigation (sec. 38 B & 39) | 0 | 0 | 5 | 0 | 8 | 5 | 2 | 20 |
| Wilfully obstructs a constable (sec. 47(1)(c)) | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| Weapons training (sec. 54 & 56) | 1 | 0 | 0 | 0 | 1 | 1 | 1 | 4 |
| Possession of an article for terrorist purposes (sec. 57) | 2 | 24 | 16 | 1 | 7 | 14 | 7 | 71 |
| Collection of information useful for a terrorism act (sec. 58) | 0 | 2 | 0 | 2 | 2 | 5 | 4 | 15 |
| Inciting terrorism act overseas (sec. 59) | 0 | 0 | 1 | 0 | 3 | 1 | 5 | 10 |
| **Total** | **15** | **36** | **31** | **13** | **29** | **35** | **27** | **186** |
| | **Prevention of Terrorism Act 2005** | | | | | | | |
| **Total** | | | | **0** | **0** | **5** | **4** | **9** |
| | **Terrorism Act 2006** | | | | | | | |
| Encouragement of terrorism (sec. 1 & 2) | | | | | 0 | 1 | 3 | 4 |
| Preparation for terrorist acts (sec. 5) | | | | | 0 | 8 | 2 | 10 |
| Training for terrorism (sec. 6 & 8) | | | | | 0 | 5 | 0 | 5 |
| **Total** | **0** | **0** | **0** | **0** | **0** | **14** | **5** | **19** |
| | **Anti-Terrorism, Crime and Security Act 2001** | | | | | | | |
| **Total** | **0** | **0** | **2** | **1** | **1** | **1** | **3** | **8** |
| **Total** | **15** | **36** | **33** | **14** | **30** | **55** | **39** | **222[4]** |

Source: Office of the National Coordinator of Terrorist Investigations.

(1) The offence shown is the principal offence for the charges made following an arrest. When a suspect is charged with several offences the principal offence is the most serious one based upon the maximum penalty for each offence. Where a suspect is charged both under terrorism legislation and for a non-terrorist offence the principal offence may therefore not be the charge made under terrorism legislation.

(2) Charge data are recorded by the year of arrest.

(3) From 11 September 2001.

(4) Excludes 119 port stops in Scotland and offences under Schedule 7 Terrorism Act 2000.

## Table 3(b) Principal offences[1] for which terrorism suspects charged under[2] non-terrorism legislation and the offence considered as terrorism related[3]

| | Year of arrest | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 2001/2[4] | 2002/3 | 2003/4 | 2004/5 | 2005/6 | 2006/7 | 2007/8 | Total |
| | **Common Law (England & Wales)** | | | | | | | |
| Murder | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 2 |
| Conspiracy to defraud clearing banks | 0 | 2 | 3 | 0 | 0 | 0 | 0 | 5 |
| Conspiracy to commit armed robbery (Scotland) | 0 | 2 | 6 | 0 | 0 | 0 | 0 | 8 |
| **Total** | **0** | **5** | **10** | **0** | **0** | **0** | **0** | **15** |
| | **Criminal Law Act 1977** | | | | | | | |
| Conspiracy to murder (sec. 1(1)) | 1 | 8 | 0 | 8 | 6 | 13 | 0 | 36 |
| Placing or dispatching articles to cause a bomb hoax (sec. 51(1)) | 0 | 3 | 0 | 0 | 0 | 0 | 1 | 4 |
| **Total** | **1** | **11** | **0** | **8** | **6** | **13** | **1** | **40** |
| | **Criminal Law Act 1967** | | | | | | | |
| Assisting offender by impeding their prosecution (sec. 4(1)) | **0** | **0** | **0** | **0** | **3** | **0** | **0** | **3** |
| | **Explosive Substances Act 1883** | | | | | | | |
| Doing act with intent to cause, or conspiring to cause, explosions likely to endanger life (sec. 3) | **4** | **2** | **6** | **2** | **1** | **3** | **2** | **20** |
| | **Other offences** | | | | | | | |
| Firearms Act 1968 | 1 | 0 | 1 | 1 | 0 | 1 | 2 | 6 |
| Forgery and Counterfeiting Act 1981 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 3 |
| Theft Acts 1968 & 1978 | 0 | 4 | 1 | 1 | 0 | 0 | 0 | 6 |
| Other[5] | 0 | 2 | 0 | 8 | 4 | 4 | 7 | 25 |
| **Total** | **2** | **8** | **2** | **10** | **4** | **5** | **9** | **40** |
| **Total** | **7** | **26** | **18** | **20** | **14** | **21** | **12** | **118** |

Source: Office of the National Coordinator of Terrorist Investigations.

(1) The offence shown is the principal offence for the charges made following an arrest. When a suspect is charged with several offences the principal offence is the most serious one based upon the maximum penalty for each offence. Where a suspect is charged both under terrorism legislation and for a non-terrorist offence the principal offence may therefore not be the charge made under terrorism legislation.
(2) Charge data are recorded by the year of arrest.
(3) Based upon assessment by the Office of the National Coordinator of Terrorist Investigations.
(4) From 11 September 2001.
(5) When the number of offences charged per Act is fewer than three, charges have for most offences been grouped under 'other' rather than listed separately.

## Table 3(c) Principal offences[1] for which suspects charged[2] and the offence considered as not terrorism related[3]

| | Year of arrest | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 2001/2[4] | 2002/3 | 2003/4 | 2004/5 | 2005/6 | 2006/7 | 2007/8 | Total |
| | **Criminal Law Act 1977** | | | | | | | |
| Conspiracy to purchase ammunition (sec. 1(1)) | 0 | 0 | 0 | 0 | 0 | 4 | 0 | 4 |
| Conspiracy to defraud (sec. 1(1)) | 3 | 3 | 1 | 0 | 0 | 0 | 0 | 7 |
| Placing or dispatching articles to cause a bomb hoax (sec. 51) | 0 | 1 | 2 | 1 | 3 | 0 | 0 | 7 |
| **Total** | **3** | **4** | **3** | **1** | **3** | **4** | **0** | **18** |
| | **Criminal Justice Act 1988** | | | | | | | |
| Money laundering (sec. 93) | **0** | **3** | **0** | **0** | **0** | **0** | **0** | **3** |
| | **Identity Cards Act 2006** | | | | | | | |
| With intent knowingly obtain another's ID document (sec. 25 (1) (2)& (6)) | | | | | **0** | **4** | **3** | **7** |
| | **Other offences** | | | | | | | |
| Firearms Act 1968 | 0 | 2 | 6 | 1 | 1 | 0 | 2 | 12 |
| Explosive Substances Act 1883 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Forgery & Counterfeiting Act 1981 | 8 | 10 | 11 | 2 | 4 | 1 | 1 | 37 |
| Misuse of Drugs Act 1971 | 1 | 0 | 3 | 1 | 2 | 1 | 0 | 8 |
| Road Traffic Act 1988 | 1 | 1 | 2 | 0 | 2 | 1 | 0 | 7 |
| Theft Acts 1968 & 1978 | 3 | 2 | 4 | 3 | 4 | 1 | 1 | 18 |
| Proceeds of Crime Act 2002 | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 3 |
| Criminal Damage Act 1971 & Malicious Damage Act 1861 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 3 |
| Other[5] | 0 | 6 | 8 | 3 | 8 | 9 | 11 | 45 |
| **Total** | **13** | **23** | **35** | **11** | **22** | **14** | **16** | **134** |
| **Total** | **16** | **30** | **38** | **12** | **25** | **22** | **19** | **162** |

Source: Office of the National Coordinator of Terrorist Investigations.

(1) The offence shown is the principal offence for the charges made following an arrest. When a suspect is charged with several offences the principal offence is the most serious one based upon the maximum penalty for each offence. Where a suspect is charged both under terrorism legislation and for a non-terrorist offence the principal offence may therefore not be the charge made under terrorism legislation.

(2) Charge data are recorded by year of arrest.

(3) Based upon assessment by the Office of the National Coordinator of Terrorist Investigations.

(4) From 11 September 2001.

(5) When the number of offences charged per Act is fewer than three, charges have for most offences been grouped under 'other' rather than listed separately.

## Table 4 Age group of suspects arrested for terrorism and of those charged where the offence is considered terrorism related[1], 2005/6 – 2007/8[2]

| | Age under 18 | Age 18-20 | Age 21-24 | Age 25-29 | Age 30 and over | Not known | Total |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| Arrested | 21 | 60 | 131 | 196 | 316 | 5 | 729 |
| % of all arrests | 3 | 8 | 18 | 27 | 43 | 1 | 100 |
| Terrorism related charges [1] | 4 | 12 | 37 | 50 | 65 | 5 | 173 |
| % of all terrorism related charges | 2 | 7 | 21 | 29 | 38 | 3 | 100 |
| **% of arrests resulting in terrorism related charges** | **19** | **20** | **28** | **26** | **21** | **..** | **24** |

Source: Office of the National Coordinator of Terrorist Investigations.

(1) This includes all charges under terrorism legislation and all charges under non-terrorism legislation but considered by the Office of the National Coordinator of Terrorist Investigations to be terrorism related.

(2) Data for earlier years has been excluded due to data quality concerns.

## Table 5 Ethnic appearance[1] of suspects on arrest and of those charged where considered terrorism related[2], 2005/6 – 2007/8[3]

| | White | Black | Asian | Other | Not known | Total |
|---|---|---|---|---|---|---|
| Arrested | 140 | 107 | 303 | 174 | 5 | 729 |
| % of total arrests | 19 | 15 | 42 | 24 | 1 | 100 |
| | | | | | | |
| Charged | 41 | 40 | 70 | 17 | 5 | 173 |
| % of total charges | 24 | 23 | 40 | 10 | 3 | 100 |
| **% of arrests resulting in a charge** | **29** | **37** | **23** | **..** | **..** | **24** |

Source: Office of the National Coordinator of Terrorist Investigations.

(1) See Notes.

(2) This includes all charges under terrorism legislation and all charges under non-terrorism legislation but considered by the Office of the National Coordinator of Terrorist Investigations to be terrorism related.

(3) Data for earlier years has been excluded due to data quality concerns.

## Table 6 Time in days from arrest under section 41 of the Terrorism Act 2000 [1,2,3,4] to charge[5] or release without charge

| | Year of Arrest | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2001/2002 [6] | | | | 2002/2003 | | | | 2003/2004 | | | | 2004/2005 | | | | 2005/2006 | | | | 2006/2007 | | | | 2007/2008 | | | |
| | Charged | Released | Other | Total | Charged | Released | Other | Total | Charged | Released | Other | Total | Charged | Released | Other | Total | Charged | Released | Other | Total | Charged | Released | Other | Total | Charged | Released | Other | Total |
| Under 1 day | 4 | 22 | 2 | **28** | 15 | 45 | 15 | **75** | 26 | 35 | 8 | **69** | 11 | 70 | 6 | **87** | 22 | 124 | 10 | **156** | 34 | 41 | 2 | **77** | 9 | 72 | 15 | **96** |
| 1 – 2 days | 3 | 14 | 2 | **19** | 13 | 53 | 15 | **81** | 22 | 19 | 3 | **44** | 7 | 15 | 0 | **22** | 11 | 40 | 1 | **52** | 6 | 16 | 0 | **22** | 2 | 11 | 5 | **18** |
| 2 – 3 days | 0 | 0 | 1 | **1** | 6 | 7 | 2 | **15** | 4 | 2 | 0 | **6** | 2 | 4 | 0 | **6** | 3 | 4 | 0 | **7** | 0 | 0 | 0 | **0** | 0 | 1 | 0 | **1** |
| 3 – 4 days | 9 | 9 | 1 | **19** | 19 | 3 | 5 | **27** | 5 | 5 | 4 | **14** | 4 | 4 | 1 | **9** | 1 | 4 | 0 | **5** | 0 | 3 | 2 | **5** | 3 | 1 | 0 | **4** |
| 4 – 5 days | 9 | 3 | 2 | **14** | 2 | 0 | 1 | **3** | 4 | 3 | 2 | **9** | 3 | 3 | 2 | **8** | 5 | 12 | 0 | **17** | 1 | 3 | 1 | **5** | 3 | 1 | 0 | **4** |
| 5 – 6 days | 1 | 0 | 0 | **1** | 7 | 3 | 4 | **14** | 4 | 8 | 1 | **13** | 1 | 0 | 1 | **2** | 5 | 0 | 0 | **5** | 2 | 0 | 0 | **2** | 9 | 3 | 0 | **12** |
| 6 – 7 days | 8 | 4 | 0 | **12** | 20 | 0 | 2 | **22** | 11 | 3 | 1 | **15** | 5 | 1 | 0 | **6** | 9 | 2 | 0 | **11** | 6 | 9 | 0 | **15** | 4 | 6 | 0 | **10** |
| 7 –8 days | | | | | | | | | 1 | 0 | 0 | **1** | 0 | 2 | 0 | **2** | 0 | 0 | 5 | **5** | 1 | 2 | 0 | **3** | 2 | 0 | 0 | **2** |
| 8 –9 days | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 1 | **1** | 2 | 0 | 0 | **2** | 7 | 3 | 0 | **10** | 0 | 0 | 0 | **0** |
| 9 – 10 days | | | | | | | | | 5 | 2 | 0 | **7** | 0 | 4 | 0 | **4** | 3 | 0 | 0 | **3** | 4 | 1 | 1 | **6** | 0 | 0 | 0 | **0** |
| 10 – 11 days | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 1 | 0 | **1** | 2 | 2 | 0 | **4** | 2 | 1 | 0 | **3** | 1 | 0 | 0 | **1** |
| 11 – 12 days | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** | 17 | 2 | 0 | **19** | 2 | 1 | 0 | **3** |
| 12 – 13 days | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** | 1 | 0 | 0 | **1** | 2 | 0 | 0 | **2** | 2 | 0 | 0 | **2** |
| 13 – 14 days | | | | | | | | | 0 | 0 | 0 | **0** | 9 | 0 | 0 | **9** | 4 | 1 | 0 | **5** | 7 | 5 | 0 | **12** | 1 | 1 | 0 | **2** |
| 14 – 15 days | | | | | | | | | | | | | | | | | | | | | 1 | 0 | 0 | **1** | 0 | 0 | 0 | **0** |
| 15 – 16 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** |
| 16 – 17 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** |
| 17 – 18 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** |
| 18 – 19 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 1 | 0 | 0 | **1** |
| 19 – 20 days | | | | | | | | | | | | | | | | | | | | | 3 | 0 | 0 | **3** | 0 | 0 | 0 | **0** |
| 20 – 21 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** |
| 21 – 22 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** |
| 22 – 23 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** |
| 23 – 24 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** |
| 24 – 25 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** |
| 25 – 26 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** |
| 26 – 27 days | | | | | | | | | | | | | | | | | | | | | 0 | 0 | 0 | **0** | 0 | 0 | 0 | **0** |
| 27 – 28 days | | | | | | | | | | | | | | | | | | | | | 3 | 3 | 0 | **6** | 0 | 0 | 0 | **0** |
| **Total** | **34** | **52** | **8** | **94** | **82** | **111** | **44** | **237** | **82** | **77** | **19** | **178** | **42** | **104** | **11** | **157** | **68** | **189** | **16** | **273** | **96** | **89** | **6** | **191** | **39** | **97** | **20** | **156** |

Source: Office of the National Coordinator of Terrorist Investigations.

(1) Excludes those arrested under other legislation (i.e. not under s41 Terrorism Act 2000). Although an investigation is considered terrorist related the 28-day maximum pre-charge detention period does not apply in such cases.
(2) The maximum period of pre-charge detention for an arrest under s41 Terrorism Act 2000 was extended to 14 days with effect from 20 January 2004.
(3) The maximum period of pre-charge detention for an arrest under s41 Terrorism Act 2000 was extended to 28 days with effect from 25 July 2006.
(4) Includes Schedule 7 offences.
(5) Includes alternative action as listed in Table 2.
(6) From 11 September 2001.

## Table 7(a) Principal offences[1,2] for which suspects convicted [3] under terrorism legislation

| | Year of arrest | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 2001/2[4] | 2002/3 | 2003/4 | 2004/5 | 2005/6 | 2006/7 | 2007/8 | Total |
| | **Terrorism Act 2000** | | | | | | | |
| Membership of proscribed organisations (sec. 11, 12 & 13) | 4 | 3 | 0 | 0 | 3 | 4 | 1 | 15 |
| Fundraising (sec. 15-19) | 2 | 0 | 0 | 0 | 4 | 1 | 3 | 10 |
| Provision of information relating to a terrorist investigation (sec. 38 B & 39) | 0 | 0 | 2 | 0 | 5 | 1 | 1 | 9 |
| Wilfully obstructs a constable (sec. 47) | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| Weapons training (sec. 54 & 56) | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| Possession of an article for terrorist purposes (sec. 57) | 0 | 5 | 2 | 1 | 5 | 8 | 1 | 22 |
| Collection of information useful for a terrorism act (sec. 58) | 0 | 1 | 0 | 1 | 2 | 5 | 2 | 11 |
| Inciting terrorism act overseas (sec. 59) | 0 | 0 | 0 | 0 | 3 | 1 | 3 | 7 |
| **Total** | **6** | **9** | **4** | **2** | **23** | **20** | **12** | **77** |
| | **Prevention of Terrorism Act 2005** | | | | | | | |
| **Total** | | | | **0** | **0** | **1** | **0** | **1** |
| | **Terrorism Act 2006** | | | | | | | |
| Encouragement of terrorism (sec. 1 & 2) | | | | | | 1 | 2 | 3 |
| Preparation for terrorist acts (sec. 5) | | | | | | 5 | 4 | 9 |
| Training for terrorism (sec. 6 & 8) | | | | | | 5 | 0 | 5 |
| **Total** | | | | | | **11** | **6** | **17** |
| | **Anti-Terrorism, Crime and Security Act 2001** | | | | | | | |
| **Total** | **0** | **0** | **2** | **0** | **1** | **1** | **4** | **8** |
| **Total** | **6** | **9** | **6** | **2** | **24** | **33** | **22** | **102** |

Source: Office of the National Coordinator of Terrorist Investigations.

(1) The offence shown is the principal offence for which the offender is convicted and given the highest penalty. When the suspect has more than one offence with an identical penalty it is based upon the maximum available penalty for that offence.
(2) Excludes convictions under Schedule 7 of the Terrorism Act 2000.
(3) Conviction data are recorded by the year of arrest.
(4) From 11 September 2001.

## Table 7(b) Principal offences[1,2] for which suspects convicted under non-terrorism legislation and where considered as terrorism related[3]

| | Year of arrest | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 2001/2[4] | 2002/3 | 2003/4 | 2004/5 | 2005/6 | 2006/7 | 2007/8 | Total |
| | **Common Law** | | | | | | | |
| Murder | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 2 |
| Conspiracy to defraud clearing banks | 0 | 2 | 3 | 0 | 0 | 0 | 0 | 5 |
| Conspiracy to commit armed robbery (Scotland) | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| **Total** | **0** | **4** | **4** | **0** | **0** | **0** | **0** | **8** |
| | **Criminal Law Act 1977** | | | | | | | |
| Conspiracy to murder (sec. 1(1)) | 0 | 1 | 0 | 1 | 4 | 4 | 2 | 12 |
| Conspiracy to provide money and property to be used for acts of terrorism (sec. 1(1)) | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| Placing or dispatching articles to cause a bomb hoax (sec. 51(1)) | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 3 |
| Conspiracy to cause an explosion likely to endanger life (sec. 1(1)) | 0 | 0 | 0 | 6 | 0 | 0 | 0 | 6 |
| **Total** | **0** | **4** | **0** | **8** | **4** | **4** | **2** | **22** |
| | **Criminal Law Act 1967** | | | | | | | |
| Assisting offender by impeding their prosecution (sec. 4(1)) | **0** | **0** | **0** | **0** | **4** | **0** | **0** | **4** |
| | **Explosive Substances Act 1883** | | | | | | | |
| Doing act with intent to cause, or conspiring to cause, explosion likely to endanger life (sec. 3) | **4** | **2** | **4** | **3** | **1** | **0** | **0** | **14** |
| | **Other offences** | | | | | | | |
| Forgery & Counterfeiting Act 1981 | 0 | 12 | 2 | 1 | 0 | 0 | 0 | 15 |
| Firearms Act 1868 | 1 | 0 | 3 | 1 | 0 | 1 | 2 | 8 |
| Theft Act 1968 | 0 | 2 | 2 | 2 | 0 | 0 | 0 | 6 |
| Other[5] | 1 | 1 | 0 | 1 | 5 | 7 | 2 | 17 |
| **Total** | **2** | **15** | **7** | **5** | **5** | **8** | **4** | **46** |
| **Total** | **6** | **25** | **15** | **16** | **14** | **12** | **6** | **94** |

Source: Office of the National Coordinator of Terrorist Investigations.

(1) The offence shown is the principal offence for which the offender is convicted and given the highest penalty. When the suspect has more than one offence with an identical penalty it is based upon the maximum available penalty for that offence.
(2) Conspiracy to commit offences is punishable as, and should be classified as, the substantive offences except where a separate classification is provided.
(3) Based upon assessment by the Office of the National Coordinator of Terrorist Investigations.
(4) From 11 September 2001.
(5) When the number of offences charged per Act is fewer than three, charges have for most offences been grouped under 'other' rather than listed separately.

## Table 8(a) Sentencing for terrorism trials[1] where offender convicted under terrorism legislation, 2007/8

| Plea | Determinate sentence (sentence length) | | | | | | Indeterminate sentence | | |
|---|---|---|---|---|---|---|---|---|---|
| | Under 1 year | 1 year and under 4 years | 4 years and under 10 years | 10 years and under 20 years | 20 years and under 30 years | Over 30 years | IPP[2] | Life | Total |
| **Terrorism Act 2000** | | | | | | | | | |
| | | | | | | | | | |
| Guilty | 0 | 6 | 4 | 3 | 0 | 0 | 0 | 0 | 13 |
| Not guilty | 1 | 1 | 2 | 1 | 0 | 0 | 0 | 0 | 5 |
| **Terrorism Act 2006** | | | | | | | | | |
| | | | | | | | | | |
| Guilty | 0 | 4 | 2 | 0 | 0 | 0 | 0 | 1 | 7 |
| Not guilty | 0 | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 4 |
| **Anti-terrorism Crime and Security Act 2001** | | | | | | | | | |
| | | | | | | | | | |
| Guilty | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Not guilty | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| **All offences** | | | | | | | | | |
| Guilty | 0 | 10 | 7 | 3 | 0 | 0 | 0 | 1 | 21 |
| Not guilty | 1 | 2 | 6 | 1 | 0 | 0 | 0 | 0 | 10 |
| **Total** | **1** | **12** | **13** | **4** | **0** | **0** | **0** | **1** | **31** |

Source: Office of Security and Counter-Terrorism (Home Office).

(1) Due to the current availability of court data on terrorist trials a small number of less serious cases have been excluded. It is intended to include these in subsequent bulletins.

(2) Indeterminate sentence for Public Protection.

## Table 8(b) Sentencing for terrorism trials[1] where offender convicted under non-terrorism legislation, 2007/8

| Plea | Determinate sentence (sentence length) | | | | | | Indeterminate sentence | | |
|---|---|---|---|---|---|---|---|---|---|
| | Under 1 year | 1 year and under 4 years | 4 years and under 10 years | 10 years and under 20 years | 20 years and under 30 years | Over 30 years | IPP [2] | Life | Total |
| **Conspiracy to murder** | | | | | | | | | |
| Guilty | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Not guilty | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 4 | 5 |
| **Conspiracy to cause explosions** | | | | | | | | | |
| Guilty | 0 | 0 | 0 | 2 | 4 | 1 | 0 | 0 | 7 |
| Not guilty | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 5 | 5 |
| | | | | | | | | | |
| **Other offences** | | | | | | | | | |
| Guilty | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Not guilty | 0 | 0 | 4 | 1 | 0 | 0 | 1 | 0 | 6 |
| **All offences** | | | | | | | | | |
| Guilty | 0 | 1 | 1 | 2 | 4 | 1 | 0 | 0 | 9 |
| Not guilty | 0 | 0 | 4 | 2 | 0 | 0 | 1 | 9 | 16 |
| **Total** | **0** | **1** | **5** | **4** | **4** | **1** | **1** | **9** | **25** |

Source: Office of Security and Counter-Terrorism (Home Office).

(1) Due to the current availability of court data on terrorist trials a small number of less serious cases have been excluded. It is intended to include these in subsequent bulletins.
(2) Indeterminate sentence for Public Protection.

## Table 9 Overall terrorist/extremist prisoners in England and Wales at 31 March 2008

| | Total |
|---|---|
| **Grand total** | **142** |
| Terrorism legislation or terrorism related | |
| Remanded terrorism legislation | 14 |
| Remanded terrorism related | 23 |
| Convicted terrorism legislation | 37 |
| Convicted terrorism related | 29 |
| Deportation cases | 7 |
| Extradition cases | 7 |
| **Total** | **117** |
| Domestic Extremist/Separatist[1] | |
| Remanded | 5 |
| Convicted | 12 |
| **Total** | **17** |
| **Historic cases[2]** | |
| Convicted terrorism related | **8** |

Source: National Offender Management Service.

(1) See Notes.
(2) See Notes.

**Table 10 Self-identified ethnicity[1] of terrorist/extremist prisoners in England and Wales at 31 March 2008**

| | White | Mixed | Asian or Asian British | Black or Black British | Chinese or Other | Total |
|---|---|---|---|---|---|---|
| **Grand total** | **36** | **5** | **69** | **24** | **8** | **142** |
| Terrorism legislation or terrorism related | | | | | | |
| Remanded terrorism legislation | 3 | 0 | 8 | 2 | 1 | 14 |
| Remanded terrorism related | 5 | 0 | 16 | 2 | 0 | 23 |
| Convicted terrorism legislation | 3 | 1 | 16 | 13 | 4 | 37 |
| Convicted terrorism related | 4 | 2 | 18 | 5 | 0 | 29 |
| Deportation cases | 1 | 0 | 4 | 1 | 1 | 7 |
| Extradition cases | 1 | 0 | 3 | 1 | 2 | 7 |
| **Total** | **17** | **3** | **65** | **24** | **8** | **117** |
| Domestic Extremist/ Separatist [2] | | | | | | |
| Remanded | 4 | 0 | 1 | 0 | 0 | 5 |
| Convicted | 12 | 0 | 0 | 0 | 0 | 12 |
| **Total** | **16** | **0** | **1** | **0** | **0** | **17** |
| **Historic cases**[3] | | | | | | |
| Convicted terrorism related | 3 | 2 | 3 | 0 | 0 | 8 |

Source: National Offender Management Service.

(1) See Notes.
(2) See Notes.
(3) See Notes.

**Table 11 Terrorist legislation or terrorism related prisoners discharged from prison in England and Wales following conviction, 2007/8[1][2]**

| | | Determinate sentence (sentence length) | | | | Indeterminate sentences | |
|---|---|---|---|---|---|---|---|
| Discharged (end of sentence) | Unconvicted | Less than or equal to 6 months | Greater than 6 months to less than 12 months | 12 months to less than 4 years | 4 years or more (excluding indeterminate sentences) | IPP[3] | Life |
| Discharged (end of sentence) | 0 | 1 | 0 | 1 | 0 | 0 | 0 |
| Repatriated | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Deported[4] | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Extradited[5] | 5 | 0 | 0 | 0 | 0 | 0 | 0 |
| Hospital transfer[6] | 3 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Total** | **9** | **1** | **0** | **1** | **0** | **0** | **0** |

Source: National Offender Management Service.

(1) From July 2007 when data collection started.
(2) No domestic extremist or separatist prisoners were discharged from prison in 2007/8.
(3) Indeterminate sentence for Public Protection.
(4) Immigration detainees – Those individuals held under UKBA (United Kingdom Border Agency) powers awaiting deportation or administrative removal to their country of origin. Detainees are often held in Immigration Removal Centres (IRCs) but may be held in prison following agreement with HMPS.
(5) Extradition cases – Those individuals held under Home Office powers awaiting extradition to another country or jurisdiction.
(6) Hospital transfers – Those individuals transferred from prison to a secure hospital under the Mental Health Act for treatment. Individuals may be transferred back to prison, discharged on completion of their custodial sentence, or continue to be held under Mental Health Act powers following completion of their sentence, whilst remaining eligible for release on the authority of a Mental Health Review Tribunal.

## Table 12 Self-declared nationalities of terrorist/extremist prisoners in England and Wales at 31 March 2008

| Terrorist legislation or terrorist related | | Domestic extremist/separatist[1] | | Historic terrorist cases[2] | |
|---|---|---|---|---|---|
| **United Kingdom** | **72** | **United Kingdom** | **16** | **United Kingdom** | **3** |
| **Africa** | **25** | **Asia** | **1** | **Middle East** | **5** |
| Algeria | 6 | Sri Lanka | 1 | Iran | 2 |
| Somalia | 5 | | | Israel | 1 |
| Tunisia | 3 | | | Jordan | 1 |
| Ethiopia | 2 | | | Lebanon | 1 |
| Uganda | 2 | | | | |
| Egypt | 1 | | | | |
| Gambia | 1 | | | | |
| Ghana | 1 | | | | |
| Morocco | 1 | | | | |
| South Africa | 1 | | | | |
| Sudan | 1 | | | | |
| Libya | 1 | | | | |
| **Middle East** | **10** | | | | |
| Jordan | 3 | | | | |
| Iran | 2 | | | | |
| Kuwait | 2 | | | | |
| Iraq | 1 | | | | |
| Syria | 1 | | | | |
| Yemen | 1 | | | | |
| **Asia** | **5** | | | | |
| Pakistan | 3 | | | | |
| Bangladesh | 1 | | | | |
| India | 1 | | | | |
| **Europe** | **1** | | | | |
| Italy | 1 | | | | |
| **West Indies** | **1** | | | | |
| Trinidad and Tobago | 1 | | | | |
| **Unrecorded** | **3** | | | | |
| **Total** | **117** | **Total** | **17** | **Total** | **8** |

Source: National Offender Management Service.

(1) See Notes

(2) See Notes.

## Table 13 Self-declared religions[1] of terrorist/extremist prisoners in England and Wales at 31 March 2008

| Terrorist legislation or terrorism related | | Domestic extremist/separatist[2] | | Historic terrorist cases[3] | |
|---|---|---|---|---|---|
| Muslim | 107 | Church of England | 3 | Muslim | 4 |
| Church of England | 5 | Buddhist | 3 | Church of England | 1 |
| Roman Catholic | 2 | Roman Catholic | 1 | | |
| | | Greek/Russian Orthodox | 1 | No religion | 3 |
| No religion | 3 | Hindu | 1 | | |
| | | Agnostic | 1 | | |
| | | No religion | 7 | | |
| | | | | | |
| **Total** | **117** | **Total** | **17** | **Total** | **8** |

Source: National Offender Management Service.

(1) Self-declared on entry to prison although prisoners may change their religion whilst in custody.
(2) See Notes.
(3) See Notes.

**NOTES**

**Legislation**

1. Under s32 of the Terrorism Act 2000 a terrorist investigation covers an investigation of:
   (a) the commission, preparation or instigation of acts of terrorism,
   (b) an act which appears to have been done for the purposes of terrorism,
   (c) the resources of a proscribed organisation,
   (d) the possibility of making an order under s3(3) covering proscribed organisations, or;
   (e) the commission, preparation or instigation of an offence under this Act.
2. In Part I of the Terrorism Act 2000, 'terrorism' means the use or threat of action where:

   (1)
   (a) the action falls within subsection (2),
   (b) the use or threat is designed to influence the government or an international governmental organisation or to intimidate the public or a section of the public, and;
   (c) the use or threat is made for the purpose of advancing a political, religious or ideological cause.

   (2) Action falls within this subsection if it:
   (a) involves serious violence against a person,
   (b) involves serious damage to property,
   (c) endangers a person's life, other than that of the person committing the action,
   (d) creates a serious risk to the health or safety of the public or a section of the public, or;
   (e) is designed seriously to interfere with or seriously to disrupt an electronic system.

It further states:

(3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(b) is satisfied.

3. Following a terrorist investigation suspects may be arrested under the powers in s41 of the Terrorism Act 2000. 'A constable may arrest without a warrant a person whom he reasonably suspects of being a terrorist.' In a small number of cases the suspect may be arrested under s1 of the Police and Criminal Evidence Act 1984 (PACE). It is possible that the introduction of the offences in Part 1 of the Terrorism Act 2006 was reflected in the observed increase in the number of arrests under PACE.

4. The Terrorism Act 2000 allowed for pre-charge detention up to a maximum of 7 days for individuals arrested under s41 of that Act. This was subsequently amended by the Criminal Justice Act 2003, which increased the maximum period for pre-charge detention to 14 days with effect from 20 January 2004. The Terrorism Act 2006 further extended pre-charge detention up to 28 days (though periods of more than two days must be approved by a judicial authority). The 28 day limit is subject to annual renewal by Parliament. An arrest will result in the individual being: released without charge, cautioned, charged, or facing other alternative action. The police, in cooperation with the Crown Prosecution Service (CPS), will take the decision on whether the threshold has been met to charge.

5. Following a terrorism arrest, an individual could be charged as follows:
   (a) under terrorism legislation which includes the Terrorism Act 2000, the Prevention of Terrorism Act 2005, the Terrorism Act 2006 and the Anti-Terrorism, Crime and Security Act 2001;
   (b) under other legislation;
   (c) both terrorism and other legislation;
   (d) other action includes extradition, transfer to immigration authorities, transfer to Police Service of Northern Ireland, or dealt with under mental health legislation.

   For the purposes of this bulletin charges under other legislation ((b) above) is separated into two categories:

   (a) individuals charged with non-terrorist legislation offences but where the alleged offence is considered terrorism related; and
   (b) individuals charged with non-terrorist legislation offences where the alleged offence is *not* considered terrorism related.

6. Following charge the suspect will be proceeded against at the Magistrates' Court or a decision made to discontinue the case. The majority of cases proceeded against will be committed for trial at the Crown Court.

7. During this period the suspect will either be bailed by the court or remanded in custody until the court's decision to convict or acquit the offender.

**Sources of data**

8. The Office of the National Coordinator of Terrorist Investigations maintains a database covering all terrorism arrests in Great Britain (i.e. excluding Northern Ireland) and their subsequent outcome. Work has recently been undertaken to improve the quality of these data through improved validation and comparisons with other data sources. This information relates to Great Britain with the data collected from 11 September 2001, although the total number of arrests between February 2001 and 11 September 2001 is known, no further breakdown is possible.

9. HM Prison Service maintains a list of known terrorists/extremists held in prisons in England and Wales (on remand or as convicted prisoners) but excludes those in Scottish prisons. This list also includes those who entered prison before 11 September 2001, and are therefore excluded from the police database. Information is also held on those subject to extradition orders or held by immigration powers.

**Identification of terrorism related offences**

10. The Office of the National Coordinator of Terrorist Investigations has reviewed all cases on its database to identify those that are currently identified as not being terrorist related. This decision is based upon the further information available centrally on these cases.

**Principal offence charge/conviction**

11. In line with the practice used for the general analysis of criminal court proceedings, cases are identified by their principal offence, i.e. the most serious offence. This has been identified for charges as the offence with the highest maximum penalty or for conviction with the highest penalty.

**Amendments to charges at court**

12. Charge information contained in this bulletin is based upon the principal offence, as described above. It should be noted that this is derived from the charges an individual receives at the time of charging. Frequently the original charges are amended, added to, or dropped by the CPS at any point leading up to trial and even after the trial has commenced. Therefore, an individual who is listed under a particular principal offence at the time of charge may be listed under a different principal offence at the time of conviction.

**Sentencing**

13. Sentencing information for all criminal offences is collected by the Ministry of Justice on completion of a court proceeding at the Magistrates' Court or at the Crown Court based upon the legislation under which they were convicted. It is therefore not possible to identify offenders convicted under non-terrorism legislation where the offence is terrorist related. In addition because of the relatively small number of convictions under specific sections of terrorism legislation, offences are often grouped together both with offences under terrorism legislation and with non-terrorism offences.

14. As such, sentencing data has been obtained only on the outcomes of terrorist cases which are collected by the Home Office. Collection of these data began in January 2007. This data will exclude a small number of less serious offences and it is intended to update this information in future reports using data collected by the Crown Prosecution Service.

15. Ethnicity as reported in this bulletin report data gathered via:
    (a) Arresting officer's observation:
    Based upon the police officer's visual perception of the suspect's' ethnic appearance, categorised in this report into four groups (White, Black, Asian or Other).

(b) Prisoner's self-identified ethnicity:
Since March 2003 all prisoners received into penal establishments, including transfers, have been asked to self-classify their own ethnicity using the 2001 Census categories.

16. Data on nationality and religion for the whole England and Wales prison population were published in Offender Management Caseload Statistics 2007 in October 2008 (http://www.justice.gov.uk/publications/prisonandprobation.htm). The nationality of prisoners is shown in table 7.14; the religion of prisoners is shown in tables 7.25-7.30.

17. Groups of terrorists/extremists included in prison statistics but not covered elsewhere in this bulletin are:
(a) Domestic extremists:
Domestic extremists are defined as individuals who belong to groups or causes that originate in the United Kingdom (although they may have international links) and are often associated with 'single issue' protestors who seek to further their cause through the committing of criminal offences. Some of these cases may not require the involvement of Police Counter Terrorism resources but may involve other specialist Criminal Justice resources. There are a wide spectrum of domestic extremist causes including extreme left- and right-wing groups, animal rights extremists and domestic (sometimes called 'lone wolf') bombers. Of those held in prison custody, the majority belong to extremist animal rights groups, members or associates of far right groups and domestic bombers.

(b) Historical terrorist cases:
These individuals' court cases predate the introduction of the Terrorism Acts. They were imprisoned pre-2001 following a terrorist investigation, acts of terrorism, or for membership of a proscribed terrorist organisation. They include convicted terrorists from the 1970s to 1990s for a range offences and who remain in prison custody on 31 March 2008. They include members of groups such as the Palestinian Liberation Organisation (PLO), Democratic Revolutionary Movement for the Liberation of Arabistan (DRMLA), and domestic bombers. It should be noted that a number of convicted terrorists, particularly Irish Republican and Loyalist paramilitaries, have been released either through completion of sentence or under the terms of the Belfast Agreement of 1998. These cases are not included in these figures.

**Current bulletin**

18. Statistics covering persons held under the previous terrorist legislation, the Prevention of Terrorism Act, were routinely published by the Home Office until 2001. The final bulletin (Home Office Statistical Bulletin, 16/01) covered the period up to February 2001 and preceded the introduction of the Terrorism Act 2000 (http://www.homeoffice.gov.uk/rds/pdfs/hosb1601.pdf).

## ANNEX D

## CORDONS

## Cordons under s33 TACT 2000

### CITY OF LONDON POLICE

| DATE | LOCATION | DURATION |
|---|---|---|
| 05/02/2008 | Tower Place, EC3 area (CAD 1789 of 5/2/2008) | 24 minutes |
| 13/04/2008 | Bevis Marks, Leadenhall Street,<br>St Mary Axe, Mitre Street<br>(CAD 3712 of 13/4/2008) | 8 minutes |
| 14/05/2008 | Moorfields area<br>(CAD 2115 of 14/5/2008) | 41 minutes |
| 16/05/2008 | Area of Gutter Lane<br>(CAD 4962 of 16/5/2008) | 51 minutes |
| 18/05/2008 | Boundaries around Angel Court, London EC2, (CAD 5492 of 18/5/2008) | 56 minutes |
| 28/7/2008 | St Paul's Churchyard j/w New Change<br>Ludgate Hill j/w Ave Maria Lane<br>Paternoster Square north of St Paul's Cathedral<br>(CAD 4320 of 28/7/2008) | 24 minutes |
| 18/11/2008 | Old Broad St j/w London Wall, EC2<br>Lothbury j/w Bartholomew Lane, EC2<br>Old Broad St j/w Threadneadle St, EC2<br>(CAD 6960 of 18/11/2008) | 76 minutes |

### GREATER MANCHESTER POLICE

| DATE | LOCATION | DURATION |
|---|---|---|
| 19/03/2008 | 50 Shaftbury Rd, Manchester | 1 day, 18hrs, 16mins |
| 19/03/2008 | 4 Thurlstone Crescent, Manchester | 2 days, 7hrs, 45mins |
| 19/03/2008 | 15 Shaftsbury Road, Manchester | 1 day, 8hrs, 50mins |
| 09/05/2008 | 67 Sheepfoot Lane, Prestwich, Bury | 4 days, 18hrs, 23mins |
| 09/05/2008 | 66 Sheepfoot Lane, Prestwich, Bury | 4 days, 17hrs, 16mins |
| 17/10/2008 | 59 Reynall Road, Longsight, Manchester | 1 day, 19hrs, 55mins |
| 21/11/2008 | 5 Aboukir Street, Bury | 9hrs, 50mins |
| 21/11/2008 | 5 Fitton Street, Rochdale | 4hrs 22 mins |
| 21/11/2008 | 73 South Street, Rochdale | 9hrs, 9mins |

### DERBYSHIRE POLICE

| DATE | LOCATION | DURATION |
|---|---|---|
| 28/08/2008 | Moore Street, Derby | 28 days |

## ANNEX E

## PROSCRIBED ORGANISATIONS[47]

### Proscribed terrorist groups

### SCHEDULE 2 Proscribed Organisations

The Irish Republican Army.

Cumann na mBan.

Fianna na hEireann.

The Red Hand Commando.

Saor Eire.

The Ulster Freedom Fighters.

The Ulster Volunteer Force.

The Irish National Liberation Army.

The Irish People's Liberation Organisation.

The Ulster Defence Association.

The Loyalist Volunteer Force.

The Continuity Army Council.

The Orange Volunteers.

The Red Hand Defenders.

Al-Qa'ida

Egyptian Islamic Jihad

Al-Gama'at al-Islamiya

Armed Islamic Group (Groupe Islamique Armée) (GIA)

Salafist Group for Call and Combat (Groupe Salafiste pour la Prédication et le Combat) (GSPC)

Babbar Khalsa

International Sikh Youth Federation

Harakat Mujahideen

Jaish e Mohammed

Lashkar e Tayyaba

Liberation Tigers of Tamil Eelam (LTTE)

[The military wing of Hizballah, including the Jihad Council and all units reporting to it (including the Hizballah External Security Organisation).]

Hamas-Izz al-Din al-Qassem Brigades

Palestinian Islamic Jihad – Shaqaqi

[47] http://security.homeoffice.gov.uk/legislation/current-legislation/terrorism-act-2000/proscribed-terrorist-groups

Abu Nidal Organisation

Islamic Army of Aden

Kurdistan Workers' Party (Partiya Karkeren Kurdistan) (PKK)

Revolutionary Peoples' Liberation Party – Front (Devrimci Halk Kurtulus Partisi-Cephesi) (DHKP-C)

Basque Homeland and Liberty (Euskadi ta Askatasuna) (ETA)

17 November Revolutionary Organisation (N17)

Abu Sayyaf Group

Asbat Al-Ansar

Islamic Movement of Uzbekistan

Jemaah Islamiyah]

Al Ittihad Al Islamia

Ansar Al Islam

Ansar Al Sunna

Groupe Islamique Combattant Marocain

Harakat-ul-Jihad-ul-Islami

Harakat-ul-Jihad-ul-Islami (Bangladesh)

Harakat-ul-Mujahideen/Alami

Hezb-e Islami Gulbuddin

Islamic Jihad Union

Jamaat ul-Furquan

Jundallah

Khuddam ul-Islam

Lashkar-e Jhangvi

Libyan Islamic Fighting Group

Sipah-e Sahaba Pakistan

Al-Ghurabaa

The Saved Sect

Baluchistan Liberation Army

Teyrebaz Azadiye Kurdistan]

Jammat-ul Mujahideen Bangladesh

Tehrik Nefaz-e Shari'at Muhammadi+

**Notes**

*The entry for The Orange Volunteers refers to the organisation which uses that name and in the name of which a statement described as a press release was published on 14th October 1998.*

*[The entry for Jemaah Islamiyah refers to the organisation using that name that is based in south-east Asia, members of which were arrested by the Singapore authorities in December 2001 in connection with a plot to attack US and other Western targets in Singapore.]*

*Entry beginning "The military wing of Hizballah" substituted, for entry "Hizballah External Security Organisation" as originally enacted, by SI 2008/1931, art 2.*

*Date in force: 18 July 2008: see SI 2008/1931, art 1.*

*Entry "Mujaheddin e Khalq" (omitted) repealed by SI 2008/1645, art 2.*

*Date in force: 24 June 2008: see SI 2008/1645, art 1.*

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