

FIRST REPORT OF THE INDEPENDENT MONITORING COMMISSION

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

Ordered by the House of Commons to be printed 20th April 2004

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1. INTRODUCTION AND CONTEXT

- 1.1 We submit this report under Articles 4 and 7 of the International Agreement establishing the Independent Monitoring Commission. Article 4 directs us to look at the continuing activities of paramilitary groups. Article 7 allows us when reporting under Article 4 to recommend any remedial action we consider necessary or measures we consider might appropriately be taken by the Northern Ireland Assembly¹. At the request of the two Governments we report three months earlier than originally expected and also specifically address the incident which took place at Kelly's Cellars, Belfast on 20 February 2004, putting it in the context of our wider analysis.
- 1.2 We issued a statement on 9 March setting out how we were going about our work and the principles that would guide us. That statement is at Annex II and we invite readers to refer to it.

The IMC's objective in Article 3

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

- 1.3 We address our objective in Article 3 very conscious that we work in a complex environment with a long history, and one in which opinions are strongly held. Our objective has been shared by many for a long time. People have worked towards it in numerous ways, publicly and in countless private and unsung capacities throughout Northern Ireland. Moreover a number of other bodies have been set up to serve in different ways the same ultimate purpose. The IMC is the newest amongst them. We are acutely aware therefore that our contribution can only complement what others have done and are doing and that other acts of completion besides what we are concerned with are necessary. What we are dealing with is the challenge of helping make the rule of law work. The challenge of making politics work is for others.

¹ The text of Articles 4 and 7 are at Annex I

1.4 The IMC was established nearly ten years after the first PIRA ceasefire and some six years after the Belfast Agreement. Its immediate origins lie in the Joint Declaration of the British and Irish Governments of May 2003. These three events remind us of the difficulty and delicacy of the peace process and the political process whereby Northern Ireland has been emerging from the troubles. Our aim is to help people leave those troubles further behind. We also fully recognise the strength of views held on both sides of the community about the history and the future of Northern Ireland.

1.5 We have had this context fully in mind in preparing this report. But we have a job to do, and we will do it to the best of our ability. We will do the same when fulfilling the two other parts of our remit in future, namely to report on security normalisation and on claims made to us by parties represented in a restored Assembly².

The IMC's guiding principles are:

- **The rule of law is fundamental in a democratic society.**
- **We understand that there are some strongly held views about certain aspects of the legal framework, for example the special provisions applying to terrorism, and that those holding these views will continue to seek changes. But obedience to the law is incumbent on every citizen.**
- **The law can be legitimately enforced only by duly appointed and accountable law enforcement officers or institutions. Any other forcible imposition of standards is unlawful and undemocratic.**
- **Violence and the threat of violence can have no part in democratic politics. A society in which they play some role in political or governmental affairs cannot – in the words of Article 3 – be considered either peaceful or stable.**

² Under Article 5 the IMC will report on security normalisation in Northern Ireland. This provision has not yet been initiated by the British Government. Under Article 6 the IMC may report on claims by parties in a restored Assembly that Ministers in a devolved administration or other parties are not committed to non-violence and exclusively peaceful and democratic means or are not conducting themselves in accordance with the pledge of office.

- **Political parties in a democratic and peaceful society, and all those working in them, must not in any way benefit from, or be associated with, illegal activity of any kind, whether involving violence or the threat of it, or crime of any kind, or the proceeds of crime. It is incumbent on all those engaged in democratic politics to ensure that their activities are untainted in any of these ways.**
- **It is not acceptable for any political party, and in particular for the leadership, to express commitment to democratic politics and the rule of law if they do not live up to those statements and do all in their power to ensure that those they are in a position to influence do the same.**

2. SCOPE OF THIS REPORT

- 2.1 Article 4 encompasses the activities of paramilitary groups in the widest sense. We deal not only with terrorism and sectarian violence but with all other forms of criminality that these groups commit³. The Article thus goes beyond the terms of paragraph 13 of the Joint Declaration of May 2003, and we intend to make full use of this wider scope. Overall the peace process has brought about huge improvements. Nevertheless, we are deeply concerned about the extent of continuing paramilitary activity and the impact it has on communities in Northern Ireland.
- 2.2 We want our report to meet our objective as set out in Article 3 of the International Agreement and in the process to serve the widest possible interests of the people of Northern Ireland. We understand the sensitive political circumstances in which we deliver our report. But there is little point in our being less than forthright for fear that we might upset people in one quarter or another. We know that a number of the things we say are likely to be uncomfortable to some of those who read them. We believe we have a role to play in helping refocus discussion and in spotlighting things which we believe have received too little attention. We hope very much that people will let us have their views on this report.
- 2.3 We have carefully considered the relevance of the term ceasefire to our work. We recognise that the ceasefires have played a key part in the wider peace process and we acknowledge the efforts made in sustaining them. We also recognise their contribution to the improvement of daily life in Northern Ireland. However Article 4 is not concerned with the observance or otherwise of ceasefires and means that ceasefire is too narrow a term for us. We believe that Article 4 represents a substantial shift of focus and that everybody should move on from debating whether or not a ceasefire has been broken to concentrate on the full range of illegal activity by paramilitaries and the impact it has on communities in Northern Ireland. We seek to contribute to that in this report.

³ There are a number of definitions of the relevant terms in this area. In addition to Article 4 (see Annex 1) we have had in mind paragraph 13 of the Joint Declaration of the British and Irish Governments of May 2003; legislative definitions of terrorism, as for example in the British Terrorism Act 2000 and various international instruments; and the definition of organised crime used by the National Criminal Service in the UK, namely the activities of “serious and organised criminals (those involved, normally working with others, in continuing serious criminal activities for substantial profit or gain, whether based in the UK or elsewhere)”.

- 2.4 All organisations are more effective if set a challenge and the IMC is no exception. To help us fulfil our task we have set ourselves this one:

To contribute in whatever way we can to the ending of the violence, other criminality, and exertion of pressure by or on behalf of paramilitary groups, and to help the people of Northern Ireland live their lives untroubled by paramilitary activity.

- 2.5 Throughout our work on paramilitary activity we have asked ourselves two questions. What does it mean for the people of Northern Ireland? How can we play our part in helping them move to more peaceful times? This leads us to look at how paramilitaries exercise control within some parts of Northern Ireland; at what amount in some places to alternative and unofficial criminal justice arrangements; at the issue of links between the leadership of political parties and paramilitary organisations. We have heard many times, including from bereaved families and others who have experienced the suffering caused by paramilitary violence, of the increasing stranglehold that these groups have over some communities. We are all too aware of how violence, threats and fear can affect individuals and communities. These are all insidious features, which can only corrupt a society. We believe it is our task to contribute to their rooting out, though we recognise that in any society there will be varying levels of criminality, organised or not, and that it is not our job to address crime as such.

- 2.6 We are also entirely clear in our own minds, as we set out in the principles we published on 9 March, that political parties in a democratic and peaceful society must not benefit from or be associated with illegal activity of any kind. All who claim to espouse democratic principles must accept that authority can be exercised only through the accountable organs of the state. Here there can be no compromise or fudge.

- 2.7 There are two further preliminary points. First, we are delivering this report in half the time we had expected. We have not been able to pursue a number of issues in the depth we intend. In the short time since we were established people have already started to come forward to us with information and we have been able to embark on

a dialogue with all sections of the Northern Ireland community. We believe this dialogue is essential if we are to do our job effectively. In this report we focus mainly on the use of violence by paramilitary groups. Future reports will deal with the connections between these groups and organised crime and with their sources of funding.

- 2.8 Second, people have been very forthcoming and we have acquired a wide range of information – from official sources, political parties, journalists, people in business and in academic life, and from private individuals, including from the bereaved and others who have suffered at the hands of paramilitary groups. We understand that some are sceptical about the nature of the information we receive, especially from official bodies. We are constantly broadening our sources and will acquire much more information. We urge people to come to us with information and views on everything covered by our remit. We assure them, as we have everybody so far, that we will observe any confidences they wish. In the nature of things, much of the information is sensitive. We are bound by law not to put anybody at risk, not to prejudice legal proceedings, and not to prejudice the national security interests of the UK or Ireland. We have applied our best judgement to all of the material available to us, from whatever source we have received it, and the findings and recommendations we make are the result of our own considered assessment of that material.

3. PARAMILITARY GROUPS – ORGANISATION AND ASSESSMENT OF CURRENT ACTIVITIES

3.1 In this Section we briefly examine paramilitary groups in turn. The conclusions we draw are all based on the information available to us. We deal in Section 4 with the incidence of violence by paramilitary groups and in Section 7 we examine further the question of the leadership of paramilitary groups and any links with that of political parties.

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

3.2 CIRA is the military wing of RSF. RSF was formed in 1986 by dissident Provisionals disillusioned by the changed strategy of Sinn Féin to end its abstentionist policy towards taking seats in Dáil Éireann. RSF asserts that it is the only true voice of Republicanism. CIRA subsequently evolved in the early 1990s as the military wing of RSF. CIRA had hoped to attract disaffected members from PIRA, but the membership remained small. By mid-1999 most of its members North of the border had defected to the Real Irish Republican Army (RIRA), though the group has recovered some ground since then.

3.3 CIRA is a limited organisation but one ready to commit acts of extreme violence. CIRA's leadership maintains only a tenuous authority over individual units. Those units normally consist of about six people and act in the main autonomously. The group lacks a central strategic focus other than continuing the Republican struggle by physical violence. Even though membership is small CIRA can, by operating through small units, mount effective, though sporadic, attacks.

3.4 CIRA has access to an unknown quantity of weapons and explosives and has technical expertise sufficient to construct improvised explosive devices, some of which have been crude in nature. In the last year or so the group has carried out a number of successful attacks, including an attack on a military barracks, one on a town hall, and one on a unionist politician's constituency office. It was also responsible for a recent arson attack on the vehicle of a member of a District Policing Partnership, and has targeted other members. Furthermore, it has recently

been involved in setting up new active service units. The arrest of several members of CIRA in June 2003 in the process of constructing a large explosive device indicates, in our view, the potentially dangerous capability of the group. The relationship between RIRA and CIRA at present seems to be one of co-operation.

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

3.5 The INLA came into being in 1975 as the paramilitary wing of IRSP. Its initial core members were disaffected members of the Official IRA and the Provisional IRA following the 1972 ceasefire. The INLA is a very volatile mix of people from many and varied terrorist backgrounds. It has a reputation for extreme violence and internal feuding centred round leadership disputes which regularly lead to fragmentation of the group.

3.6 While the INLA may not be as prominent now as in the past it is still a significant terrorist group. It declared a ceasefire in 1998 which still survives after a fashion. The INLA remains active. In January 2004 it carried out an attack on a 14 year old boy in North Belfast and the shooting of a man in Strabane. The group is heavily involved in criminality, especially drugs, and finances itself by extorting money from both legitimate and illegitimate sources. In our view it continues to constitute a high threat of re-engagement, either as individuals or as an organisation.

Loyalist Volunteer Force (LVF)

3.7 The LVF was formed in 1996 by former members of the mid-Ulster brigade of the Ulster Volunteer Force (UVF). These members had been expelled from the UVF following a disagreement with the leadership over the UVF's response to the resumption at that time of PIRA violence. Its membership is quite small and it is centred around Portadown with some support in Belfast and Antrim. In the past it has played a prominent role in the annual Drumcree parade.

3.8 The LVF has no political representation. It declared a ceasefire in 1998 and has used this to get its prisoners released under the Belfast Agreement. It handed over some weapons to the Independent International Commission on Decommissioning in

December 1998 and has sought to link its decommissioning efforts to further movement on prisoner issues.

- 3.9 Despite its declared ceasefire the LVF has since been involved in murders and shootings. In September 2001 it was responsible for the first journalist to be murdered in Northern Ireland because of the troubles. More recently – on 8 May 2003 – it carried out another murder. It has continued to carry out paramilitary shootings and assaults in 2004. LVF members are deeply involved in criminality, primarily in the illegal drugs trade. The LVF has been linked to one of the largest ever seizures of illegal drugs in Northern Ireland which was made in 2003.

Provisional Irish Republican Army (PIRA)

- 3.10 The PIRA is a tightly knit and secure organisation which has adapted its structure to suit changing circumstances. The General Army Convention (GAC) is PIRA's supreme decision-making authority. The GAC in turn elects the Army Executive of twelve members, which in turn selects the Provisional Army Council. For day-to-day purposes authority is vested in the Provisional Army Council (PAC), which as well as directing policy and taking major tactical decisions, appoints the Chief of Staff. We believe that any decision to commit murder would be known to members of the PAC. Under the Chief of Staff is the General Headquarters (GHQ), which consists of a number of individual departments. Again, these departments can change according to circumstances and PIRA's priorities. In alphabetical order the departments are Education and Communication, Engineering, Finance, Intelligence, Operations, Publicity, Quartermaster General, Security and Training.
- 3.11 Within Northern Ireland and the border counties of Ireland, there are six geographical command areas each comprising between one and three brigades. Each area is headed by a commander directly responsible to GHQ for overseeing operations within that area. The structure in the rest of Ireland is broadly similar, although efforts there are mainly directed to supporting operations rather than undertaking them. PIRA is a well-funded organisation deriving a substantial income from smuggling and other criminal activities.

- 3.12 We are developing our picture of current PIRA activity. The picture is mixed. PIRA is not presently involved in attacks on security forces. One murder may be attributable to PIRA since 1 January 2003. In common with other paramilitary groups, involvement in riots is not a present issue. But PIRA nevertheless remains active and in a high state of readiness. It has been undertaking training in the early part of this year. It maintains a capability on intelligence, both on political events and on potential targets, and on weaponry. This provides ample evidence of an organisation maintaining its capacity to undertake acts of violence or to participate in a terrorist campaign if that seemed necessary to it.
- 3.13 PIRA is highly active in paramilitary shootings short of murder. It has been responsible for eight such attacks so far this year. This pattern is indicative of effective direction by the leadership; we are persuaded that decisions were taken at a senior level to restrict such attacks during the Assembly election period and that the PAC would have been aware in general terms of the imposition and lifting of these restrictions. An earlier example had been the suspension of terrorist activity during a visit by President Clinton when at the same time plans were being made for the Canary Wharf bomb and attacks on London power stations. In recent months PIRA was also involved in three abductions and an exiling.
- 3.14 PIRA remains a relatively sophisticated and well controlled organisation. It maintains itself in a state of readiness, and possesses the range of necessary skills, whereby it could revert to much more widespread violence were the decision taken that it should do so. In addition to its involvement in other criminal activities, PIRA is engaged in the use of serious violence which we believe is under the control of its most senior leadership, whose members must therefore bear responsibility for it.

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

- 3.15 The 32 County Committee, later to become the 32 County Sovereignty Movement (32CSM), came into being in December 1997. It is committed to a politically united 32 County Ireland which, in its view, the Belfast Agreement cannot deliver and which can be achieved only by British withdrawal from Ireland. Although the

32CSM has always denied any links with RIRA, its leadership is dominated by a small number of individuals who appear to hold dual membership and play a part in policymaking within both organisations. The 32CSM seems at present to be concentrating on securing publicity for its cause and raising the profile of the organisation. It is also involved in raising funds for prisoners' welfare.

- 3.16 RIRA emerged in tandem with the 32CSM and was formed by defecting members of PIRA who were opposed to the 1997 ceasefire and later to the Belfast Agreement. It became active very shortly after its formation.
- 3.17 RIRA lacks an organised structure so that individual units have a considerable degree of autonomy. There is little central strategy although there is input from leadership figures in terms of authorising or overseeing attacks. It has been involved in bombings, and in planting incendiary devices in Northern Ireland, using a wide range of different kinds of devices.
- 3.18 RIRA's most serious attack was the Omagh bomb in August 1998, which killed 29 people and two unborn children and inflicted numerous injuries. Following this atrocity the RIRA announced a complete cessation of all military activity with effect from 7 September 1998, although it refused to disband or disarm. This lasted until early 2000 although it is clear that RIRA continued during that period to plan and train for terrorist activity and to develop its arms capability. Its first attack after Omagh was the bombing of Shackleton Barracks in February 2000. It also carried out a sporadic but high profile campaign in Great Britain including a rocket propelled grenade attack on the Security Intelligence Service Headquarters. There have been some recent attacks on the military. It has also recently undertaken attacks against people involved in the Policing Board and District Policing Partnerships.
- 3.19 RIRA has access to a significant quantity of arms and equipment. While the membership is not a totally cohesive group we believe RIRA is potentially a very dangerous terrorist group. The primary focus of RIRA attacks remains on security force bases and personnel in Northern Ireland, and on those involved in the new policing arrangements, but a wider range of targets cannot be ruled out. Attacks on targets in Britain would continue to be an objective of RIRA.

Ulster Defence Association (UDA)

- 3.20 The UDA has its origins in the vigilante groups formed in Protestant working class areas in Northern Ireland during the 1970's. It has evolved over the years in a way that has seen it operate through other paramilitary organisations – the UFF in particular. It has been closely associated with the now defunct Ulster Democratic Party (UDP) and is now associated with the Ulster Political Research Group (UPRG).
- 3.21 The UDA is organised into six brigades, each under the command of a 'brigadier'. Each brigade undertakes paramilitary activities. The Inner Council consists of the six 'brigadiers' plus, on occasions, some paramilitary or political advisers. The 'brigadiers' have a large degree of autonomy, which they exercise independently of the Inner Council. UDA activities are in the main confined to Northern Ireland.
- 3.22 The number of violent activists is quite a small proportion of overall UDA membership. Many of those not involved in violence against the nationalist community are involved in other anti-social behaviour, often involving at least the threat of violence. This behaviour includes operating protection rackets, as well as the intimidation of individuals, particularly business people.
- 3.23 The UDA has the capacity to launch serious, if crude, attacks. Some of these attacks are of a sectarian nature directed at the Catholic community. These are generally aimed at what are sometimes described as "soft" targets, often occur at the interface between the Protestant and Catholic communities, especially in Belfast, and involve the use of pipe bombs. The organisation continues to be involved in targeting individual Catholics and has undertaken recent attacks against retired and serving prison officers. It is responsible for recent murders and arson attacks. It has declared a ceasefire but not decommissioned any arms. The UPRG recently announced the indefinite extension of the UDA's self-imposed "cessation of military activity" but even since then the UDA have been involved in further violence.
- 3.24 In recent years the UDA has been heavily engaged in crime, including drugs, particularly in urban areas. This has led to feuds within the organisation, which in

turn have contributed significantly to violence in Northern Ireland. These feuds frequently culminate in murders, punishment beatings and in the exiling of individuals from Northern Ireland. There is also continuing anti-social behaviour in support of this criminal activity, notably intimidation for the purpose of funding the organisation.

- 3.25 We are clear that the UDA is involved in murders and other forms of criminal activity. Since 1 January 2003 the UDA committed some half of all paramilitary murders. We have no doubt that the UDA remains involved in paramilitary assaults and shootings, and in exiling people from Northern Ireland. We are satisfied that many of these activities are known to the UDA at ‘brigadier’ level and so to the Inner Council.

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

- 3.26 The UVF and RHC are linked organisations. Both are relatively small, the latter particularly so. The number of their active members is a few hundred. They are based mainly in the Belfast and immediately adjacent areas. Both have on occasions undertaken extremely vicious sectarian attacks. The command structure of the UVF is centralised, and its decision making normally coherent. Its control over its wider membership is relatively strong. The RHC also operates under a single commanding officer. Both the UVF and RHC are represented politically by the Progressive Unionist Party, which is close to both groups.

- 3.27 The UVF has maintained a policy of no first strikes against the Catholic community but it is prepared to consider a response to republican attacks. It engages in punishment attacks against people accused of anti-social behaviour and in violent clashes with members of other loyalist organisations, sometimes in connection with disputes over criminal activities. The UVF has not decommissioned any weapons and maintains the view that it is under no obligation to do so. Since autumn 2003 the UVF has been responsible for two murders; for a pipe bomb attack; and for assaults and shootings, including against the UDA. It was also responsible for a bomb found outside a bar in Belfast on St Patrick’s Day, which was defused by the security forces. In addition its members have been linked to recent racial attacks in

Belfast but we believe these particular attacks were not sanctioned by the leadership. It continues to recruit and train new members and to procure weapons and is involved in smuggling, robbery and extortion.

3.28 The RHC also continues to carry out punishment attacks on other members of the loyalist community, and is involved in drug dealing.

3.29 The UVF and RHC are ruthless and reasonably well controlled organisations, heavily engaged in major crime and in punishment attacks. They retain a capacity for more widespread violence in which they would not hesitate to engage if they judged the circumstances made it appropriate.

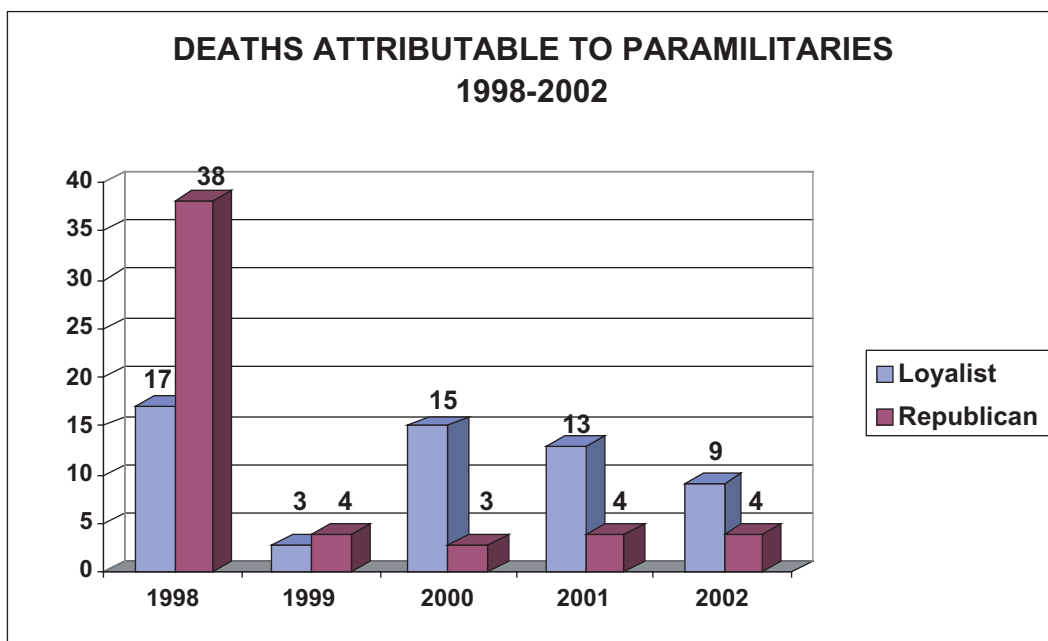
4. THE INCIDENCE OF VIOLENCE BY PARAMILITARY GROUPS

4.1 In this Section we review the incidence of violence by paramilitary groups. We focus on the period since January 2003 but set that information in a larger context. In this way we begin to assess trends, as Article 4 requires us to do. We are satisfied that the information we have used is sound and in some instances we draw on information not in the public domain.

The context of Paramilitary Violence – before 2003

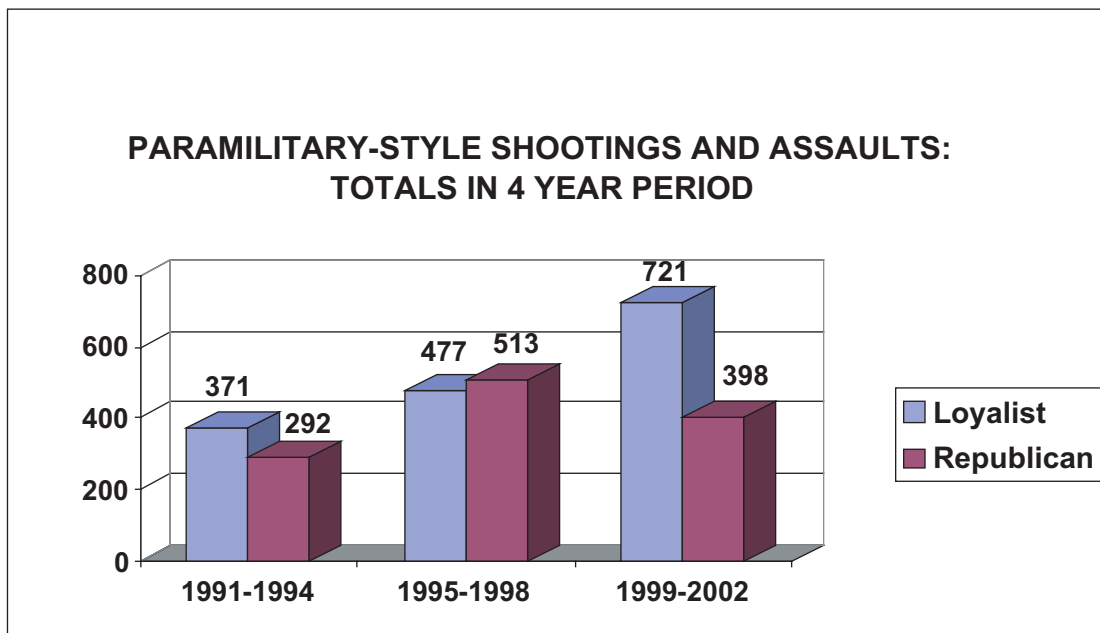
4.2 We think it is useful briefly to outline the changes which have taken place in the level of paramilitary violence since the PIRA ceasefire in 1994 and the Belfast Agreement in 1998. Before the ceasefire, murder, attacks on security forces and sectarian attacks were tragically common. In the twenty-five years before the ceasefire some 3,200 people were killed. In 1972 nearly 500 died. In 1993, the year before the ceasefire, nearly 90 people died. In 1998, the year of the Omagh atrocity as well as of the Belfast Agreement, 55 people were killed.

4.3 The situation we now address is much better than it was over those years, though it is still disturbingly serious, six years after the Belfast Agreement. The number of deaths attributable to paramilitary groups declined sharply after 1998 and has not since exceeded 18 in any one year. Whereas loyalists killed fewer than republicans



in the year of the Belfast Agreement, since 2000 they have consistently killed more. Clearly murders are intrinsically different from other forms of violence, and the huge reduction in the number is a major benefit of the peace process and is welcomed.

4.4 However recent years, and particularly the years since the Belfast Agreement, have seen a marked increase in total paramilitary violence short of murder by both republican and loyalist groups. Loyalist violence has increased at a higher rate. In the years 1991 - 1994 the combined figure of loyalist shootings and assaults was ahead of the republican one – 371 against 292, making a total of 663. Over 1995 - 1998 the total rose to 990, 477 loyalist and 513 republican. The figures for 1999 - 2002 were 721 loyalist and 398 republican, making a total of 1,119, nearly double the figure for the 4 years 1991-1994.



Paramilitary violence 1 January 2003 to 29 February 2004

4.5 Before examining in more detail the incidence of paramilitary violence since 1 January 2003 we think it essential to underline the vicious nature of many of the attacks. Most people in Northern Ireland may tragically be all too aware of the results of the attacks, but many others are not. We have been informed that on occasions these attacks are supported by some in the community. Those who give

this support need to understand what is really involved. Some may also be misled by the term “punishment beating”, which both lends spurious respectability to these attacks and underplays their violence. It is a term we completely reject. Examples, not statistics, bring this home. The victim of one PIRA attack was beaten about the head with pick-axe handles and then shot nine times in the lower legs. A UVF victim was so severely beaten that after a period in intensive care he has been left in a permanently brain-damaged state, unable to communicate or lead a normal life. Many others who suffered shooting in the legs are left crippled and limbless. And to these must be added the attacks which started as assaults or shootings and ended as murders. We could give countless other examples, perpetrated by groups on both sides. Each of these incidents is a tragedy for the victim, family and friends. The fact that much of what we say in this report focuses on figures must not be allowed to detract from an understanding of the viciousness involved and the nature of the injuries paramilitary groups inflict.

- 4.6 The monthly figures since 1 January 2003⁴ show the maintenance of high levels of violence and a similar number of murders to 2002. There are marked fluctuations between months, some of which we believe is attributable to control within the organisation concerned.
- 4.7 Over the period since 1 January 2003, 12 people have been murdered by paramilitary groups. We list below the names of these people and the dates on which the paramilitaries took their lives. Nothing that can be said about the undoubted and welcome reduction in the number of murders since 1998 diminishes the tragedy of these deaths or can lessen the grief of their families and friends.
- 4.8 It is not always possible accurately to ascribe a crime to a particular paramilitary group. In the case of these 12 murders we believe that the responsibility is as follows:

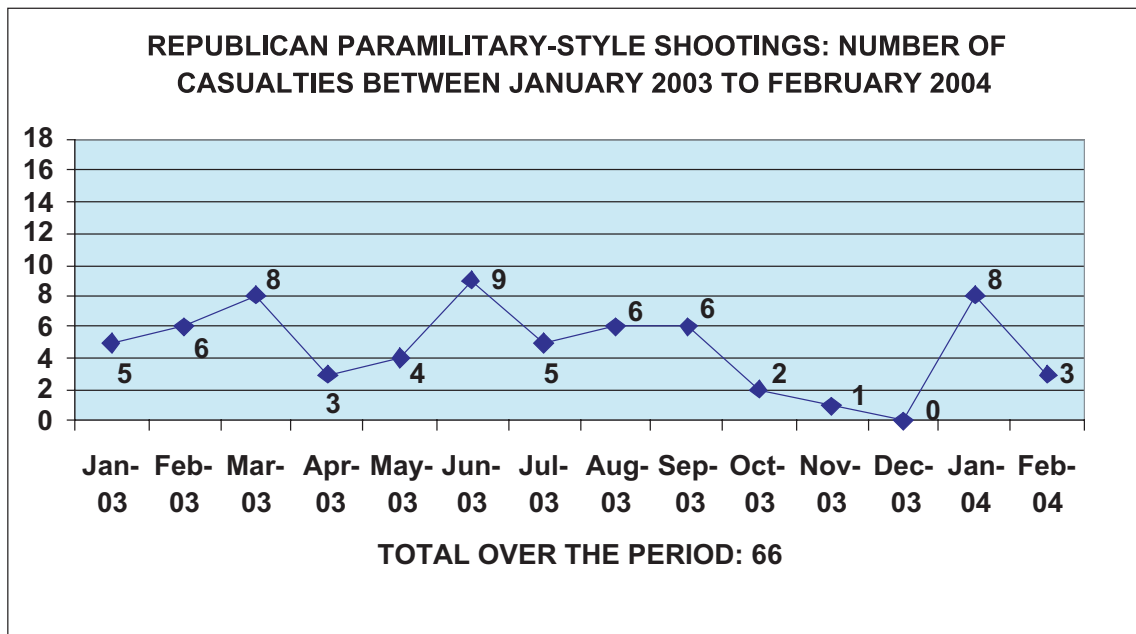
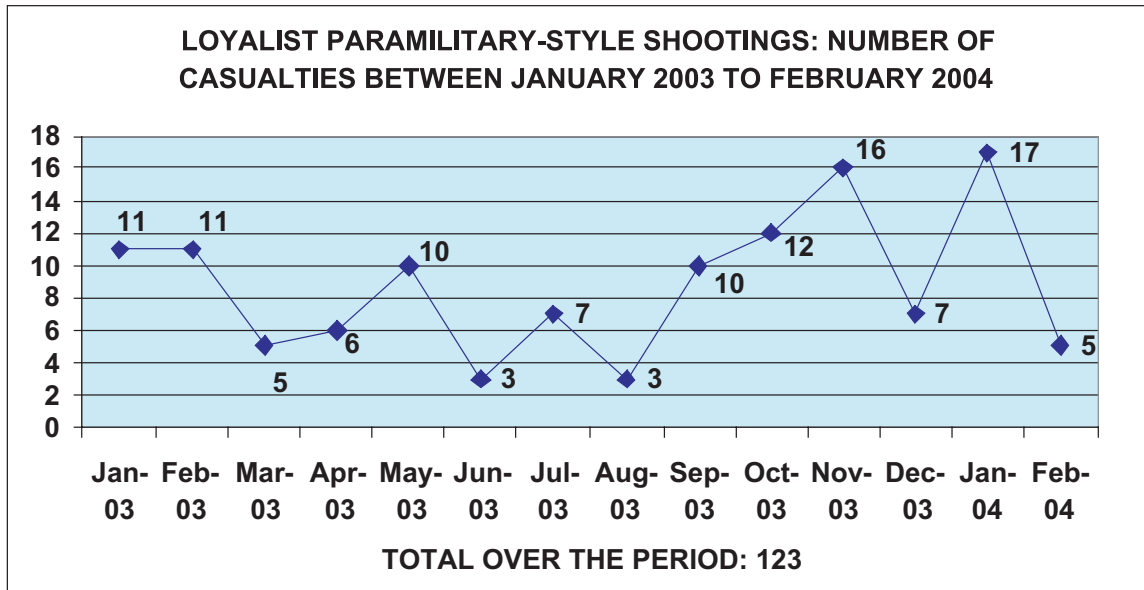
⁴ Figures and attributions for this period are both subject to minor statistical adjustment.

- 5 were murdered by the UDA.
- 1 was murdered by the LVF.
- 2 were murdered by the UVF.
- 1 was murdered by the RIRA.
- 1 was we believe abducted by a republican group but we are not in a position as of now to say which particular organisation was involved. We are persuaded that he was murdered.
- 1 was a member of PIRA killed in the struggle when attempting to undertake a paramilitary shooting.
- We are not able to ascribe responsibility for the twelfth murder.

The following persons have been murdered by paramilitary groups since 1 January 2003.

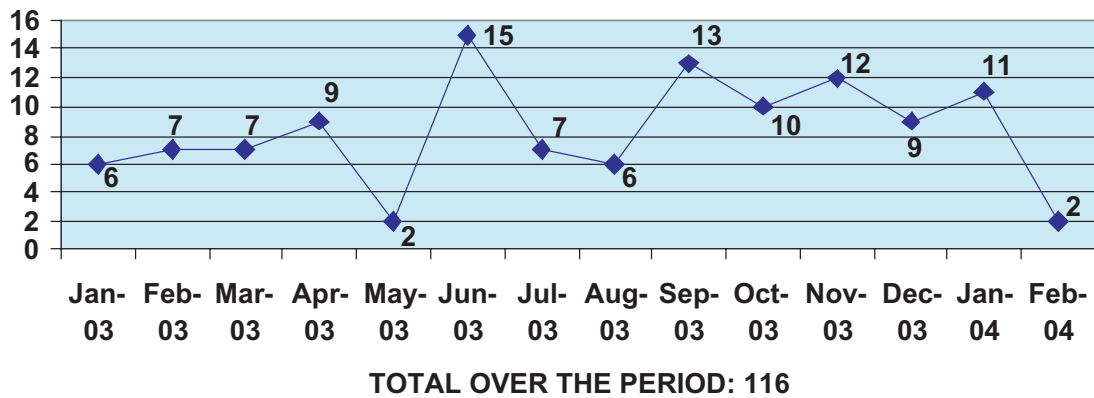
Roy Green	2 January 2003
John Gregg	1 February 2003
Robert Carson	1 February 2003
Michael O'Hare	1 March 2003
Keith Rogers	12 March 2003
James Johnston	8 May 2003
Gareth O'Connor	disappeared 11 May 2003, body not found, presumed murdered
Alan McCullough	disappeared 28 May 2003, body discovered 5 June 2003
Daniel McGurk	17 August 2003
John Allen	8 November 2003
James McMahan	21 November 2003
Andrew Cully	24 March 2004

4.9 We set out below the figures for shootings and assaults by loyalist and republican paramilitary groups.

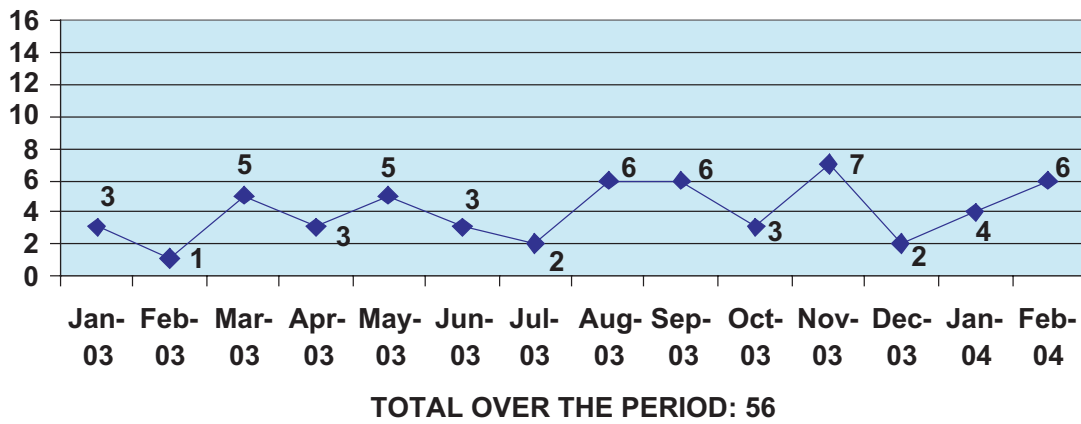


Figures and attributions for the above period are both subject to minor statistical adjustment

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



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



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

Conclusions

4.10 We draw the following conclusions:

- While the number of murders, attacks on security forces and bombings by paramilitaries has sharply decreased, the level of other paramilitary violence has been and continues to be considerably higher than before the Belfast Agreement.**
- These figures amply demonstrate what we say above on⁵ the importance of moving the debate on from one about ceasefires and breaches of ceasefires to one about the totality of illegal paramilitary activities. Though many fewer are murdered, many more are being shot or assaulted.**
- On the basis of reported figures – which, especially for assaults, may not reflect the full picture - the scale of paramilitary violence since 1 January 2003 has been worryingly high: approaching one murder a month; some three victims a week both from shootings and from assaults.**
- This violence is of great concern for two reasons. It is not merely the type of crime which any society experiences. It is separate from that and it is the result of growing illegal activities by paramilitary groups, in pursuit of their rivalries, their imposition of control over individuals or whole communities, and their involvement in organised crime.**
- The magnitude of this paramilitary violence can be demonstrated by extrapolating the figures to the whole of the UK and to the rest of Ireland. Northern Ireland has about 3% of the total UK population. If this incidence of violence applied to the UK as a whole, including Northern Ireland, in the period since 1 January 2003 there would have been some 375 murders, 6,300 shooting victims and 5,700 assault victims. The figures for the rest of Ireland would be 25 murders, some 430 shooting victims and 400 assault victims. The people of Northern Ireland should not have to suffer violence which in equivalent terms would cause outrage elsewhere in the UK and in Ireland.**

⁵ Section 2, paragraph 3

- Loyalist groups are now responsible for markedly higher levels of violence than republicans: about three quarters of the murders, nearly twice as many shootings, and over twice as many assaults since 1 January 2003.**
- While individual incidents of violence may not be directed at a senior level except in the most serious cases, violence is authorised, and what is authorised can be prevented.**

5. INCIDENT IN BELFAST ON 20 FEBRUARY 2004

- 5.1 We have examined a considerable number of individual incidents, but we have paid particular attention to the incident which took place in Belfast on 20 February 2004. This is for a number of reasons. Its timing was highly significant and it has been very widely seen as having a major impact on events in Northern Ireland. By its method it was intrinsically serious, though we recognise that its direct consequences were less severe than all too many other incidents. Moreover, both Governments have asked us specifically to examine the incident in the context of our first report.
- 5.2 The facts of the incident can be stated very briefly. At about 17.45 on 20 February 2004 four masked men entered a bar called Kelly's Cellars in Bank Street, Belfast. They were all dressed in white forensic suits⁶, balaclavas and surgical gloves. The four men very severely beat Robert Tohill who was in the bar. They then dragged him from the bar to the vehicle in which they had arrived and had parked nearby. They forced him into the vehicle and the five left in it, one of their number driving.
- 5.3 A member of the public who had seen the incident had meanwhile telephoned the police, and there happened to be a PSNI patrol vehicle in the vicinity. The two officers in this vehicle intercepted the vehicle containing Robert Tohill and arrested four men. The names of those arrested are Harry Fitzsimmons, Gerard McCrory, Liam Rainey and Thomas Tolan.
- 5.4 The four arrested men were subsequently remanded in custody on charges of causing grievous bodily harm, unlawful imprisonment and the possession of items likely to be of use to terrorists. Charges of membership of a proscribed organisation were withdrawn at first remand.
- 5.5 The cases of the arrested people are sub judice. In no circumstances should they be prejudiced. Article 13 of the International Agreement specifically requires the Commission to do nothing which would either prejudice a legal case or place anybody's safety at risk. We are therefore heavily constrained in what we may say.

⁶ An all-in-one article of clothing designed to prevent the contamination of a crime scene and intended for use by the police and other investigators, but now sometimes worn by criminals so as to reduce the chances they will leave incriminating traces of their presence.

We can however, address two key questions: was this incident the work of a paramilitary organisation and if it was, which one?

- 5.6 We have received information from a number of official and unofficial sources. We have carefully reviewed all of this material. We are conscious that we are not bound by the strict rules of evidence and that the material has not been subject to the testing one could expect in a criminal trial. We do however believe this material, taken as a whole, indicates that the operation was one planned and undertaken by the Provisional IRA.

6. PARAMILITARY GROUPS – NON-TERRORIST CRIME, FUNDING AND LOCAL CONTROL

6.1 The acceleration of our report has left us very little time to examine the involvement of paramilitary groups in non-terrorist crime, their fundraising or their control of local communities. We plan to cover these issues more fully in future Article 4 reports and so deal with them here only very briefly.

6.2 These issues matter profoundly to the people of Northern Ireland. Paramilitary groups have extended their activities into a widening range of non-terrorist crime, and increasingly impose themselves on communities through the use of violence. All of this directly affects the level of crime people face; it determines the extent of intimidation within communities; it bears on the preservation of an orderly society in which the rule of law prevails.

6.3 **The different groups concentrate on different kinds of crime, but the key elements are clear:**

- Organised crime in Northern Ireland is significantly greater in its scale, impact and complexity than it otherwise would be because of the involvement of paramilitary groups.**
- Paramilitary groups equip themselves and continue to operate more effectively because of the proceeds they earn from crime.**
- Central to the ability of paramilitaries to commit crime and so to raise illicit funds for illegal purposes is the control they exercise within local communities in many parts of Northern Ireland using the threat of violence.**

Thus the circle is in every sense a vicious one.

Crime

6.4 In anticipation of a fuller analysis in a future report we offer below a few examples of the criminal activities of paramilitary groups, based on the information available to us. They are only a tiny cross-section of this major phenomenon.

Contraband cigarettes: PIRA is closely involved in cigarette smuggling and has hijacked a number of cigarette lorries in the past year.

Drugs: The UDA, LVF and RHC are deeply involved in the drug trade. One loyalist brigade was recently paying another £250 per week for permission to trade in its area.

Robberies: A UVF team from County Londonderry has been responsible for a number of robberies over the past few years netting many tens of thousands of pounds.

Extortion: Last year one building contractor was believed to be paying the UDA £2,500 a week in protection money

Funding

6.5 Crime is a major source of paramilitary funding. The disturbing extension of paramilitary activity into crime has made things more serious. We are not in a position at the moment to offer a firm conclusion on how much is raised and to whom it goes. In the nature of things the total proceeds of crime are unlikely to be known. This is particularly the case with many of the crimes in which paramilitary groups are variously involved because reporting of these offences is generally low. Moreover, it is never easy to estimate the extent of the proceeds being re-invested in crime, the amount taken for personal gain by the perpetrators, and the amount passing to paramilitary groups or other organisations. Nor would we expect the position to remain stable over time.

6.6 Nevertheless, the sums involved in Northern Ireland are enormous. If paramilitary groups netted only a tiny percentage, their proceeds would be very significant, and

we are persuaded that their proceeds are often large. This can be shown by the amounts involved in cases of successful action by law enforcement agencies, which represent only a small proportion of the total illegal activity.

Seizure of contraband cigarettes: HM Customs & Excise seized 88.5 million cigarettes in Northern Ireland in 2001-2002.

Illicit fuel: Fuel laundering plants detected in Northern Ireland can have a capacity to produce up to 20,000 litres a week. The potential loss of duty to the Exchequer - out of which the criminal profits come - is up to £90,000 per week.

Counterfeit goods: Seizures to the value of nearly £7 million were made in 2002.

Impact of paramilitary groups on local communities

6.7 The position on organised crime and the associated paramilitary funding outlined above seriously affects the lives of people in Northern Ireland, though often indirectly and in ways not apparent to them. But in some communities paramilitary groups have a much more immediate and malign impact through their attempts to exercise control and to operate what amount to alternative criminal justice systems. The troubles since the late 1960s have allowed these groups to build up positions within local communities, both loyalist and republican, un-matched anywhere else in the UK or Ireland. Northern Ireland will have truly emerged from the troubles only when this phenomenon is brought within the rule of law.

6.8 We have heard much about local paramilitary control. Young men viciously attacked for incurring the displeasure of the dominant local paramilitary group. Retailers and other business people whose resources are drained by protection money and by violent illegal competition, all of which lines paramilitary pockets. Newsagents prevented from selling a newspaper with which the local paramilitary group disagrees. There are many thousands of unpublicised examples of this kind of lawlessness undertaken at the behest of paramilitary groups.

- 6.9 We are aware of the line of argument that some aspects of local paramilitary influence are benign. We have been told that this influence limits inter-communal violence and riotous behaviour by the young; or that drug trafficking in some neighbourhoods is restricted by the imposition of local discipline. We recognise that some people may even welcome unofficial law enforcement, though it is difficult to gauge the extent to which this may be the case. We do not accept that illegality can be allowed to claim respectability in this way. Community influence to restrict illegal behaviour is wholly beneficial, but it has to operate within the rule of law and therefore hand-in-hand with law enforcement agencies.
- 6.10 There is one other aspect of this control which has greatly struck us. We understand the debilitating effect of fear on individuals and communities, and we admire those who stand up and overcome it. But we believe that paramilitary control is the greater because of a degree of tolerance in circumstances where that is unjustified, and not imposed. We think this tolerance may be widespread but we find it entirely inappropriate. It is an issue which affects society as a whole, including statutory agencies. We plan to return to it in future reports.
- 6.11 A good example of this phenomenon was given us by a member of a victim's family. He felt betrayed by a society of which he had been a member for many years because the reputed perpetrator of the attack was also a member of that society and was allowed to continue in that capacity. The management of the society claimed it could do nothing for lack of evidence. In our view this is not acceptable. It is incumbent on everybody in positions of leadership, including those who run societies, associations and clubs, not to tolerate their members also being members of paramilitary groups. Only in that kind of way can control gradually be wrested from paramilitaries.

Conclusions

- 6.12 We outline briefly above some aspects of the pernicious types of crime engaged in by paramilitary groups to which we will return in more detail in future Article 4 reports. We recognise that what we say is not new. But we believe we need to say it at this stage because of its intrinsic importance and because it already leads us to a number of conclusions.

- 6.13 First, activities of the kind summarised here may present the biggest long-term threat to the rule of law in Northern Ireland. The more organised crime embeds itself the harder it is to eradicate and the greater the risk that it will extend itself to other communities that were previously unaffected. These are issues on which all politicians and others committed to the rule of law should focus their energy. They are issues which, as we made clear in the principles we enunciated last month⁷, lie at the heart of democracy. As such they straddle all forms of political divide, unionist and nationalist, loyalist and republican, left and right. The politicians of Northern Ireland should unite in their support for the rule of law and in their determination to protect local communities and people generally from crime committed by paramilitary groups. A test of their commitment to democratic principles will be their ability to do this effectively.
- 6.14 Second, the time has come for all Northern Ireland political parties which wish to play a fully committed part in the democratic process actively to participate in all aspects of the rule of law. This no more prevents them from opposing policies or aspects of the legal framework than it does others in the rest of the UK or Ireland, but opposition or pressure, even for radical change, must come from within, not through abstention. Organised crime does not recognise borders, and on any objective view, so grave are the issues outlined above that all who claim seriously to speak for the welfare of the people of Ireland North or South must now participate fully in addressing these issues and take their share of responsibility.
- 6.15 Third, we underline the importance of the work of the Organised Crime Task Force and of all the agencies associated with it, and believe that delivery of the goals of their co-ordinated drive against organised crime are essential to the future well-being of Northern Ireland. We note some signs of progress. One is the Criminal Assets Bureau in Ireland and the more recently established Assets Recovery Agency in the UK, and the ability both have to work nationally and internationally. But the problems are very deeply rooted and will take years to tackle effectively. The more we learn the more we are persuaded that this should remain a key priority for government in Northern Ireland and for all the agencies concerned, including those which operate UK wide.

⁷ See Section 2 and Annex II.

7. LEADERSHIP OF PARAMILITARY GROUPS

- 7.1 Article 4 specifically directs us to assess whether the leadership of paramilitary groups is directing activities or seeking to prevent them. We have paid particular attention to this question. We are convinced that the leadership of the paramilitary groups is directing rather than seeking to prevent the kind of activities set out in earlier Sections of this report.
- 7.2 There are two general questions. The first is about the relationship between the leadership of paramilitary groups and that of political parties. The second question is how to hold to account leaders of paramilitary groups engaged in continuing violence and other criminal activity. Both these questions are of deep concern to people in Northern Ireland. We recognise they are key issues in political developments in Northern Ireland.

Relationship between paramilitary and political leadership

- 7.3 On the first question, mindful of the provisions of Articles 4 and 7 of the International Agreement, we have considered very carefully the question of the links between paramilitary and political leadership, especially the political leadership elected to the Assembly. Two parties that would be represented in a restored Assembly have links to paramilitary groups – Sinn Féin and the Progressive Unionist Party.
- 7.4 It is difficult to be precise about what the relationship between Sinn Féin and the PIRA really is or about the PIRA's own decision-making processes. Nevertheless, on the basis of the information we have received we believe that the situation can reasonably be summarised as follows:
- Some members, including some senior members, of Sinn Féin are also members, including, in some cases, senior members of PIRA.
 - Sinn Féin, particularly through their senior members, is in a position to exercise considerable influence on PIRA's major policy decisions, even if it is not in a

position actually to determine what policies or operational strategies PIRA will adopt. We believe that decisions of the republican movement as a whole about these matters lie more with the leadership of PIRA than with Sinn Féin.

- Within PIRA some decisions follow a process of consultation with the membership initiated by the leadership.

7.5 We recognise that there might not have been a PIRA ceasefire in the first place without influence from the leadership of Sinn Féin. By the same token Sinn Féin must bear its responsibility for the continuation by PIRA of illegal paramilitary activity and must recognise the implications of being in this position.

7.6 While the Progressive Unionist Party is currently represented by only one person in the Assembly, the overall leadership of the party has close personal links with the leadership of the UVF and the RHC and we believe it is aware of the paramilitary activities of both these organisations. The Progressive Unionist Party's leadership as a whole does not determine these activities and may not be in a position to ensure prevention of them, but it can exert appreciable influence. **While we are satisfied that the Progressive Unionist Party and others exerted a positive influence in achieving the loyalist ceasefires we believe it has not sufficiently discharged its responsibility to exert all possible influence to prevent illegal activities on the part of the UVF and RHC.**

Holding Paramilitary Leadership to Account

7.7 As we explain above, the various paramilitary groups are structured in very different ways. Some are tightly and strategically controlled; others are diffuse. But all have leaders at some level or other. Just as we have sought throughout this report to shine a spotlight on what the paramilitaries are doing, **so we have considered very carefully how the individuals we believe, on the basis of information made available to us from a variety of sources, to be in positions of leadership in the various paramilitary groups might be held personally and publicly to account. In preparing future Article 4 reports we will consider the most appropriate**

way to address this matter. We recognise there is a sensitive judgement to be made here in the light of our objective as set out in Article 3⁸, and that there are issues of law and human rights that must be taken into account. We will also be communicating with the people concerned and will take their comments fully into account, along with other considerations, before coming to a final view.

⁸ See Section 1

8. CONCLUSIONS AND RECOMMENDATIONS

Conclusions

8.1 Our objective is to “promote the transition to a peaceful society and stable and inclusive devolved Government in Northern Ireland”⁹. We explained above the responsibility we feel to everybody in Northern Ireland to help them end all forms of paramilitary activity. We have met a number of people who have suffered from violent or other paramilitary crime, and we are determined to do what we can to reduce the number of future victims. We are determined too that this and future reports should encourage and support those whom we greatly admire who, by standing up to paramilitaries in their local communities, are trying to stop violence and threats and to help those subject to them. Our conclusions and our recommendations are based on what we have learnt about paramilitary crime as a whole. They also take account of recent individual incidents, including not only the one in Belfast on 20 February but others which have been the responsibility of different paramilitary groups such as the murders of John Allen by the UVF on 8 November, of James McMahon by the UDA on 21 November 2003, and of Andrew Cully by the UVF on 24 March 2004, all of which have occurred since the announcement of the establishment of the IMC.

8.2 In the preceding Sections we have drawn conclusions based on the information available to us. From those conclusions we take the following key points:

- Public and political debate should move on from the question of ceasefires and whether or not they have been broken to focus on the totality of illegal paramilitary activity and the impact it has on individuals and communities in Northern Ireland.
- Northern Ireland politicians must respond fully to the challenge of paramilitary activity in all its manifestations and must commit themselves in every way to supporting the rule of law. Political parties should not be associated with illegal

⁹ Article 3; see Section 1.

activity of any kind, including that by paramilitary groups. They, and their leaders, should involve themselves fully in criminal justice institutions and exert every possible influence on behalf of the rule of law.

- Despite the significant reduction in murders and many other forms of crime associated with the troubles, paramilitary activity as a whole is at a disturbingly high level, and violence short of murder is at a level which would cause outrage in the rest of the UK or in Ireland. These levels have increased over recent years. Loyalist groups are now responsible for more violence than republican ones. The violence and other criminality could be reduced if the leaders of those groups were so minded.
- In addition to the commission of violent crimes, paramilitary groups are deeply involved in organised crime and derive very large sums of money from it with which they fund other illegal activities. Many groups retain an active capacity to reopen a terrorist campaign if they so decided.
- In some quarters there is a damaging level of tolerance of paramilitary influence which goes beyond that imposed by fear.
- We believe that the incident in Belfast on 20 February was the responsibility of PIRA.
- Two political parties represented in the Assembly have links with paramilitary groups. These links are such that we believe they should attract specific recommendations.
- In preparing future Article 4 reports we will consider in the light of our objective in Article 3 and relevant legal and human rights issues how the individuals we believe to be in positions of leadership in paramilitary groups might be held personally and publicly to account, and we will communicate with the people concerned, taking their comments fully into account before coming to a final view.

Recommendations

8.3 In formulating recommendations we have been very conscious of the context in which we operate, to which we referred in Section 1, and we have been guided by our objective as set out in Article 3¹⁰. We believe it is an important part of our role that we should make recommendations whenever we think they might contribute to fulfilling this objective. We recognise too that some of the recommendations we make might not be original. We do not think this should deter us from proposing what we think is important, and we believe that the fact we recommend something in the light of our findings is of itself significant.

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

- Any remedial action we consider necessary in respect of matters on which we are reporting under Article 4.
- Any measure we think might appropriately be taken by the Northern Ireland Assembly¹¹.

8.5 In the case of measures to be taken by the Assembly, they cannot apply until such time as the Assembly is restored. **We nevertheless want to make clear that had the Assembly now been functioning, we would have recommended in respect of Sinn Féin and the Progressive Unionist Party measures up to and possibly including exclusion from office.** In this way we can best indicate to those who are elected to the Assembly and who may aspire to serving in a devolved administration what they might expect from us at such time as restoration may come. **Any recommendations we might make following restoration of the Assembly would be proportionate to the then prevailing circumstances.** We realise that the recommendation of Assembly measures cannot affect those associated with paramilitary groups who have not been elected as MLAs, and that some might see this as unbalanced. We do not accept that view. People elected to the Assembly are

¹⁰ Article 3 is quoted in full between paragraph 1.2 and 1.3

¹¹ Article 7 is at Annex I. A summary of the statutory measures the IMC can recommend for action by the Northern Ireland Assembly is at Annex III.

in a special position and they have responsibility to preserve the highest possible democratic standards. Moreover, most of our recommendations apply to all paramilitary groups.

8.6 Whilst the Northern Ireland Assembly remains un-restored and it is not therefore possible for us to recommend measures it might take, **we recommend that the Secretary of State should consider taking action in respect of the salary of Assembly members and/or the funding of Assembly parties so as to impose an appropriate financial measure in respect of Sinn Féin and the Progressive Unionist Party.**

8.7 **We also recommend:**

- **All politicians and others in prominent roles must exert every possible influence to bring about a cessation of paramilitary activity.** This includes not only public calls for such a cessation. It also includes encouraging individuals to take a stand personally and collectively against paramilitaries and to co-operate with criminal justice agencies to that end. **We will measure success on this front against the patterns of illegal paramilitary activity and will examine this matter in future reports.**
- No organisation, statutory, commercial or voluntary, should tolerate links with paramilitary groups or give legitimacy to them. In particular, societies and other similar organisations should make every effort to satisfy themselves that none of their members are linked to paramilitary groups. If there is any suspicion that they might be, then the onus should be on the person concerned to show there is no basis for that suspicion, not on the organisation to act only if it is proved. We will examine this whole issue in future reports.
- Continuing high priority must be given by all concerned to combating organised crime in Northern Ireland and to resourcing the agencies engaged in doing so.

The most fundamental actions are well recognised and can be simply stated:

- Paramilitary groups must decommission all illegally held weapons¹².
- Paramilitary groups must cease all forms of criminal activity.
- All political parties with people elected to public positions, or aspiring to election, must play a full and constructive part in the operation of all criminal justice institutions. This includes working co-operatively with PSNI and active participation in the Policing Board and District Policing Partnerships.

8.8 We want all political parties to examine this report carefully and to give us their considered comments on all the matters we raise in advance of our preparing our next Article 4 report.

¹² We recognise that decommissioning is the responsibility of the Independent International Commission on Decommissioning and we do not seek to trespass on its responsibilities. But we are clear that the cessation of illegal activity for which we call must include decommissioning.

ANNEX I

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

Article 4

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

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

Article 7

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

ANNEX II

STATEMENT ISSUED BY THE INDEPENDENT MONITORING COMMISSION ON 9 MARCH 2004 TO CLARIFY ITS ROLE AND THE WAY IT IS GOING ABOUT ITS WORK

The Independent Monitoring Commission was set up by the British and Irish Governments on 7 January 2004. In this statement the four Commissioners – John Alderdice, Joe Brosnan, John Grieve and Dick Kerr – set out how they plan to go about those parts of their remit which have been activated. They also seek the assistance of the community as a whole to help them in this key task.

The Independent Monitoring Commission

1. The British and Irish Governments announced in the Joint Declaration of May 2003 that they would establish a body to monitor and report on paramilitary activity and security normalisation. They published an International Agreement in September setting out the aims, functions and constitution of the IMC. Following legislation in both Parliaments it is this Agreement which they implemented in January.
2. We have three main functions, on all of which we report to the two Governments. They are:
 - to report on the continuing activities of paramilitary groups;
 - to report on security normalisation in Northern Ireland;
 - to consider claims by parties in the Northern Ireland Assembly that ministers or other parties are not committed to non-violence and exclusively peaceful and democratic means or are not conducting themselves in accordance with the pledge of office¹³.

¹³ The full texts of the Joint Declaration and the International Agreement may be found on our website: www.independentmonitoringcommission.org

3. We attach equal importance to all three parts of our remit. We deal in this statement primarily with the first, on which the two Governments have asked us to report in May. We also understand the British Government will ask us to report on security normalisation on the same timetable, and we refer more briefly to that as well. We will deal with any claims by parties when the Assembly has been restored. What we say below about our objectives, standards and principles will apply to everything that we do.

4. Our starting point is Article 3 of the International Agreement which says:

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

5. This Article will guide us in all that we do. It places a heavy responsibility on us to act in a way which has regard for the underlying purposes of the Belfast Agreement of 1998 and the Joint Declaration of May 2003. We know that we are only one among a large number who are working to the same end.

Reports on Activities by Paramilitary Groups

6. Article 4 of the International Agreement requires that we report to the two Governments on any continuing activity by paramilitary groups and assess whether the leadership of these groups is directing or seeking to prevent such activities. We are also required to report on trends in security incidents. Reports must be presented at six monthly intervals and can also be requested by the Governments or initiated by the IMC on an ad hoc basis.

7. Article 7 enables us to recommend any remedial action that we think is necessary, and may also recommend measures that might appropriately be taken by the Northern Ireland Assembly.

8. We want to make clear the significance of these provisions. Our successive reports will not be one-off self-contained documents but will constitute a continuing process. We

intend to examine developments from one report to another, bearing in mind that under the Agreement we are obliged to monitor any activity of paramilitary groups and assess trends in security incidents. We deal with this in more detail in paragraph 23.

Some questions

9. In this statement we answer the following questions:

- are we independent?
- are we taking account of human rights?
- how do we interpret our remit?
- how are we going about our work and who do we want to talk to?
- what principles are we going to apply?

The Independence of the IMC

10. We wish to make clear how, for the avoidance of any doubt, that we are an independent commission. None of us would have accepted appointment as a Commissioner or would continue in office if that were not the case. Nor would we continue if we felt that the Governments were denying us access to the information we need. All the views we express will be ours and ours alone, reached after careful consideration of the material we have received.

Human Rights

11. We have considered the human rights implications of our work at some depth. We have consulted the Northern Ireland Human Rights Commission and propose to do the same with the Human Rights Commission in Dublin. Article 13 of the International Agreement obliges us not to put at risk the safety or life of any person nor to prejudice legal proceedings. We fully appreciate that where violence is concerned there are

victims as well as perpetrators. We attach great importance to acting in a way which is proportionate and necessary in the circumstances and which fully reflects the fact that both countries have incorporated the provisions of the European Convention on Human Rights into domestic law.

How we interpret our remit under Article 4

12. Article 4 lists forms of activity paramilitary groups might undertake which we must monitor and report on. It covers training and intelligence gathering. It encompasses all forms of violence and coercion whomsoever it is directed against. It also refers to “other criminal offences” in addition to what are conventionally seen as terrorist and sectarian attacks; this would, for example, include drugs trafficking and extortion. It is not geographically limited; activities by such groups wherever they occur are our business. In short, the question for us is – what have paramilitary groups been doing? If one of these groups has done something of a criminal nature, it is within our remit, whatever it is or wherever it has taken place.

13. There has been a good deal of interest in how far back we will go in our analysis of the activities of paramilitary groups, and questions have been asked about whether particular events in the past would fall within our scope. Article 4 talks of our monitoring “any continuing activity by paramilitary groups”. We take that to mean that our primary focus should be on what is happening over the period covered in each report. But rigid observance of these parameters would produce absurdities. Events may take place just outside those dates which are highly relevant to our assessment. Many of the activities we address are of their nature continuing ones, whether they concern terrorist activity as normally conceived, other sectarian activities by paramilitary groups, or other kinds of crime such as drugs dealing and extortion. Events in the past may or may not remain relevant. We will exercise our discretion to look back at earlier events if we think they are relevant to our function of reporting on the continuing activities of paramilitary groups. Relevance, not a particular date, will be our criterion. In addition, any report has to be set in context, and this is likely to be particularly the case with our first report. So we may well look back for that reason, but again so as to illuminate the period on which we will concentrate.

How we are going about our work under Article 4 and who we want to talk to

14. We believe that two things are essential if we are to be able to report with as much confidence as is possible.
15. The first is that we should have ready access to the law enforcement and security authorities in the UK and Ireland, and where necessary to such authorities in any other country that might be able to help us. We have received assurances from Ministers in both countries that this will be the case. To date that has been so, and we believe this will continue.
16. Secondly, we believe it is hugely important that we receive the views of political parties, clergy, community groups and individual members of the public on both sides of the border. Article 8 of the International Agreement requires us to be accessible and to consult. It is essential that everybody feels able to make their views known and has confidence that everything we have been told has been taken into account. We give the assurance that this will be the case. We will take careful note of everything we are told and will consider it in the context of all the material available to us.
17. To that end we have met representatives of political parties and other organisations such as business groups, as well as a large number of individuals including journalists and academics, on both sides of the border, and will continue to do this. We made clear in the statement we issued on 7 January 2004 as soon as we were formally constituted that we would welcome views from as wide a body of opinion as possible, and we explained how we could be contacted. We said that those who wished to contact us privately could be assured that their confidences would be maintained. We urge individuals and groups to let us have their views.
18. In reporting on the activities of paramilitary groups we are thus seeking the best information and intelligence possible from the maximum number of sources. We will make our assessments on the basis of that material using our best judgement. We are not bound by the strict rules of evidence applicable in a court of law. We will of course take full account of the rights of others and will treat people with fairness and impartiality.

Article 5: Security Normalisation

19. As we say above, we understand that the British Government will ask us to report on security normalisation on the same timetable as on the activities of paramilitary groups, namely in May. This work can therefore only now get under way. We will be receiving information and making visits of our own in order to fulfil this task. Everything that we say in this statement about our objectives, standards and principles will apply to this work as to the work on Article 4 we have described above.

Principles

20. We believe that we should articulate clearly the principles which will underpin any conclusions we draw or recommendations we make about the activities of paramilitary groups. There are a number of reasons for this. It is right that all who read our reports should be able to see clearly what principles we are applying. If we set these principles out it will enable us to serve better the underlying purpose under Article 3 and to maintain consistency of approach from one report to the next, as well as allowing others to judge for themselves whether we have done so. In formulating these principles we have been very mindful of the wide ranging and firm statement on paramilitary activity and sectarianism in paragraph 13 of the Joint Declaration and Article 4 of the International Agreement. We also believe that through these principles we will be building on the precedent set by the Mitchell principles, to which all parties have subscribed.
21. These principles inevitably involve things that are self-evident and ought to be taken for granted in a law-abiding society. They are:

The rule of law is fundamental in a democratic society.

We understand that there are some strongly held views about certain aspects of the legal framework, for example the special provisions applying to terrorism, and that those holding these views will continue to seek changes. But obedience to the law is incumbent on every citizen.

The law can be legitimately enforced only by duly appointed and accountable law enforcement officers or institutions. Any other forcible imposition of standards is unlawful and undemocratic.

Violence and the threat of violence can have no part in democratic politics. A society in which they play some role in political or governmental affairs cannot – in the words of Article 3 – be considered either peaceful or stable.

Political parties in a democratic and peaceful society, and all those working in them, must not in any way benefit from, or be associated with, illegal activity of any kind, whether involving violence or the threat of it, or crime of any kind, or the proceeds of crime. It is incumbent on all those engaged in democratic politics to ensure that their activities are untainted in any of these ways.

It is not acceptable for any political party, and in particular for the leadership, to express commitment to democratic politics and the rule of law if they do not live up to those statements and do all in their power to ensure that those they are in a position to influence do the same.

22. These are the principles which will inform our work under all parts of the International Agreement.
23. The principles we set out above are at one and the same time self-evident and, given the history of Northern Ireland, demanding. On both sides of this divided community groups have, over a longer period, moved from using violence, or the threat of it, towards democratic politics. As Northern Ireland emerges from the troubles of the past 35 years, that movement is still taking place. We see it as our job to help it do so in a way which is final, irreversible and realistically rapid. That is why we believe our cycle of reporting will be helpful. In respect of different groups, we will set out in our successive reports not only what we assess to be the prevailing position, but what we would want to happen in the following period, and how we will subsequently assess those developments. Thus each report will fall to be read as one of a number, and not as a final document.

Conclusion

24. We hope this brief statement offers grounds for confidence in how we propose to go about our task of reporting on paramilitary activities under Article 4. We think it is essential at this early stage in our existence, well before our first report, that there is a clear understanding of the principles which will inform conclusions we draw or recommendations we make, and of how we propose to monitor developments from one report to the next. We expect to be judged by the reports we produce and the impact they have. We are determined to do all we can to meet our purpose of helping promote the transition to a peaceful and stable society and inclusive devolved Government in Northern Ireland.

ANNEX III

SUMMARY¹⁴ OF MEASURES PROVIDED FOR IN UK LEGISLATION WHICH MAY BE RECOMMENDED BY THE INDEPENDENT MONITORING COMMISSION (IMC)

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

Measures which may be taken under UK legislation

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

¹⁴ This summary does not purport to be an authoritative legal interpretation of the relevant legislation. For the actual legislative provisions see the Northern Ireland Act 1998 and the Northern Ireland (Monitoring Commission etc.) Act 2002

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

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

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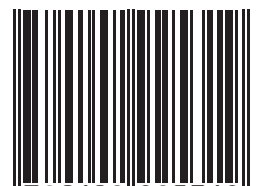
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