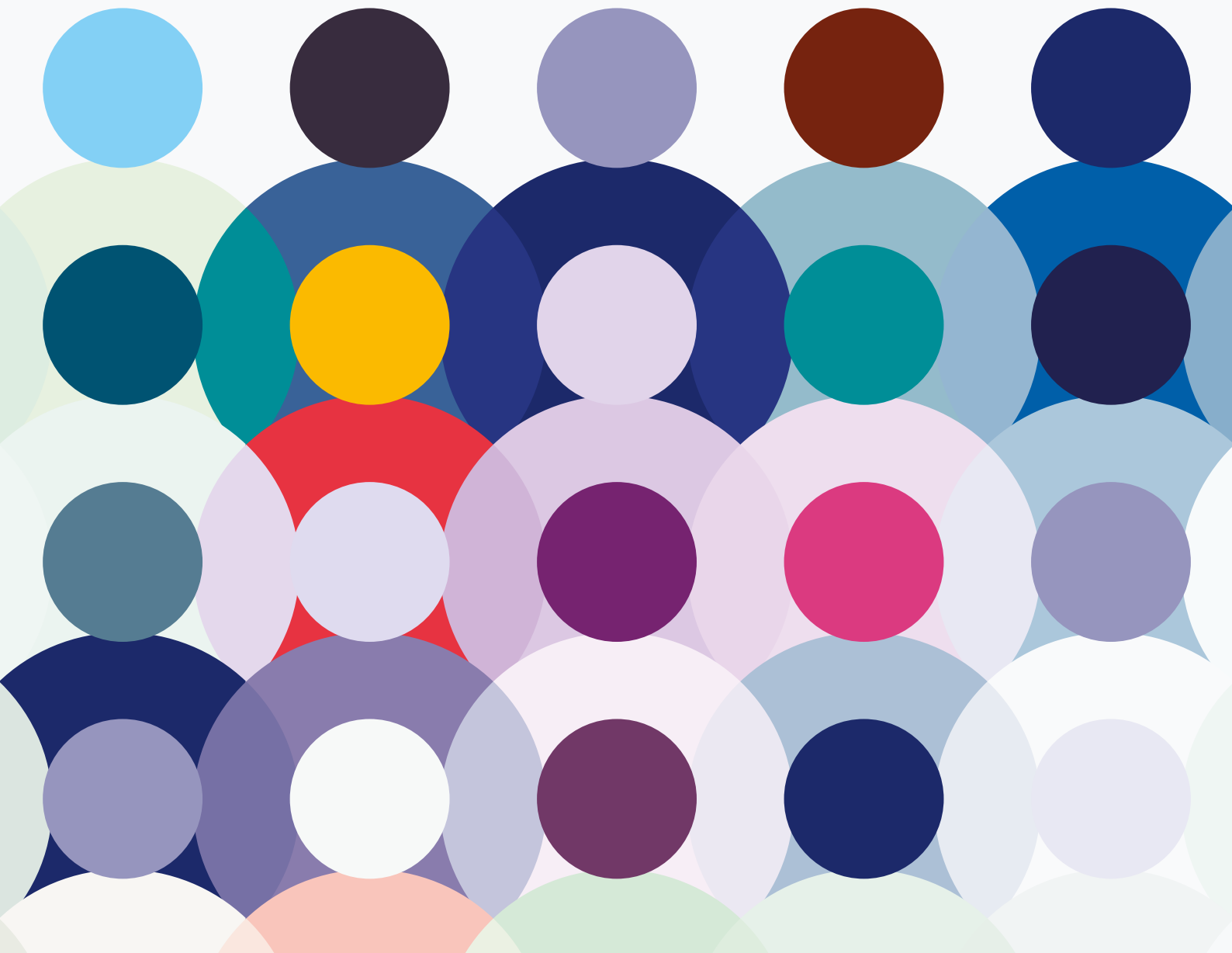


EXECUTIVE
SUMMARY

HUMAN RIGHTS | ANNUAL REPORT

2024/25



CONTENTS

Chair's Foreword	3
Executive Summary and Recommendations	4
Chapter 1 Hate Crime	9
Chapter 2 Religion and Community Background	12
Chapter 3 Vulnerable Victims	15
Chapter 4 Stop and Search	18
Chapter 5 Arrest and Custody	21
Chapter 6 Use of Force	24
Chapter 7 Training and Policy	27
Chapter 8 Complaints and Discipline	29
Chapter 9 Biometric Retention	32
Chapter 10 National Security	34
Chapter 11 Covert Surveillance	36
Chapter 12 External Forces	40
Glossary	42

The Policing Board, by consensus, has adopted and published this report but not every member of the Board endorses each and every part of this report. This report was researched and written over the first six months of 2025. Many of the statistics in the report are for the year October 2023 to September 2024 and it should be noted that more up to date statistics will be available by the time the report is published.

CHAIR'S FOREWORD



This report is the Northern Ireland Policing Board's 17th Human Rights Annual Report covering 2024/25. This is the 6th report completed by John Wadham, Independent Human Rights Advisor, a more detailed report for the year 2024/25 is also available on the [NI Policing Board website](#).

The report reviews topics such as Victims, Stop and Search and Use of Force. These, and other areas, have been evaluated in each previous annual report. The Human Rights Advisor has been able to assess the progress of recommendations made against each area to help ensure the PSNI meets its human rights obligations.

During 2024/25 there have been several issues that have come to the fore and the Human Rights Advisor has completed a more in-depth analysis of these areas. These areas have included hate crime including a specific focus on PSNI's treatment of minorities and the PSNI pilot into gathering statistics in relation to community background in stop and search.

Hate crime attacks escalated over the summer of 2024 and the PSNI response to this growing issue was discussed by the Board. It is important to ascertain what strategies and policies the PSNI have in place to deal with this increase in hate crime and if they were human rights compliant.

Through many Human Rights reports, the Human Rights Advisor, the Courts and the Independent Reviewer of the Justice and Security Act has made recommendations to the PSNI to gather information on community background. The PSNI launched a pilot project specifically for the area of stop and search to trial a process of gathering this data. This report provides an overview of the importance of collecting this data and analyses the progress of the pilot scheme.

This Report examines twelve important areas of policing in Northern Ireland and the Human Rights Advisor makes an assessment of PSNI's current performance in each one. From this analysis the Policing Board has identified nine recommendations for the PSNI to consider and one for the Department of Justice.

A stylized blue ink signature of Mukesh Sharma.

Mukesh Sharma MBE DL
Policing Board Chair

CHAIR'S FOREWORD	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The paragraphs below provide a short summary of the recommendations and main findings of each Chapter of the Human Rights Annual Report for 2024/25.

Recommendations

Recommendation 1

Over the last five years there appears to have been a lack of clarity about the process for PSNI responding to the Board’s human rights reports. For the future, PSNI should provide a formal written response to the Performance Committee within six months of the publication of any human rights report published by the Board. A further response by the PSNI to the Board’s report should be then provided twelve months after the Board’s report is published. Once they have been provided to the Performance Committee, they should be published by PSNI.

Recommendation 2

The Board welcomes the fact that the Police Ombudsman’s office has recently been able to share more of its recommendations and concerns with the Board and hopes that this can continue.

Currently the Police Ombudsman’s office is subject to very strict restrictions in what it can share with the Policing Board and even with the Human Rights Advisor (who has high level, Developed Vetting, security clearance). These restrictions, for instance, in section 63 of the Police (Northern Ireland) Act 1998 have little regard of the role of the Policing Board in holding the PSNI to account. The Department of Justice should amend the Act to allow the Police Ombudsman to share emerging themes, policy problems and strategic concerns with the Policing Board so that it understands what needs to be changed or improved.

CHAIR’S FOREWORD
1
2
3
4
5
6
7
8
9
10
11
12

Recommendation 3

- (a) The Policing Board recommends that the recommendations made in Judge Marrinan’s Report into hate crime legislation in Northern Ireland need to be implemented urgently by the Department of Justice in order to protect everyone in Northern Ireland.
- (b) The PSNI should engage an expert to provide an external review of its response to hate crimes in Northern Ireland.

Recommendation 4

PSNI’s collection of equality data is inadequate, particularly the collection of community background data.

- (a) The PSNI should adopt the approach recommended by the National Police Chiefs Council and the College of Policing. The collection of this data is particularly important where police officers are using their powers.
- (b) The PSNI should reconsider its approach to the collection of community background data. Perhaps the most meaningful data on a person’s community background can be ascertained by questions about the person’s religious background, that is, the most prominent religion of their family during their childhood. In the meantime, the PSNI should provide the Policing Board with a report every year, starting in six months after this Human Rights Annual Report is published, setting out any data that it has collected on religion or community background from members of the public. It is particularly important to provide such data where police officers have used their powers: covert surveillance, stop and search, any use of force (such as spit and bite guards), arrest, strip searches, length of detention, criminal charge and police bail.
- (c) The PSNI should reconsider its approach to the publication of stop and search statistics on the number of transgender persons, lesbian, gay and other sexual minorities and those with disabilities and should publish the numbers alongside the numbers in the population in Northern Ireland.

CHAIR’S FOREWORD
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12

Recommendation 5

The Policing Board endorses the recommendations of Domestic Homicide Review Panel. The PSNI should report to the Board on how it will deliver and implement the Panel’s recommendations.

Recommendation 6

- (a) The PSNI should develop a strategy to ensure that fewer people are stopped and searched but a greater proportion of those stops and searches are effective. Good practice should be shared between districts.
- (b) Statistics showing the rates of stop and search for different minority groups, including information on population proportions that are available to the Service Accountability Panel should be published regularly, including the more detailed specific age of the children stopped and searched.
- (c) Over the last decade there has been a gradual, albeit uneven, reduction in the security threats in Northern Ireland that the JSA was designed to combat. Therefore, the PSNI and the Northern Ireland Office (who have to confirm PSNI’s JSA authorisations), with the assistance of the JSA Independent Reviewer (Dr Jonny Byrne) should draft criteria to use to decide when the general and specific threat levels have reduced such that the JSA stop and search powers are no longer necessary and the several other stop and search powers available to officers will be sufficient.

Recommendation 7

The PSNI should report to the Board with an analysis of any trends or systemic issues identified in a review of cases of wrongful arrest.

CHAIR’S FOREWORD	
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Recommendation 8

- (a) PSNI should investigate, including engaging an outside expert, whether the current use of force training regime for officers is adequate. There is concern that without proper training officers may become more reluctant to use force as well as less confident in de-escalating the situation. Members of public and officers may, as a result, be more at risk of injury.
- (b) The PSNI should consider the results of the police officers human rights survey and report to the Policing Board with a strategy to improve officer understanding of human rights and re-test officers in the next 12 months.

Recommendation 9

- (a) The PSNI should provide a report to the Policing Board every year on its use of covert surveillance powers including:
 - the numbers of each type of surveillance, including the numbers of CHIS Criminal Conduct Authorisations (unless the publication is unlawful or the numbers are so small and would reveal PSNI's specific tactics in particular cases);
 - the numbers of journalists, lawyers and other members of similarly sensitive professions subject to covert surveillance; and
 - the numbers of its cases that are pending before the Investigatory Powers Tribunal (IPT);
- (b) The Policing Board's Human Rights Advisor should be provided with a summary of each of these IPT cases.
- (c) The Policing Board should be provided with the procedure that PSNI use to supervise the use by police officers and PSNI staff of the telephones provided by PSNI. This should include what information is provided about this procedure to the members of public and journalists who, in the usual course of business, supply their telephone numbers to the PSNI.

CHAIR'S FOREWORD	
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Recommendation 10

The Policing Board fully appreciates the necessity at times for investigations to be undertaken by a service independent of PSNI and should be advised at the earliest possible opportunity of such, including how the other services has been selected, the terms of reference for the investigation, anticipated costs, and the governance arrangements PSNI have in place for the investigation.

With regard to independent reviews of PSNI work areas, such as the data breach, the Board must have a greater role to include the selection of reviewers and development of terms of reference before commissioning, and sight of the final report.

CHAPTER 1

HATE CRIME

Introduction

Hate crime is a growing issue in Northern Ireland and emerged this year as a major issue for the PSNI and the Board. There was an increase in hate incidents and crimes mainly due to the civil unrest and attacks in July and August of 2024.

Human Rights Law

The Human Rights Advisor takes cognisance of the following relevant legislation when assessing the PSNI's compliance:

- The Universal Declaration of Human Rights;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- The International Covenant on Civil and Political Rights (ICCPR);
- The International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- Convention on the Rights of People with Disabilities (CRPD);
- Yogyakarta Principles (international principles of human rights on sexual orientation and gender identity);
- The Public Order (Northern Ireland) Order 1987; and
- Human Rights Act 1998 (ECHR).

Latest Relevant Statistics

Northern Ireland is the least diverse part of the United Kingdom. From 1 October 2023 to 30 September 2024 the number of incidents increased in two out of the six types of hate motivations. These were race hate and faith/religion crimes. Crimes with race hate motivation saw the largest increase. 521 more race incidents and 309 crimes were recorded than in the last reporting period. The total number of incidents was 1787 with 1161 the total number of crimes. These figures represent the highest level of race hate motivation since recording began in 2004/05.

CHAIR'S FOREWORD
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2
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12

111 incidents were recorded in 2023/24 in the race hate category up from 48 in the last period for race and 75 crimes recorded compared to 32 in 2022/23. Five of the seven highest monthly levels of race incidents were recorded between May and September 2024. There were 350 race incidents recorded in August 2024, this is the single highest monthly level and twice the previous monthly high in July 2024.

PSNI Response

In response to the disorder in August 2024, which was largely driven by anti-immigration sentiment, the PSNI has reviewed its control strategy in relation to hate crime and outlined their commitment to dealing with hate abuse in all its forms. The Hate Crime Control Strategy has three key outcomes:

- Increased reporting through improved victim trust and confidence in policing;
- Improved standards of service to victims of hate crime; and
- Improved hate crime outcomes.

In order to achieve these outcomes the PSNI are engaging in Reference, Engagement, and Listening (REaL) events with members of the communities who can raise awareness with officers of how the PSNI can help victims.

The PSNI also have a detailed Service Instruction to assist officers to deal with hate incidents and hate crimes. This was last reviewed in April 2023. The PSNI have also introduced a Race and Ethnicity Plan consultation document (November 2024) and are also working with the Department of Justice to fund the Hate Crime Advocacy Service.

Human Rights Advisor's Assessment

The PSNI's focus on dealing hate crime is very welcome and it is hoped that the failure to protect some people last summer will not be repeated. An external review of how effective the PSNI is dealing with all hate crime should be sought, perhaps by HMICFRS or another police force who has been recognised as delivering a first rate service to those who have been victims of hate crime.

In Judge Marrinan's Review of Hate Crime in NI, published in 2020, gender or gender identity is not one of the protected characteristics included in the current hate crime legislation. The PSNI are then placed in a difficult position as they cannot complete their role effectively and the victim feels there is no reason to report an incident as nothing can be done. The PSNI then are likely to be viewed negatively although the reason that the police cannot respond is because the law is not working.

The absence of comprehensive hate crime legislation in Northern Ireland poses problems for PSNI. PSNI cannot effectively respond when a victim reports a hate crime.

It has been reported that the Department for Justice has dropped plans for a stand-alone hate crime bill due to the lack of time in the current Assembly's mandate. The proposed legislation would not have created a new offence but have ensured that the law takes account of the motive for the offence if crime was motivated by hatred.

The Justice Minister and the Assembly need to prioritise the necessary changes in the law to ensure that every group is protected. Protecting some groups rather than others sends a very poor message suggesting that some groups deserve less protection than others.

The PSNI also have internal work to do to be reflective of our current diversity. According to the most recent census data, 8.1% of the Northern Ireland population belong to ethnic minority groups. Despite this, the PSNI is significantly under-represented, with only 0.66% of officers and 0.75% of staff currently from ethnic minority backgrounds, comprising an average of 0.71% of the workforce.

The Policing Board's Recommendation

Recommendation 3

- (a) The Policing Board recommends that the recommendations made in Judge Marrinan's Report into hate crime legislation in Northern Ireland need to be implemented urgently by the Department of Justice in order to protect everyone in Northern Ireland.
- (b) The PSNI should engage an expert to provide an external review of its response to hate crimes in Northern Ireland.

CHAPTER 2

RELIGION AND COMMUNITY BACKGROUND

Introduction

For a number of years, the PSNI has been criticised by Courts and the JSA Independent Reviewer for failing to produce data on community background monitoring. The Board has requested that PSNI make improvements in this area and during 2024/25 the PSNI implemented a pilot project on community background monitoring and reported to the Board on a number of occasions on current progress made.

Human Rights Law

The Human Rights Advisor takes cognisance of the following legislation when assessing the PSNI's compliance:

- The Northern Ireland Act 1998 (Sections 75 and 76);
- The Justice and Security Act 2007;
- The Terrorism Act 2000; and
- Court judgments (Ramsey 2020).

PSNI Response

On 30 April 2024 the PSNI launched its community background monitoring (CBM) pilot. This pilot is gathering data in respect of the community background of those persons subject to stop and search under Justice and Security (NI) Act 2007 (JSA) and Terrorism Act 2000 (TACT) powers.

With regards to the pilot's progress covering the period from the 30 April 2024 to the 28 February 2025 the relevant Justice and Security (NI) Act 2007 (JSA) and Terrorism Act 2000 (TACT) powers have been used 2,147 times, the results of which show that:

- Catholic / Nationalist / Republican (CNR) has been recorded as a response in 18% of stops to date;
- Protestant / Unionist / Loyalist (PUL) has been recorded as a response in 6% of stops to date;

- Question ‘Refused’ was recorded in 69% of responses to date;
- ‘Other’ has been recorded as a response in 5% of stops to date; and
- ‘Not Recorded’ was noted in 2% of the total data.

The PSNI continue to implement the pilot project gathering more data in order to improve the process of data collection prior to rolling out this out to other use of police powers to gather more information.

Human Rights Advisor's Assessment

There are a number of possibilities that could explain the findings. These include:

- Direct discrimination by a few police officers;
- Unconscious bias by some police officers;
- Indirect discrimination by PSNI as a result of particular policies or practices;
- Justified targeting – the JSA stop and search power, for example, being used against dissident republicans who are more likely to identify as Catholic and as a consequence of the loyalist feud in Newtownards;
- Cultural factors and attitudes to the police which are generally different between the two communities;
- Cultural factors (respect or resistance) which might lead to more formal outcomes (use of stop and search or arrest) following interactions with police officers;
- Differences in ‘availability’, more obvious presence on the street and public of one community; and
- Socio-economic factors.

The statistical and other evidence available is that members of the two communities in Northern Ireland have very different outcomes in any interaction with the PSNI. The basis of this difference in treatment is not properly understood by PSNI and, as a result, this possible unlawful indirect discrimination will continue in the future.

The National Police Chiefs Council and the College of Policing published guidance for all forces and stated:

‘The aims of the standard are to provide policing with consistent values by which to record protected characteristics. The ambition is that the standard will be applied to both current record management and operational systems and future systems and will evolve as legislation, societal expectations and recording standards change.’¹

1 Protected characteristics: Operational Recording Data Standard, March 2023.

The Policing Board’s Recommendation

Recommendation 4

PSNI’s collection of equality data is inadequate, particularly the collection of community background data.

- (a) The PSNI should adopt the approach recommended by the National Police Chiefs Council and the College of Policing. The collection of this data is particularly important where police officers are using their powers.
- (b) The PSNI should reconsider its approach to the collection of community background data. Perhaps the most meaningful data on a person’s community background can be ascertained by questions about the person’s religious background, that is, the most prominent religion of their family during their childhood. In the meantime, the PSNI should provide the Policing Board with a report every year, starting in six months after this Human Rights Annual Report is published, setting out any data that it has collected on religion or community background from members of the public. It is particularly important to provide such data where police officers have used their powers: covert surveillance, stop and search, any use of force (such as spit and bite guards), arrest, strip searches, length of detention, criminal charge and police bail.
- (c) The PSNI should reconsider its approach to the publication of stop and search statistics on the number of transgender persons, lesbian, gay and other sexual minorities and those with disabilities and should publish the numbers alongside the numbers in the population in Northern Ireland.

CHAIR’S FOREWORD
1
2
3
4
5
6
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10
11
12

CHAPTER 3

VULNERABLE VICTIMS

Introduction

One of the most important duties of the police is to protect people from crime. The PSNI are committed to victim focused policing, working towards keeping people safe and to ensuring that victims feel they can report incidents to them.

Issues that have been identified by the Board reflecting the concern of the public are Violence Against Women and Girls and Domestic Abuse including domestic homicides. This chapter highlights the concerns raised, an assessment of PSNI’s strategy and its response to the concerns and provides recommendations for the future.

Human Rights Law

The Human Rights Advisor takes cognisance of the following relevant legislation and decisions of the courts when assessing the PSNI’s compliance:

- Jurisprudence on these issues from the European Court of Human Rights;
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention);
- Domestic Abuse & Civil Proceedings Act (NI) 2021;
- Protection from Stalking; and
- Justice (Sexual offences and Trafficking Victims) Act (NI) 2022.

Latest Relevant Statistics

From the 1 November 2023 to the 31 October 2024 there was a decrease of 10.7% of overall crimes recorded from the previous 12 months down to 97,346. The level of overall crimes recorded was the lowest since 2021. Lower crime levels were seen in violence against the person and the largest percentage decrease was in stalking and harassment 16.7% (1,959 fewer crimes). The largest volume decrease was violence without injury 2,171 (10.8%).

CHAIR'S FOREWORD
1
2
3
4
5
6
7
8
9
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11
12

In relation to VAWG specifically, PSNI provided an update to the Board in December 2024. From 4 November 2023 to 4 November 2024 there were 21,186 offences recorded. This was a decrease of 15.3% on the previous year. VAWG accounts for 21.8% of overall crime. Crimes with a domestic motivation account for 45.9% of all VAWG offences, 26% of sexual offences and 49% of violence against the person.

In relation to homicide there were 15 murders in the period November 2023 to October 2024 compared to 9 the previous year. Three charges of manslaughter and one charge of corporate manslaughter. Eight of these were female, 11 males and 2 were under the age of 18. Six of the homicides were classed as having a domestic abuse motivation with 5 of these being female compared to 3 females in the previous reporting period.

PSNI Response

The PSNI have long term VAWG, Children and Young People and Hate Crime strategies in place to help tackle these crimes including increased training for officers and prominent social media campaigns to promote awareness. Through working with other statutory and voluntary agencies through programmes such as the Right Care, Right Person, it is the PSNI’s aim to provide the public with confidence and reassurance that regardless of the crime committed the appropriate response and help will be available.

In September 2024, the PSNI confirmed they are going to adopt the National counter-terror approach to tackling VAWG and updated their VAWG action plan to reflect this. This national framework uses a “4P approach” of Prepare, Prevent, Protect and Pursue.

The Domestic Homicide Review Panel published their report in October 2024.² The panel made seven recommendations after investigating the death of a young mother who had never reported previous domestic abuse even though she engaged with professionals. Recommendations were made directly for the PSNI. These are:

- to incorporate the crucial importance of “professional curiosity” into training of coercive control and annual refresher training;
- PSNI to improve the knowledge of competence in, the undertaking and completion of DASH³ risk assessment by PSNI officers and staff to specifically focus on: Risk Factors and broader of risk, professional judgement and review of Domestic Violence history;
- PSNI to improve the quality/standard of domestic/sexual abuse investigations. This will include specific focus on:

² [Domestic Homicide Review published – ‘Pamela’ | Department of Justice](#)

³ DASH Risk – helps to identify the level of risk posed to a victim including children. Risk levels are standard, medium and high. DASH can be used in cases of domestic abuse, stalking and honor based abuse.

- 1. Investigative standards and techniques identifying appropriate offences and core lines of enquiry;
- 2. Immediate/fast track actions ‘golden hour’ principles;
- 3. Dealing with victims and witnesses of domestic and or sexual abuse in their various relational forms;
- 4. Timely consultation and support from PPB specialists;
- 5. Timely and appropriate use of body worn video in line with ‘McGuinness Principles’; and
- 6. Recommended use, management and enforcement of protective orders, as well as the use of, compliance with bail conditions as a protective measure.

Human Rights Advisor’s Assessment

Policing has often been seen to be about control, the use of force and physical strength as issues for the previous police service - the Royal Ulster Constabulary. The balance between the numbers of women and men in the PSNI may also be a factor as might the sex of the majority of senior officers and in the nature of what women officers were expected to focus on (at least until relatively recently). The failures to protect women and girls and to investigate and to take action to protect them has been a problem and some people assume that it a consequence of institutional misogyny. This appears to have been recognised over the last couple of years by the PSNI and it is to be hoped that changes are being more rapidly addressed.

The Human Rights Advisor remains concerned that there are wider systemic issues within the PSNI when it is dealing with a women’s death and how it should be investigated and its approach when dealing with domestic abuse incidents. In response to the increase in homicides and the wider concerns surrounding how the PSNI conducted their investigations, the PSNI has evaluated the success of their seven year plan outlining their commitment to ending violence against women and girls and recognised that their response was not always up to the standard that was expected.

One other note of concern for the Human Rights Advisor was the high level of repeat victimisation rates⁴.

The Policing Board’s Recommendation

Recommendation 5

The Policing Board endorses the recommendations of Domestic Homicide Review Panel. The PSNI should report to the Board on how it will deliver and implement the Panel’s recommendations.

4 For further information please see HRAR 24/25

CHAPTER 4

STOP AND SEARCH

Introduction

The Board has raised concerns over stop and search over many years. Stop and search is regarded by PSNI and other police forces as an important tool and, if used properly, can reduce crime, keep people safe and identify offenders. The alternative of arresting a person on the basis of the equivalent reasonable suspicion threshold would be much more intrusive. However, the challenge for PSNI is, given the consistently low outcomes, a damaging impact on community relations, especially for young people, the lack of evidence to suggest stop and search reduces crime and the human rights issues - this begs the question as to why has stop and search not been subject to more fundamental reform? JSA Stop and Searches are also closely monitored by the Independent Reviewer of the JSA Act in Northern Ireland.

Human Rights Law

The Human Rights Advisor takes cognisance of the following relevant legislation when assessing the PSNI's compliance:

- Article 5, 8 and 14 of the European Convention of Human Rights;
- Police and Criminal Order 1989 (PACE) Code A; and
- The Justice and Security (Northern Ireland) Act 2007.

Latest Relevant Statistics

In comparison to other forces in England and Wales the PSNI numbers of stop and searches per 1,000 population is 11, the seventh highest, and five times higher than the three lowest forces. In comparison with all the forty plus forces in England and Wales the PSNI's arrest rate following a stop and search is the lowest – 8% compared with 25% in some forces like Suffolk or 21% for North Yorkshire. PSNI's figures would be even worse if the Justice and Security Act stop and search figures were included. The JSA power has an arrest rate of 1%. However, there was a decrease in the use of all powers compared to the previous 12 months. In particular, the use of the Justice and Security Act decreased by 49% (from 5,320 to 2,713) and the use of Misuse of Drugs Act by 21% (from 17,389 to 13,683). Use of the Police and Criminal Evidence Order, the Firearms Order, the Terrorism Act and other less frequently used powers also decreased, albeit by smaller amounts.

CHAIR'S FOREWORD
1
2
3
4
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12

The evidence continues points to children and young people (18 to 25 years of age) being disproportionately targeted for low level drug possession under the Misuse of Drugs Act. The arrest rate for the use of that power on that group is 3.4%. Of the 19,288 stop and searches in the calendar year 2024, 45% were aged 25 and under but the population under 25 is 32.6% showing that this group is overrepresented. Latest statistics from the search cards indicate that 17% were Catholic/Nationalist/Republican and only 7% were Protestant/Unionist/Loyalist and on these figures there appears to be significant differences (the first group subject to stop and search two and a half times compared to the second group).

Human Rights Advisor's Assessment

Evidence shows that stop and search has a weak but real relationship with crime levels and its effectiveness as a deterrent is not yet proven. Its effectiveness as an investigatory power can be partly assessed by whether the object of the stop and search is connected to the outcome (the arrest rate and 'find rate' - how often the item being searched for is found). A better 'stop-to-outcome' ratio would obviously help demonstrate that the exercise of these powers is fair and rational, which could improve public trust over their use. High volume of stops/low outcomes, lack of data and analysis and benefits impact on public confidence.

The Board has long been concerned about the PSNI's use of stop and search. It has never been disputed that it is an important power, however when misapplied or overused it can be counterproductive. In seeking to protect the rights of the majority, the police at times must sometimes interfere with an individual's rights. However, they are only permitted to do so if the infringement is provided by law and necessary to achieve a legitimate aim. In circumstances where there is a victim, the police may have positive obligations to use powers to intervene (clearly justifying the necessity of a lawful interference). However, the use of stop and search is not typically directly victim-led and officers have a very wide discretion to apply these intrusive powers.

Stop and search obviously represents one of the most contentious tools available to police in Northern Ireland, which is highlighted by the difference in opinion between the Members of the Policing Board, which also reflects wider debate in Northern Ireland. To date the responses to the Board's previous recommendations on this subject are very disappointing.

The Policing Board’s Recommendation

Recommendation 6

- (a) The PSNI should develop a strategy to ensure that fewer people are stopped and searched but a greater proportion of those stops and searches are effective. Good practice should be shared between districts.
- (b) Statistics showing the rates of stop and search for different minority groups, including information on population proportions that are available to the Service Accountability Panel should be published regularly, including the more detailed specific age of the children stopped and searched.
- (c) Over the last decade there has been a gradual, albeit uneven, reduction in the security threats in Northern Ireland that the JSA was designed to combat. Therefore, the PSNI and the Northern Ireland Office (who have to confirm PSNI’s JSA authorisations), with the assistance of the JSA Independent Reviewer (Dr Jonny Byrne) should draft criteria to use to decide when the general and specific threat levels have reduced such that the JSA stop and search powers are no longer necessary and the several other stop and search powers available to officers will be sufficient.

CHAIR’S FOREWORD
1
2
3
4
5
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7
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10
11
12

CHAPTER 5

ARREST AND CUSTODY

Introduction

When the police arrest and detain a person, they assume responsibility for the protection of both the detainee’s rights and welfare. Police have a duty to protect the health and safety of detained persons and take immediate action to secure medical assistance where required. Once a person has been arrested the police also have considerable additional powers, which include the power to use force to ensure that the detained person complies. During 2024/25 the Human Rights Advisor examined a number of issues in this area including the use of TACT powers to arrest, strip searches of people in custody and the need for a change in legislation to allow Independent Custody Visitors access to custody records.

Human Rights Law

The Human Rights Advisor takes cognisance of the following relevant legislation when assessing the PSNI’s compliance:

- Article 5, 8 and 14 of the European Convention of Human Rights;
- PSNI Code of Ethics; and
- Police and Criminal Order 1989 (PACE) Code A.

Latest Relevant Statistics

There were 21,474 arrests made under PACE during 2022/23, 82% of which were males. During 2022/23 there were only 49 persons detained in police custody for more than 24 hours and released without charge. During the same period there were 22 applications to Magistrates Courts for warrants of further detention (for more 36 hours), in relation to 17 individuals. Six of these applications were for an additional 24 hours or less, 5 were for between 25 and 35 hours and the other 11 were for a period of 36 hours. Of the 22 applications to Magistrates Courts for warrants of further detention, 5 of these were for a second warrant of further detention. Of the 17 persons subject to a warrant of further detention, 9 spent less than 24 hours under its authority, while 3 spent between 24 hours and 36 hours and the remaining 5 people were detained over 36 hours under the authority of these warrants. A total of only 10 of those people were subsequently charged.

CHAIR’S FOREWORD	
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PSNI Response

During a CJINI Inspection looking at the standard of police custody in Northern Ireland and the experience of detainees in 2020, a number of recommendations were made. They called for a further examination of the reasons for arrest and detention in custody of Irish Travellers and people of Black ethnicities, use of force, improvements to the coverage of audio recording in custody cells, the introduction of IT processes to alert within its system children on the Child Protection Register ensuring it applies to custody records, and a review of the provision of health care training. In response to the recommendations made by CJINI in their inspection report, the PSNI developed a Strategic Action Plan and identified key areas for development and learning. This action plan enabled the PSNI to analyse existing practices and to work towards implementing the recommendations. CJINI identified an area for improvement as further examination of the reasons for arrest and detention in custody of Irish Travellers and people of Black ethnicities. CJINI completed its follow up research to its 2020 report in 2024 and the publication of its current assessment is awaited.

In relation to the use of TACT powers for arrest, the PSNI has set up a Terrorism Legislation Working Group to examine the detail of this issue with the aim of producing guidance for officers and the Human Rights Advisor is involved in this work.

The Board published a report on the Strip Searching of People in Custody in 2023. A series of recommendations were made in the Report, including updating guidance and re-evaluating governance frameworks and recommendations regarding the amendment of PACE legislation and Codes and PSNI has adopted all of the recommendations that were within its control.

A recent issue has arising preventing Independent Custody Visitors having access to custody records when the detained person is unable to give consent (because they are asleep or as a result of drink, drugs or mental health issues). The Board is hoping that this can be resolved in the Justice Bill currently being considered by the Assembly⁵.

Human Rights Advisor's Assessment

Information suggests that the PSNI, in general, look after those in its custody in accordance with the Police and Criminal Evidence Order (PACE). There are, however, occasional lapses. The numbers of successful claims for unlawful arrest against the PSNI is of concern and it would be useful to know whether there are any strategic, procedural or policy issues that need to be considered as a result.

5 This would bring NI in line with legislation in England and Wales

The reduction in the excessive numbers of strip searches of children and young people is very welcome and the reassurance that appropriate adults will be available to support those subject to such searches is important. However, this history raises questions about whether the PACE codes are always being followed more generally and whether strip searches of vulnerable adults are always justified and appropriate adults are always available to support them. It is important that the Codes of Practice are amended to ensure that the controls are appropriate and reduce any unnecessary strip searches of children and young people.

It is essential that custody training, whether aimed at custody sergeants performing the role in a substantive or backfill capacity, custody constables and Civilian Detention Officers, equips staff to recognise their legal and human rights obligations in relation to the management and care of detained persons, and, to appropriately assess and mitigate the risks posed by vulnerable persons detained in police custody.

The Policing Board’s Recommendation

Recommendation 7

The PSNI should report to the Board with an analysis of any trends or systemic issues identified in a review of cases of wrongful arrest.

CHAIR’S FOREWORD
1
2
3
4
5
6
7
8
9
10
11
12

CHAPTER 6

USE OF FORCE

Introduction

The use of force by police officers engages the European Convention on Human Rights (ECHR) Article 2, Article 3 and Article 14. Police officers have the authority to use force in order to defend themselves or another person, to effect an arrest, to secure and preserve evidence or to uphold the peace. Each use must be justified, proportionate and reasonable in the circumstance. The officer must give consideration as to whether there is an alternative to the use of force and the emphasis within the PSNI needs to continue to be on the use of de-escalation techniques.

There are many types of use of force that an officer can utilise. These include taser, firearms, hand-held batons and Attenuating Energy Projectiles (AEP or baton rounds) and unarmed physical tactics including using handcuffs, spit and bite guards and limb restraints. Each officer is responsible for their own decision to use force. Any incident must be properly recorded and their supervisor must be informed.

Human Rights Law

The Human Rights Advisor takes cognisance of the following relevant legislation when assessing the PSNI's compliance:

- The European Convention on Human Rights (ECHR) Article 2, Article 3 and Article 14; and
- The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Latest Relevant Statistics

From 1 October 2023 to 30 September 2024 the PSNI reported 18,148 uses of force. This is a decrease of 11% (20,484) on the same time period a year ago. 1,078 of these were a use of force against children.

Most types of use of force decreased during this reporting period. The exceptions were the use of Spit and Bite Guards and the use of Attenuating Energy Projectiles (AEP or baton rounds). Unarmed physical tactics accounted for 60% of all uses of force.

CHAIR'S FOREWORD	
1	
2	
3	
4	
5	
6	
7	
8	
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11	
12	

The most common reason for using force given by officers was to protect themselves (81%) and to protect other officers (79%). 83% of persons where force was used were male, 38% between 25 and 34 years old and 94% were assessed as being white.

AEP's were discharged 15 times in the period 1 October 2023 to 30 September 2024. This is was 150% increase on the previous reporting period. AEPs pointed but not fired showed an increase of 8% with 6 more incidents being recorded.

Firearm use (removing the weapon from the holster or pointing at a person) fell in the last year from 529 to 408, a decrease of 23%. A decrease of 21% was seen in the last year in the use of Tasers from 297 to 235 times.

Spit and Bite guards were deployed on 182 occasions, 22 times more recently in the last year than in the previous year, an increase of 14%. PSNI officers recorded that in 94% of incidents its use was designed to protect other officers and in 88% of occasions to protect the officer to protect the user him or herself. Out of the 182 times a spit and bite guard were used, on 174 occasions this was by the Neighbourhood or local policing team.

The largest decrease in the use of force recently was seen in the use of hand held batons which fell from 279 to 208. This is a decrease of some 25%.

There was an increase in the use of handcuffs and limb restraints from 5,455 to 6,670 over the last year. The use of unarmed physical tactics rose from 10,259 to 12,924. However, the new use of force recording system 'origin' introduced in April 2023 has increased the reporting of lower level uses of force and this could partly explain the increase in figures for the use of handcuffs/ limb restraints.

PSNI Response

The PSNI have commented that it should also be noted that in the vast majority of cases where force is used, unarmed physical tactics are more regularly used when faced with a risk to life of the officer or a member of the public. Equipping officers with a range of techniques, including spit-and-bite guards and irritant spray, gives the officers the ability to effectively disrupt aggressors in challenging circumstances, using the least amount of force possible. PSNI observed that the deployment of specialist officers such as armed response unit or dog call signs minimises the recourse to use of force through appropriately trained tactics.

The PSNI has also outlined the positive impact that the approach of ‘Right Care Right Person’ should have when police officers are asked to attend incidents and where there is concern for the safety of a vulnerable person. This should ensure that the correct response is provided which will often be by health professionals rather than by the PSNI, potentially reducing the frequency of the use of force.

Human Rights Advisor’s Assessment

The Policing Board’s Human Rights Review of Use of Force published in January 2023 gives a comprehensive overview of the types of force used by the PSNI. The Board and Human Rights Advisor have also made several other recommendations in relation to use of force by PSNI in the **Human Rights 5 Year Review** and the recently published report into **Policing and Children and Young People**. In these reports the Board has highlighted the importance of officers using de-escalation techniques especially in relation to incidents where mental health, alcohol and drugs are involved. This can often reduce the need for any force to be used and reduces the chances of the officer being injured. The Policing Board produced a detailed review of the use of force in 2023 and the PSNI’s response to the recommendations was disappointing. There should be a further report produced by the Human Rights Advisor in the next year to track any progress and to consider any more recent developments.

CHAIR’S FOREWORD	
1	
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11	
12	

CHAPTER 7

TRAINING AND POLICY

Introduction

In order to protect the public it is important to ensure that human rights standards are embedded into all aspects of police training. For this report the Human Rights Advisor has re-engaged with the Human Rights Training Advisor who is based in the Police College. In the Five Year Review of Human Rights (2024), the Human Rights Advisor highlighted the progress made by the 2020 PSNI training review and with a new training advisor now in place it is hoped that there will be further developments in this area. The training advisor has indicated he would like to introduce a more targeted audit process looking at all aspects of human rights training and provide the Board with more regular updates.

Human Rights Law

The role of the Training Advisor within the college is to ensure that course documentation is in line with the required standards governed by national human rights law, the human rights treaties and the mechanisms of the Council of Europe, in particular the European Convention on Human Rights (ECHR) and its protocols, the European Convention on the Prevention of Torture and Degrading Treatment, and other applicable international instruments.

PSNI Response

PSNI have confirmed that all new Service Instructions and directives undergo human rights screening at the outset to ensure that they comply with our statutory obligations under Section 6 of the Human Rights Act. Similarly, all aspects of training are subject to human rights screening, audit and review to ensure that human rights remain at the front and centre of everything we do in the organisation.

The PSNI has also made improvements in Training to Support Victims of Crime following a 2023 CJINI inspection. In addition, each PSNI district has a local training officer who monitors the training needs of their district.

CHAIR'S FOREWORD	
1	
2	
3	
4	
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12	

The PSNI also carried out a Human Rights Awareness Survey in 2023 and are currently addressing the issues raised within the survey in terms of officer and staff awareness and knowledge of human rights. They have also improved human rights compliance by introducing in January 2025 the “Human Rights Guidance: Guidance relating to Human Rights for use in creating Service Policies/Service Instructions within the PSNI” which the Human Rights Advisor welcomes as a very positive development.

Human Rights Advisor’s Assessment

Whilst PSNI is justifiably proud of its overall compliance with human rights the level of understanding by officers of what human rights compliance means in practice is not as high as it should be. Secondly, it has been more difficult to assess the extent of the detailed knowledge of human rights of more senior officers and how that is put into practice.

The Policing Board’s Recommendation

Recommendation 8

(a) PSNI should investigate, including engaging an outside expert, whether the current use of force training regime for officers is adequate. There is concern that without proper training officers may become more reluctant to use force as well as less confident in de-escalating the situation. Members of public and officers may, as a result, be more at risk of injury.

(b) The PSNI should consider the results of the police officers human rights survey and report to the Policing Board with a strategy to improve officer understanding of human rights and re-test officers in the next 12 months.

CHAIR’S FOREWORD
1
2
3
4
5
6
7
8
9
10
11
12

CHAPTER 8

COMPLAINTS AND DISCIPLINE

Introduction

The Human Rights Annual Report includes a short chapter on complaints and discipline because, unfortunately, violations of the human rights-based Code of Ethics, can often result in violations of the human rights of members of the public. There is a dual structure for dealing with police officers who are accused of being involved in misconduct in Northern Ireland. The Police Ombudsman investigates reports of complaints and allegations made by members of the public. The PSNI itself investigates misconduct that does not involve members of the public but PSNI can also refer any incident or allegation to the Ombudsman for independent investigation.

Human Rights Law

The Human Rights Advisor takes cognisance of the following relevant legislation when assessing the PSNI's compliance:

- The PSNI's Code of Ethics 2008; and
- Police (NI) Act 2000.

Latest Relevant Statistics

In 2023/2024 OPONI received 3,353 complaints. This figure is up 5% on last year. Criminal investigations into officers following complaints resulted in the largest category of complaints overall – 1,185 (or 35%). This is a yearly increase of 16%. Complaints relating to arrests increased to 481 (or 4%). Domestic incident complaints rose by 16% to 260. Of the 3,353 complaints made 43% were subject to a full investigation. Within the total number of complaints there were 5,848 allegations.

On 13 occasions the Public Prosecution Service (PPS) decided that a police officer or staff member should be prosecuted.

CHAIR'S FOREWORD	
1	
2	
3	
4	
5	
6	
7	
8	
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11	
12	

PSNI Response

OPONI also made 32 policy recommendations to the PSNI. 6 were strategic, 24 operational and 2 for minor improvements. The PSNI accepted 11 of these including those relating to social media use and record management.

In 2023/24, 208 recommendations for discipline were referred to the Professional Service Department relating to a police officer or staff member. The Ombudsman recommended 92 officers or staff members to be disciplined or be subject to performance action, 112 for misconduct meetings and 4 recommendations for a misconduct hearing (with the possibility of dismissal).

The PSNI are also in a process of implementing the relevant recommendations of the Angiolini Report and the Board have been updated on this progress regularly. The PSNI are also working in partnership with the Board to review the 2008 Code of Ethics.

In March 2025 CJINI published an Inspection of the Office of the Police Ombudsman’s investigation of ‘abuse of position’ concerns and complaints. OPONI has seen an increase in the number of complaints received and the report is timely with the cases of misconduct being properly highlighted in the media. Although this report was about OPONI’s internal investigation processes, it also made recommendations for the PSNI to implement.

Human Rights Advisor’s Assessment

The Human Rights Advisor welcomes the recommendations from CJINI and hopes that they are implemented quickly to strengthen policies around misconduct and abuse and help to restore public confidence and demonstrate that PSNI are doing all they can to ensure that victims and colleagues are not subject to any abuse of power.

The new draft Code of Ethics will further protect members of the public from misbehavior by police officers and it is hoped that it can be agreed and implemented quickly.

The Metropolitan Police was recently prevented by the High Court in England from dismissing an officer on the basis that his security clearance was withdrawn. New regulations have been put in place for England and Wales which provide a route for dismissal in such circumstances but also provide officers with protections, including allowing the officer to challenge the basis of the removal of that clearance. The issue raised by the High Court would also be a barrier for similar security clearance dismissals in Northern Ireland and new regulations need to be urgently considered in Northern Ireland.

CHAIR’S FOREWORD	
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Finally, the Conduct Regulations in Northern Ireland need to be updated and the changes made in the rules in England and Wales need to be assessed for inclusion in Northern Ireland, alongside the recommendations made by the Policing Board in its report ‘Review of PSNI Professional Standards’⁶ need to be reviewed and implemented urgently.

CHAIR'S FOREWORD
1
2
3
4
5
6
7
8
9
10
11
12

6 30 November 2022, <https://www.nipolicingboard.org.uk/files/nipolicingboard/2022-11/review-of-psni-professional-standards-recommendations-for-improvement.pdf>

CHAPTER 9

BIOMETRIC RETENTION

Introduction

The Board’s **Human Rights Review of Privacy and Policing (2023)** sets out in detail the main issues in relation to biometric retention by the PSNI. If a person is arrested for a recordable offence and taken to a PSNI custody suite their identity is checked using their fingerprints or they are taken for the first time if they are not already on the database. DNA samples are also taken at this point and their profile is added to the national DNA database. All biometrics recovered by the PSNI from suspects in the course of an investigation are stored and *speculatively* searched on a number of databases. Facial images (digital photographs) are also taken of the suspect in custody. It is likely, that many thousands of these records may be currently unlawfully held.

Human Rights Law

The Human Rights Advisor takes cognisance of the following legislation and case law when assessing the PSNI’s compliance:

- Police and Criminal Evidence Order 1986;
- Criminal Justice Act (Northern Ireland) 2013;
- Draft Justice Bill 2024; and
- Decisions of the ECtHR and domestic courts.

Relevant Statistics

DNA profiles: there are 247,895 individual profiles on the NI DNA Database but with the caveat that an unknown minority of these will be duplicate profiles of those already held on the database.

Fingerprints: There are approximately 323,067 persons’ fingerprints that are currently held in the database but with the caveat that an unknown minority of these will be duplicates. In addition, there are approximately 14,067 historic anti-terrorist prints held and an unknown number of these will be duplicates of those already held in the larger collection.

CHAIR’S FOREWORD	
1	
2	
3	
4	
5	
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7	
8	
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12	

Photographs: The PSNI currently hold images in relation to 182,253 unique individuals against a PSNI record on their NICHE record management system. The main source of these photographs is captured during processing in PSNI Custody suites alongside fingerprints and DNA under PACE. Photographs are captured every time an individual is processed through a PSNI Custody suite. There will therefore be multiple photographs for each individual record.

PSNI Response

Currently the PSNI are having to operate a system that is unlawful with all the risks of litigation that this involves, the only permanent solution is for the Assembly to make amendments quickly to bring it in line with the current law. The current Justice Bill seeks to address many of the issues that has been raised concerning Biometric Retention for the PSNI. Both the PSNI and the Board have presented evidence to the Justice Committee on the passage of the Bill through the Assembly. It is expected that the Bill will become law within the next 12 months.

Human Rights Advisor's Assessment

The overall and key recommendation in the Human Rights Review of Privacy and Policing was:

‘There should be an open and public debate about data driven technology in policing including developments in and use of Artificial Intelligence and Algorithms, Biometrics, Digital Forensics, Surveillance, and Investigatory Powers. PSNI should aim to become an organisation driven by effective and efficient use of data in an ethical way. The ethical use of data is about responsible and trustworthy use of data to ensure public trust and confidence rather than constraining its potential.’

The PSNI should urgently reconsider all the recommendations made in the Human Rights Review of Privacy and Policing and work through those recommendations in detail with the Policing Board.

CHAPTER 10

NATIONAL SECURITY

Introduction

The Board has a statutory duty under the Police (Northern Ireland) Act 2000 to maintain and secure an efficient and effective police service. Amongst other things, the Board must monitor the performance of the police in carrying out their general duties (to protect life and property, to prevent the commission of offences etc.) and in doing so must monitor police compliance with the Human Rights Act 1998. In discharging those duties, the Board has retained oversight of and held the Chief Constable to account in respect of all aspects of police work, including that which relates to National Security. Where national security is an issue, MI5 will often lead on covert surveillance and intelligence gathering but it is always PSNI which mounts and is responsible for the ‘executive’ policing operations – stop and search, use of force, arrest and charge. Therefore, although oversight by the Board is important, it is inevitably partial.

Human Rights Law

The Human Rights Advisor takes cognisance of the following relevant legislation when assessing the PSNI’s compliance:

- Annex E to the St Andrews Agreement;
- Regulation of Investigatory Powers Act 2000; and
- Investigatory Powers Act 2016.

Current Arrangements

Neither the Policing Board nor the Human Rights Advisor has oversight over MI5 (nor does any other Northern Ireland based institution have such a role). Rather, MI5 is accountable to Westminster politicians – directly to the Home Secretary but also to the Security and Intelligence Committee of the Westminster Parliament. Additionally, as with other intelligence agencies, its use of covert surveillance is subject to the oversight of the Investigatory Powers Commissioner and complaints about its activities and claims for breaches of human rights can be made to the Investigatory Powers Tribunal.

CHAIR'S FOREWORD	
1	
2	
3	
4	
5	
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8	
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12	

Annex E states that the Board's Human Rights Advisor should have a role in human rights proofing the relevant protocols that underpin the principles within which the PSNI must operate and also in confirming that satisfactory arrangements are in place to implement the principles. Despite the fact that MI5 are not accountable to the Policing Board, in the course of the Human Rights Advisor's engagement over the previous years he was able to meet several times with MI5 and PSNI together to discuss partnership and how PSNI works with MI5 to conduct collaborative counter terrorism investigations in NI.

The Human Rights Advisor met with the Director of the Security Service for Northern Ireland and the ACC Crime in March 2025. This meeting followed previous discussions where the Human Rights Advisor was shown material setting out the roles and working together arrangements

PSNI Response

PSNI officers are content that they have visibility of MI5 operations in NI (including the use of CHIS) and emphasise the importance of the weekly joint tasking meetings chaired by ACC Crime. These meetings include discussions about current threats and all of the joint operations. Human Rights Legal Advisors from PSNI attend the strategic coordination meetings where operational decisions are made. The joint working arrangements are also assisted by the jointly produced 'Counter Terrorism Manual'. In addition, joint operations are also discussed in detail with officers from both organisation in a number of smaller sub-groups.

Human Rights Advisor's Assessment

There continues to be close liaison between MI5 staff and PSNI officers and MI5 continues to provide substantial intelligence to PSNI, helping to identify criminal activities which PSNI acknowledges is vital for its work. The Human Rights Advisor believes that over the last two or three years this partnership has become even closer and more productive. Although this assessment of the joint work of PSNI and MI5 is very positive, the Human Rights Advisor cannot assess the compliance of MI5 with human rights law.

CHAPTER 11

COVERT SURVEILLANCE

Introduction

Concerns about covert surveillance and compliance with human rights existed throughout the Troubles in Northern Ireland. However, the creation of the Police Service of Northern Ireland (PSNI) combined with UK wider protections including the Human Rights Act 1998 and the Regulation of Investigatory Powers Act 2000 have made significant improvements in the legal and, more general, human rights protections. However, the recent activities of the PSNI and the judgment of the Investigatory Powers Tribunal in the case of **McCaffrey and Birney v PSNI and others** suggest there is still a way to go before journalists and the other professions are provided with a high degree of protection from surveillance.

Human Rights Law

The Human Rights Advisor takes cognisance of the following relevant legislation when assessing the PSNI's compliance:

- The Human Rights Act (ECHR particularly Articles 8 – the right to privacy and Article 10 – freedom of expression);
- The Police Act 1997 (PA);
- The Regulation of Investigatory Powers Act 2000 (RIPA); and
- The Investigatory Powers Act 2016 (IPA).

Current arrangements

The legislation outlined above provides important legal and human rights protections against abuses by the police and other law enforcement agencies, especially in relation to covert surveillance. An important part of this is the role of the Investigatory Powers Tribunal (IPT) which investigates complaints about covert surveillance and rules on allegations of non-compliance with human rights. It is the only court in the UK with the power to investigate covert police surveillance.

Covert surveillance powers are governed by the Police Act 1997 (PA), the Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 (IPA) and the many other formal and statutory codes. All these provisions apply directly in Northern Ireland, to the PSNI and the other law enforcement bodies working in Northern Ireland.

CHAIR'S FOREWORD
1
2
3
4
5
6
7
8
9
10
11
12

The chapter sets out the brief recent history of protections (or lack of protections) for journalists and others and the current issues of concern about the covert surveillance of journalists in Northern Ireland. The case that triggered media interest in Northern Ireland in the summer of 2023 concerned the use of the PSNI’s surveillance powers to seek the details of a source following a telephone call from a reputable journalist seeking details of an internal corruption inquiry. The Board made a request in September 2023 for a formal report from the Chief Constable and an inadequate eight-page report was provided by PSNI to the Board. The PSNI provided a second report in June 2024 and this was published by the PSNI immediately after that meeting but the Board also concluded that this second report was also not a sufficient response to its original request. However, in response, the Chief Constable announced:

“To add further reassurance, and in line with my statutory duties to report to the Board, I have also appointed Angus McCullough KC to conduct an independent review of any PSNI use of surveillance against journalists, lawyers and Non-Governmental Organisations or any groups that have special status.”

The Board subsequently decided to exercise its power under section 59 of the Police (Northern Ireland) Act 2000 to require the Chief Constable to produce a further report on this same subject and adopted the McCullough Review’s terms of reference.⁷

Human Rights Advisor’s Assessment

The conclusion by the recent IPT in relation to ‘defensive operation’ appears problematic. The ‘routine anti-corruption procedure’ was surely designed to identify police officers who were in touch with journalists and who were likely to be the source of stories for those journalists. The idea that this operation was not ‘covert’ is also problematic. Journalists who, as part of their daily business, rang the communications department of PSNI would, presumably, have been surprised if they were informed that their telephone numbers were being harvested and retained to run against the numbers of every police officer or staff member who was provided with a telephone by PSNI.

This case also raised wider questions concerning covert surveillance beyond that by PSNI and the two other police forces involved. Three United Kingdom government departments were also respondents in the case - the Security Service (MI5), the Government Communication Headquarters (GCHQ), and the Secret Intelligence Service (MI6). There is no information in the open judgment about any surveillance of the journalists by these bodies although the IPT stated that:

‘it makes no determination in favour of the claimants’ and ‘CLOSED consideration of non-core Respondents [redacted]’

7 Section 59, General duty of Chief Constable to report to Board, ‘(1) The Chief Constable shall, whenever so required by the Board, submit to the Board a report on any such matter connected with the policing of Northern Ireland as may be specified in the requirement...’

It is assumed that either means that the claimants were under surveillance by one or more of those bodies but it was lawful or that there was no surveillance of the claimants – an example of the Neither Confirm Nor Deny (NCND) principle that applies in cases involving national security. There was also no mention in the judgment of any interception of any telephone calls of the journalists.

The PSNI violated the law and the principles of human rights in its surveillance of journalists over the last fifteen years. This is of particular concern because the obvious need for secrecy in the use of such measures means that the subject of this unlawful action will, usually, never know about it.

This unlawful action continued until at least 2018 when the then Chief Constable, presumably advised by other senior staff and PSNI lawyers, authorised surveillance which was found recently to be unlawful by the Investigatory Powers Tribunal. Unfortunately, the body that inspects the system of covert surveillance run by PSNI every year (the Investigatory Powers Commissioner’s Office) was not even informed about this 2018 case at the time or even about a new authorisation of surveillance of a journalist in 2023.

The number of times covert surveillance is authorised and used by PSNI every year makes it impossible for the Human Rights Advisor to check all these.⁸ In the future, perhaps the Advisor should, at least, dip sample some of these every year. In addition, the unjustifiable restrictions imposed on reviewing telephone interceptions (listening into calls or accessing the content of communications) means that even with high level security clearance (Developed Vetting) the Human Rights Advisor has no way of reviewing the lawfulness of these authorisations.

8 ‘The Police Service make around 8,500 communication data requests annually for a range of criminal offences. The most frequently investigated crimes using these powers are drugs related and since 2011 there have been in excess of 110,000 such requests.’ Chief Constable’s Report to the Northern Ireland Policing Board. Covert Powers in Relation to Journalists and Lawyers, June 2024.

Recommendation 9

- (a) The PSNI should provide a report to the Policing Board every year on its use of covert surveillance powers including:
- the numbers of each type of surveillance, including the numbers of CHIS Criminal Conduct Authorisations (unless the publication is unlawful or the numbers are so small and would reveal PSNI’s specific tactics in particular cases);
 - the numbers of journalists, lawyers and other members of similarly sensitive professions subject to covert surveillance; and
 - the numbers of its cases that are pending before the Investigatory Powers Tribunal (IPT);
- (b) The Policing Board’s Human Rights Advisor should be provided with a summary of each of these IPT cases.
- (c) The Policing Board should be provided with the procedure that PSNI use to supervise the use by police officers and PSNI staff of the telephones provided by PSNI. This should include what information is provided about this procedure to the members of public and journalists who, in the usual course of business, supply their telephone numbers to the PSNI.

CHAPTER 12

EXTERNAL FORCES

Introduction

The PSNI, like many forces in the United Kingdom, will occasionally need to undertake investigations where an element of independence is required or will need an independent review of its operations following problems or criticism. In those situations the PSNI will usually make a request for another police from United Kingdom to provide assistance or for a person, not directly connected with PSNI, to provide an independent review. Although there are likely to be other reasons for an independent investigation or an independent review many of these situations will have an important human rights element.

Although the Chief Constable has operational responsibility for policing, it is the role of the Policing Board to hold the Chief Constable to account for how he or she discharges that responsibility. The Board is therefore under a general duty to take an interest in these “outsourced independent investigations or reviews” undertaken on behalf of the PSNI, and to be informed about how such services are sourced, the terms of reference the investigations, the governance arrangements and issues of transparency.

The Policing Board also has a specific duty to ensure the PSNI’s compliance with the Human Rights Act and, therefore, needs to have a role in these processes.

PSNI Response

Examples of recent external investigations commissioned or reviews by PSNI:

- Independent investigations of legacy cases [Operation Kenova];
- Independent investigations of contemporary cases [Op Myologic led by West Midlands police into the case involving the Police Ombudsman];
- Independent review by Deputy Chief Constable Mark Webster of Cumbria Constabulary to oversee and direct the Police Service of Northern Ireland investigation of the potential breaches of the Health Protection (Coronavirus Regulations) (Northern Ireland) Regulations 2020 in relation to a funeral on 30 June 2020;
- Independent investigation by Durham Constabulary of the allegations of offences that may have committed in the making of the film ‘No Stone Unturned’;

CHAIR'S FOREWORD
1
2
3
4
5
6
7
8
9
10
11
12

- Independent review by a KC of PSNI’s handling of part of Operation Yurta – the unlawful arrest and search of the two journalists, Trevor Birney and Barry McCaffrey;
- Independent review of Data Breach by City of London police [Pete O’Doherty review]; and
- Independent review mechanism for surveillance of journalists and others led by Angus McCullough KC.

Human Rights Advisor’s Assessment

The examples referred to above either concern the need for an independent investigation (directly or indirectly engaging article 2, 3, 8, 10, 11, or 14 of the European Convention of Human Rights) or involved other possible conflicts of interest.

Recommendation 10

The Policing Board fully appreciates the necessity at times for investigations to be undertaken by a service independent of PSNI and should be advised at the earliest possible opportunity of such, including how the other services has been selected, the terms of reference for the investigation, anticipated costs, and the governance arrangements PSNI have in place for the investigation.

With regard to independent reviews of PSNI work areas, such as the data breach, the Board must have a greater role to include the selection of reviewers and development of terms of reference before commissioning, and sight of the final report.

CHAIR’S FOREWORD	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	

GLOSSARY

ACC	Assistant Chief Constable
AEP	Attenuating Energy Projectiles
APP	Authorised Professional Practice
CBM	Community Background Monitoring
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women / Committee on the Elimination of Discrimination Against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CHIS	Covert Human Intelligence Sources
CJINI	Criminal Justice Inspectorate Northern Ireland
ECHR	European Convention on Human Rights
ECRI	European Commission against Racism and Intolerance
GCHQ	Government Communications Headquarters
HMICFRS	His Majesty's Inspectorate of Constabulary and Fire and Rescue Services
ICCPR	International Covenant on Civil and Political Rights
IPT	Investigatory Powers Tribunal
JSA	Justice and Security Act
NCND	Neither Confirm Nor Deny
NIPB	Northern Ireland Policing Board
OPONI	Office of the Police Ombudsman Northern Ireland
PACE	Police and Criminal Evidence Order 1989

CHAIR'S FOREWORD
1
2
3
4
5
6
7
8
9
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11
12

PPS	Public Prosecution Service
PSNI	Police Service of Northern Ireland
REaL	Reference, Engagement and Listening
RIPA	Regulation of Investigatory Powers Act 2000
TACT	Terrorism Act 2000
VAWG	Violence Against Women and Girls

CHAIR'S FOREWORD
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