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**The UK's Domestic Response to Global Terrorism:
Strategy, Structure and Implementation with Special
Reference to the Role of the Police**

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Introduction

As a result of Irish terrorist activity from 1969 to 2001, the British police have developed a well-regarded competency in counter-terrorism in partnership with the intelligence services and military special forces. The counter-terrorism strategy used in England, Scotland and Wales is centred on the law enforcement model of response to terrorism. That is to say, that terrorism is regarded as essentially a criminal activity and therefore the primary and lead responders are the Home Office and police in terms of both the national role of the Metropolitan Police Special Branch (SO12) and the Anti Terrorist Branch (SO13), who take a national lead in investigations, in England and Wales, and that of the comparable elements in the other police forces.¹ In Scotland, each Chief Constable still remains solely responsible for counter-terrorism policing in the force area but can and does involve the Metropolitan Police (SO12 & SO13) and the National Coordinator for Terrorist Investigations (NCTI) as required. In Northern Ireland the model was somewhat modified by special legislation because of the pre-1996 levels of terrorism and the wider roles for the military in the province, including the use of military personnel in the terrorist suspect surveillance role. This surveillance role is only carried out by the military on the mainland where the police and security service need extra personnel support.² Such support has been reported as having been used in response to the UK's first post-9/11 international terrorism incidents, the July 2005 London bombings.³

This chapter, in its examination of the police response, raises the issue of 'parallel agendas' for the police. This issue is defined to cover a situation where a public or private sector agency, within the governance mode of counter-terrorism response, finds itself facing potentially separate and possibly conflicting policy agendas. In the case of the police, at the same time as the Government is placing a priority on their counter-terrorism preparedness and response, the Government also expects the police to give priority to meeting targets it has set in other crime control policy areas, to take on new responsibilities with regard to tackling anti-social behaviour, and to provide public 'reassurance' while taking steps to improve the confidence in particular of minority ethnic communities.

¹ See the comments on this point in L. Clutterbuck, 'Law Enforcement', in A.K. Cronin & J.M. Ludes, *Attacking Terrorism – Elements of a Grand Strategy*, Washington DC, Georgetown UP, 2004, p. 142-143.

² Reference here is made to the CT surveillance role of 14 Int Coy in Northern Ireland –but there are now reports of the formation of a new CT unit combining some Special Forces with 14 Int Coy personnel and intelligence services personnel with 14 Int Coy surveillance personnel deployable on UK mainland on surveillance duties, see *The Sunday Times*, 25/VII/2004, and *The Times*, 26/VII/0204. Although this may simply refer to a longer-standing practice of Special Forces and 14 Int personnel operating under Security Service control as required.

³ *The Times*, 18/VII/2005 and 31/VII/2005.

The police service has been trying to carry out these policies at a time when it was also facing the challenges of proposals for wide-ranging major structural reforms including police force amalgamations and the formation of new law enforcement bodies. At the moment, the Government has proceeded with the planned merger of the National Criminal Intelligence Service, National Crime Squad and other agencies into the new Serious Organised Crime Agency (SOCA), which became operational in April 2006. There are also ongoing studies concerning the possibility of the formation of a unified UK Border Control Agency under the Border Management Programme (BMP).⁴

Whilst the move to set up SOCA may seem like a long overdue and logical amalgamation it does raise a potential problem in the CT area. There is evidence from the Northern Ireland experience and, in the case of recent arrests in the UK and in other EU member states, that terrorists operate at the inter-face of terrorist activity/organised crime/low level crime. The concern here is that new agencies might not always prioritise inter-agency co-operation and might generate 'barriers' to information flows. This concern can be linked to the vital need to maintain what the Inspectorate of Constabulary's thematic inspection of police Special Branches called the 'golden thread' of information flows linking communities to CT policing in the UK.⁵

The issue of police re-structuring has recently been a significant issue. For example, The Police Superintendents' Association submitted proposals in 2004 to the Home Secretary which envisaged a three-tier system based on 270 local police divisions and 10 regional controllers with regional police units for public order and major investigations and presumably the national units and agencies like SOCA. They also envisaged the police side to be headed by a national police director with a national headquarters, altogether quite a radical proposal, but one that echoes previous ideas.⁶ Another reform variant was suggested by the former Metropolitan Police Commissioner Sir John Stevens, who has proposed that no provincial police force should be less than 3,000 strong or more than 7,000 strong.⁷ Within the police counter-terrorism specialisation, there have also been proposals for the radical reform of Special Branches, by the Inspectorate of Constabulary, and for a National Counter-Terrorism Police force. A recent change is that during 2005-06 Metropolitan Police Commissioner, Sir Ian Blair, created a single Counter-terrorism Command by merging the investigative side of SO12 with SO13.

Lastly, the former Home Secretary, Charles Clarke, demanded, in Autumn 2005, a new round of police force amalgamations, following the September 2005 Inspectorate of Constabulary report, 'Closing the Gap'.⁸ Initially, Home Secretary Clarke wanted the proposals completed by the end of 2005. However, there was significant resistance within police forces and police authorities and cost implications also arose. These factors and the existence of other more pressing Home Office problems caused the next Home Secretary, John Reid, to announce in statements in June and July 2006 that these aspirations for police force amalgamations no longer had any active implementation timetable.⁹

⁴ See Home Office, *One Step Ahead – A 21st Century Strategy to Defeat Organised Crime*, Cm. 6167, The Stationery Office, London, 2004; see also the Home Secretary's comments on enhancing the border agencies' effectiveness in his Oral Evidence to the Defence Committee and Home Affairs Committee joint inquiry into 'Homeland Security', HC 417-i, 2/3/04, Q51, and HM Govt., *Countering International Terrorism: The United Kingdom's Strategy*, Cm 6888, The Stationery Office, July 2006, Para. 91.

⁵ HMIC, *A Need to Know*, HMIC Thematic Inspection of Special Branch and Ports Policing, Communications Directorate, Home Office, January 2003.

⁶ *The Times*, 21/VI/2004.

⁷ Sir John Stevens, *Police Review*, 2004

⁸ See the comments of Commissioner Sir Ian Blair to the Home Affairs Select Committee, Minutes of Evidence, 'Counter-terrorism and Community Relations', 13/IX/2005, HC462-I, Q47.

⁹ ACPO, Latest News, Ref:58/06, 12/VII/2006, 'Police Merger Programme', http://acpo.police.uk/pressrelease.asp?PR_GUID={249F8AA8-EBOC-4DF5_B5}, accessed 28/VII/2006.

Thus the general background for the current study of CT policing in the UK remains, as it always has done, that of a tension between an essentially hybrid policing system with its mix of decentralised and centralised bodies and pressures for provincial police force rationalisation and national organisational modes in order to deliver policy objectives. The police, of course, operate under the Home Office as the government department with 'lead' responsibility for counter-terrorism. The Home Office has been struggling with its myriad responsibilities and in March 2007 the Prime Minister announced that the Home Office would just focus on terrorism, security (including policing) and immigration. Its former responsibilities, for example, prisons and other criminal justice areas, go to the new Ministry of Justice. Within the 'slimmed-down' Home Office a new Office for Security and Counter-Terrorism has been set up to develop and support the UK's CT strategy.¹⁰ This chapter will address: the background to CT policing in the UK, the legal framework, police organisational response to 9/11, the police response to particular forms of terrorist threat not previously experienced in the UK and an assessment, to date, of the outcomes of the policing of CT post-9/11. This analysis must also be considered as reflecting linkages with the Security Service's [MI5] lead role in the development of counter-terrorism intelligence, which now also involves the Joint Terrorism Analysis Centre [JTAC], to form the basis for pre-emptive interventions by the police and their protective security work.

The Recent Background to CT Policing in the UK

At the outset, it is important to set out the range of incidents that the police in Mainland UK faced, before 9/11, from international, Irish-related groups, extremist groups and individual 'bombers'. The range of incidents covered the use of Improvised Explosive Devices (IEDs) (eg, the Brighton Hotel and Manchester Shopping Centre PIRA bombings), the PIRA mortar attack on Downing Street, letter bombs, the nail bombing of the minority communities in London, the Lockerbie Incident and one recent aerial hijack. Therefore, it can be seen that the police experience and thus their practised response was quite extensive in the period before 9/11. For the general public, probably the most symbolic police CT response was the deployment of armed police and, on occasion, troops and armoured vehicles, to Heathrow, Gatwick and Edinburgh Airports.

What additional CT planning assumptions and planning challenges, therefore, did the British police face after 9/11? First, a potentially catastrophic event defined, partly, by reference to scale of casualties caused by deliberate terrorist actions. Secondly, an attack, without threat warning, by a suicide bomber or bombers, using IEDs. Thirdly, the variant that is called the 'deadly and determined' (DADA)¹¹ terrorist attack (eg, Riyadh), which combines assault with automatic weapons, car/truck bombs and suicide or sacrifice bombers. Fourthly, there might be an attempt to mount an attack against aviation targets using Man-Portable Air Defence Systems (MANPADS). Finally, there is the generally accepted ambition of the al-Qaeda network to try and add either a CBRN component to an IED or to directly use a CBRN 'weapon' as in the Sarin attack on the Tokyo Underground.

No incidents of any of the above types had previously occurred in the UK.¹² Therefore, the response had to assess, plan and provide the personnel and equipment to meet these challenges. Some years after 9/11, one can distinguish between the necessary immediate responses and the medium- and longer-term responses.¹³

¹⁰ See 'Home Office Responsibilities to change', <http://www.homeoffice.gov.uk/about-us/news/announce-future-ho>, accessed 3/V/2007.

¹¹ The DADA phrase was introduced by the former Assistant Commissioner (SO), Sir David Veness in an ACPO briefing paper (interview with an ATB officer and various discussions with Sir David Veness).

¹² These new challenges have been well set out in public lectures by MI5 Director General, Eliza Manningham-Buller –see her James Smart Lecture on the MI5 website and by AC(SO) David Veness–.

¹³ An excellent source on the initial responses and issues are the House of Commons Defence Committee Reports: *The Threat from Terrorism*, HC348, Session 2001-02, and *Defence and Security in the UK*, HC518-I & II, Sess. 2001-02.

The evaluation of the police response needs to be set within the context of the government's 'Contest' CT strategy, the 'four Ps' which is set out, in brief, below:

- *Prevent* – addressing underlying causes of terrorism in the UK and overseas, especially issues relating to Muslim citizens.
- *Pursue* – using intelligence effectively to disrupt and apprehend the terrorists, where the UK has increased joint working and intelligence sharing between governments and law enforcement agencies across the world and the government also aims to make the UK borders more secure, to make identity theft harder and to curb terrorist access to financial sources.
- *Protect* – ensuring reasonable security precautions, including those needed to meet a CBRN threat, are in place ranging from physical measures at airports to establishing Counter-terrorism Security Advisers [CTSAs] in each police force.
- *Prepare* – making sure that the UK has the people and resources in place to effectively respond to the consequences of a terrorist attack.¹⁴

It is evident that the police have identifiable roles in respect of all the 'Ps' and particularly 'Pursue' and 'Protection'. However, there has been something of a 'gap' between ministerial warnings on the threat from international terrorism and the terms of the actual annual policing priorities set by Home Secretaries. Terrorism does, however, enter the second National Policing Plan, 2004-07 in a more visible manner. In the 2004-07 NPP it is entered, though, not as a 'key priority' but as the second of two 'underpinning themes', the first being 'community engagement and civil renewal'.¹⁵

In this chapter, data on the police capacity for the domestic management of terrorism in the UK draws on evidence of the Police response to the 'four Ps', which stemmed from their own post 9/11 counter-terrorism review, Operation Fairway. Operation Fairway promoted a five-strand strategy covering the elements of preparatory activity, preventive measures, pro-active operations, post-incident investigations and consequence management with community involvement underpinning all the previous strands.¹⁶ Especially the police were seeking to use intelligence, effectively, to disrupt and apprehend suspect terrorists.

The Legal Framework and Policing by Consent Issues

As the duties of the police service are particularly grounded in statute and common law, the analysis will commence with a brief review of the legal framework, some of which pre-dated 9/11. The most important pre-9/11 piece of legislation was the Terrorism Act 2000. The TA2000 contained quite a wide definition of terrorism which covered political, ideological and religious motivations for acts of terrorism and the Act also made provision for the proscription of terrorist groups, thus making it an offence to be a member of such a group. It was designed to provide permanent, as opposed to the previous temporary anti-terrorism legislation, and to cover all forms of terrorism both domestic and international. Amongst its provisions were the creation of a new offence of inciting terrorism abroad, an expanded offence of providing or receiving weapons training and powers to allow the police to set up cordons for limited periods in designated areas for the purposes of terrorist investigations.¹⁷

After 9/11, a significant, controversial and swiftly drafted piece of legislation was enacted: the Anti-Terrorism Crime and Security Act 2001. It was a particularly controversial piece of legislation because anti-terrorism powers were concluded in a general crime-control act and these powers also included (Section 4) the power to detain, without trial, those suspected of terrorism who could not

¹⁴ Home Office, Speech: 'Terrorism – Policing the Unknown', by Leigh Lewis, Home Office Perm Sec. for CT, 20/V/2004 and see also Cm 6888, *op. cit.*

¹⁵ National Policing Plan 2004-07, The Home Office, November 2003, p. 3.

¹⁶ Presentations by H/PICTU to Project workshops.

¹⁷ M. Baber, 'The Terrorism Bill, Bill 10 of 1999-2000', House of Commons Library Research Paper 99/101, December 1999.

be deported under ECHR grounds (under special immigration controls, they could of course leave the country voluntarily).¹⁸ The government indicated that the legislation had nine main anti-terrorism objectives: (1) to cut off terrorist funding; (2) to promote CT information sharing; (3) to streamline relevant immigration procedures (Part 4 covering detention without trial of non-UK nationals suspected of being international terrorists); (4) to tackle those who seek to stir up religious and racial hatred and violence; (5) to ensure the security of nuclear and aviation industries; (6) to improve the security of dangerous substances that may be targeted or used by terrorists (Part 7 control of pathogens and toxins); (7) to extend police powers to the relevant non-Home Office police forces (British Transport Police, MoD Police); (8) to ensure that the UK could meet all EU JHA obligations and all international obligations relating to countering bribery and corruption; and (9) to update parts of the UK's anti-terrorist powers.¹⁹

Part IV of ATCSA 2001 was controversial from the outset and the detention without trial of non-UK nationals under special immigration procedures was eventually challenged by the Law Lords in December 2004.²⁰ After very considerable public and parliamentary debate it was replaced, temporarily, by the Prevention of Terrorism Act 2005. This established a regime of control orders that could be applied to UK as well as non-UK nationals. These required judicial approval, were limited to 12 month periods and covered a range of restraints and did not necessarily include house arrest.²¹ These control orders are also being challenged in the courts.

After the two bombing incidents in London in July 2005 one of the major responses was a consultation process on the issue of possible legislative changes that would further aid the counter-terrorism response. The changes proposed were not solely related to the incidents but rather reflected ongoing studies and lessons from previous operations. The extended detention period of up to 90 days was proposed by the police in order to facilitate evidence gathering where, for example, early arrest was necessary for public protection or evidence might have to be obtained through the lengthy process of accessing encrypted computer files.²² Ministers were also making public statements about the changes in the law they would like to bring before Parliament. On 20 July the Home Secretary made a statement to the Commons proposing three new offences: acts preparatory to terrorism, indirect incitement and training or receiving training for terrorist purposes involving hazardous substances.²³ The latter proposal was seen as reflecting 'gaps' in existing related legislation.²⁴ On 5 August the Prime Minister produced a list of further proposals. He proposed: an offence of glorifying terrorism, an examination of the merits of longer post-arrest pre-charge detention periods, prescription of the group Hizb ut Tahir and consultations on ways of closing down radical 'mosques'.²⁵ Subsequent public debate suggested that offences such as 'glorifying terrorism' were probably unworkable.

In October 2005 the Home Secretary brought forward a new Terrorism Bill. It had been preceded by a three-month consultation process in which the consensus of judicial opinion was certainly not persuaded of the need for long pre-charge detention periods and even the Attorney-General was reported as being not fully convinced.²⁶ However, the case continued to be urged by senior counter-

¹⁸ S. Broadbridge, 'The *Anti – Terrorism Crime and Security Bill*: Introduction & Summary, Bill 49 of 2001-02', House of Commons Library Research Paper 01/101, November 2001.

¹⁹ *Ibid.*, p. 22-25. See also G. Garton Grimwood, M. Oakes and P. Carling, 'The *Anti – Terrorism Crime and Security Bill*: Part X: Police Powers', House of Commons Library Research Paper 01/97, November 2001, and S. Payne, 'Britain's New Anti-terrorist Legal Framework', *RUSI Journal*, vol. 147, nr 3, June 2002, p. 44-52.

²⁰ Judgements –A (FC) and others (FC) (Appellants) v. Secretary of State for the Home Department (Respondent), House of Lords, Session 2004-05, (2004) UKHL 56 *on appeal from*: [2002] EWCA Civ 1502, 16/XII/2004.

²¹ Prevention of Terrorism Act 2005, <http://www.homeoffice.gov.uk/security/terrorism-and-the-law/prevention-of-terrorism/>, accessed 10/X/2005.

²² *The Times*, 22/VII/2005, and PICTU Workshop, 13/V/2005.

²³ Home Secretary Commons Statement 20/7/05, <http://www.homeoffice.gov.uk/security/terrorism-and-the-law/prevention-of-terrorism/>, accessed 10/X/2005.

²⁴ Home Secretary in Commons statement, Hansard Debates, col. 1254, 21/VII/2005.

²⁵ *Ibid.*

²⁶ *The Times*, 11/X/2005.

terrorism officials. The police briefing note advanced eight points in support of a longer pre-charge detention period, for example, the time needed to conduct the international aspects of an investigation, the problem of establishing an accurate identity of a suspect and the complexity of forensic work. Referring to the ‘bomb factory’, found in Yorkshire after the July 7 attack, the briefing noted that it took ‘... over 2 weeks before safe access could be gained for the examination to begin. It took a further 6 weeks to complete the examination.’²⁷ However, the Act as eventually passed, as the Terrorism Act 2006, only extended detention provisions to 28 days in recognition of the extensive parliamentary opposition to the original proposal.²⁸ The extended detention period, as previously, is also subject to judicial oversight and authorisation.

With regard to the debate (discussed later) about the relationship between numbers of arrests and numbers eventually charged it is important to remember that the legal framework actually performs several different functions.²⁹ It can be seen to provide:

- Political symbolism –response to a problem–.
- Defining activities as unlawful.
- Providing an investigative tool through the assembly of ‘grounds for arrest’.
- Providing the parameters in which the available evidence is considered with regard to presenting cases to answer before the courts.

In using the available legal provisions the police are guided by three principles of response in terms of anti-terrorist policing, firstly and primarily, public safety, secondly, gathering evidence and, thirdly, maintaining public support.³⁰

Consequently, given the priority of public safety, early arrest interventions resulting from an anti-terrorist surveillance operation may be inconclusive on evidential grounds and thus lead to smaller numbers charged or charges under legislation other than TA 2000. Moreover, in respect of the prevention of terrorism the maintenance of public support amongst sections of the community who may feel singled out for CT policing attention is absolutely vital and forms a key element in Home Office and police response.

Police Service Response to 9/11

Special Branch Reform?

Central to CT policing is the established role of special branches (detectives investigating crimes of a political nature) in carrying out their part of the CT intelligence-gathering and investigative role under the parameters set by the Director General of MI5. Originally, only the Metropolitan Police had a special branch, which in mid 1960s was about 300 strong. Gradually, the provincial police forces established their own special branches with similar duties of intelligence-gathering and sea and airport watch. Estimates suggest that in 1978 the total strength of the special branches was 1,638 and by 2003 the strength had risen to 4,247 with 600 in the MPSB.³¹

²⁷ Letter from AC(SO) Andy Hayman to the Home Secretary, 5/X/2005, <http://www.statewatch.org/news/2005/oct/met-letter-law.p>, accessed 12/X/2005.

²⁸ See the extensive discussions of these issues in: House of Commons, Home Affairs Committee, 4th Report of Session 2005-06, ‘Terrorism Detention Powers, vols. I & II, HC 910-I & II, The Stationery Office, June 2006.

²⁹ For a full discussion of current AT legislation see: Clive Walker, *Blackstone’s Guide to The Anti-Terrorism Legislation*, OUP, Oxford, 2002.

³⁰ Interview with senior ATB officer, 6/IX/2004.

³¹ Statewatch News Online, ‘Special Branch more than doubles its size’, <http://www.statewatch.org/news/2003/sep/01specialbranch.htm>, accessed 23/IV/2004, and see also *The Times*, 16/IV/2004.

In January 2003, HMIC published a thematic inspection report on special branch and ports policing under the heading *A Need to Know*.³² This Report merits a full discussion because its import is very germane to the issues of the domestic management of terrorism. As the report's Introduction said, 'Whilst this inspection had been planned for some time before 11 September 2001, that day's events underlined the need to review Special Branch and to assess the effectiveness of its contribution to the national structure of this country'.³³ At the time of the Report, the SBs were working under 1994 guidelines and were tasked to gather intelligence '... to meet national security requirements as well as to support other policing priorities such as the prevention of disorder'.³⁴

One of the first points that the Report made and one which reflected the varied sizes of provincial police forces, was the variable size of SB units, ranging from just a few officers, headed by a detective sergeant, to the circa 500 in the MPS, headed by a commander. The impact of this dispersion and diversity was, first, the range of levels of interface that MI5 had to engage with. Secondly, the fact that '... the operational capability of individual units depended very much on their size, the smaller units having neither the officers nor the resources to meet the full range of operational requirements'.³⁵ Additionally, the HMIC noted that in some forces '... Special Branch personnel were routinely diverted to tasks outside the normal remit of the Branch'.³⁶

The Report made five main recommendations, one was controversial and the others somewhat overdue. These were: (1) the creation of regional SB units based on ACPO regions under a regional director (controversial); (2) creating the appointment at DCC level of a National Co-ordinator of SB –non-executive but with responsibility for ports policing, policy, training and issues common to SB nationally–; (3) dedicated security-post funding; (4) Chief constables to ensure that SBs and SBPUs are '... appropriately staffed and adequately resourced to meet the continuing and developing threats to us';³⁷ and (5) the need to identify and fund national SB IT requirements.

Behind these recommendations lay three significant post 9/11 concerns:³⁸ that the 1994 guidelines had created a tension with its statement that chief constables can use SBs '... on any duties flowing from their [CCs] responsibilities...' and the statement that SBs '... exist primarily to acquire intelligence... to meet both local policing needs and also to assist the Security Service, the 'The fact that '... prior to 11 September 2001 some forces were downsizing their special branches on the basis of a perceived reduction in the overall threat to national security'³⁹ and the variable provision for and recognition of '... counter-terrorism as a core police responsibility'.⁴⁰

One obvious consequence of this diversity of provision was the fact that all SBs received the same number of operational messages from ACPO-TAM and, until recently, the same statement of MI5 requirements. Another consequence was the fact that some SBs would struggle severely to staff some levels of surveillance operations and indeed might have very limited access to surveillance resources. These consequences formed important parts of the driver for some proposal to rationalise SB provision.

³² HMIC, *A Need to Know*, HMIC Thematic Inspection of Special Branch and Ports Policing, Communications Directorate, Home Office, January 2003, and see also Intelligence and Security Committee, *Annual report 2002-2003*, Cm. 5837, para. 68, p. 21, and HC DC HC 518-I, p. 21-27.

³³ *A Need to Know*, *op. cit.*, p. 7.

³⁴ *Ibid.*, p. 10.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

In its strategic overview sections, the Report made some highly pertinent general comments relating to the domestic management of terrorism in the UK.⁴¹ HMIC justified the placing of the Report in the public domain under the title *A Need to Know* by reference to what it called the ‘golden thread’ of the linkage between the local police and their SBs to their communities and onward to the national security levels, a linkage ‘... noticeably absent from the national security structures of some countries...’. Moreover this SB local coverage was deemed vital to national security and to be retained ‘... at all costs...’.⁴² Both these points were made in the context of the fact that ‘... one of the key lessons to emerge from the investigation into the 11 September attacks has been the vital importance of extending the reach of the national security agencies by further utilising the close links between local police and the communities...’.⁴³ These points can be linked to the importance of surveillance as a CT tool. This is a key resource in the domestic management of the terrorist threat in the UK and HMIC noted that it is ‘... an expensive and resource-intensive tool and the capacity of Special Branches to mount surveillance operations varies widely... and is largely related to the size of Special Branch’.⁴⁴ Importantly, the Report stated that ‘... recent intelligence-lead operations have pointed the need for a more consistent surveillance capability and improved response times across the country’.⁴⁵ This issue was also linked to the related problem of the uneven distribution of the technical resources for surveillance.

The main structural change proposed by HMIC –that chief constables should lose force SBs in favour of regional SB units under executive regional SB directors– was, at that time, strongly resisted by the majority of chief constables. They obviously felt it was yet another move to radically change the UK’s de-centralised police system in favour of some mix of local police commands, regional and national units. These measures were perceived as a means of allowing for increased central control of policing through the Home Office.

The compromise solution, that was accepted, was the proposal to develop and formalise regional SB co-operation into eight new Regional Intelligence Cells (RICs) with central funding support of £3 million/year. The proposed post of National Co-ordinator for SB was established and is regarded by the Home Office as an important element of the national policing response, especially in the development of the RICs as ‘... clearing houses for intelligence in their regions’.⁴⁶ All the staffing and funding for the RICs is now in place. There is evidence of better cross-force coordination of intelligence operations and the promotion of ‘best practice’ through meetings of RIC managers. However, the pace of development of the RICs is variable depending upon the circumstances of the contributing forces.⁴⁷

Creating Additional Central Police Units: (a) PICTU

In the preceding sections, this paper has raised the problem of the variability of SB CT response capability with regard to surveillance and border controls as a matter of significance in the domestic management of terrorism in the UK. Reference was also made to the important response management change of the establishment of SB RICs.

Intimately linked to these issues was the establishment in April 2002 of the Police International Counter Terrorism Unit (PICTU). PICTU is a Smaller (central) Police Service staffed by seconded police officers. The police officers are drawn from UK police forces and a Detective Chief Superintendent from the Anti Terrorist Branch was the first head of the unit. Its basic task is to add value to and strengthen the existing partnership between the police service and the Security Service, in relation to the threat from International Terrorism. PICTU’s establishment is a good example of

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ Home Office, ‘One Step Ahead – A 21st Century Strategy to Defeat Organised Crime’, Cm 6167, 2004.

⁴⁷ Interview PICTU, 11/VIII/2004.

both the enhancement of MI5's profile in 'outreach' terms and the role of key decision makers within the UK domestic management of terrorism response.

PICTU seeks to fulfil its remit by working with the Security Service, ACPO Advisory Group and the Joint Terrorism Analysis Centre (JTAC) to ensure: 'the effective dissemination of assessed intelligence, relating to international terrorism, of value to the National Coordinator for Terrorist Investigations and the National Coordinator for Special Branch and all UK police forces, and the efficient co-ordination of the national police counter terrorist strategy that supports the joint police / Security Service response to international terrorism...'.⁴⁸ As part of PICTU's work, close contact is maintained with a variety of external sources. New links have been established with counter-terrorist experts and leading academics from a wide range of institutions. These links and PICTU's role in international police cooperation have contributed to a greater understanding of the nature of the threat posed by international terrorism, its scale and its enduring nature.

The value of international police cooperation against terrorism has long been recognised and it is still proving valuable in respect of the current priority of tackling the Islamic network/group threat. In Europe the Police Working Group on terrorism network of CTELOs (Counter Terrorism and Extremism Liaison Officers) has been expanded and is an important and swift source of help. One of the valuable forms of information sharing for the UK police, alongside the tracking of suspects, is the sharing of forensic information from terrorist crime sites. Thus, for example, ATB officers have been able to gather valuable data from site visits and co-operation with: the Turkish police after the bombings of the British Consulate and HSBC in Istanbul, the Spanish police after the Madrid railway bombing and from the Russian police and FSB after the Chechen bomb attacks on the Moscow Underground.⁴⁹

*Creating Additional Central Police Units: (b) NaCTSO and the CT Strategy Objectives of Protect and Prepare*⁵⁰

This second Smaller (central) Police Service with local force outreach was set up in 1998 as one of the responses to the 1996 PIRA bombing of Manchester City Centre. One of the post-incident conclusions was that the police did not have a mechanism for providing protective security advice to the general and high-street business community. Initially, some advice was provided through local forces crime prevention officers. When the unit was set up, in January 1998, as the National Terrorist Crime Prevention Unit, it only had two officers, who were co-located with MI5's T4 protective security department. They acted as a channel for 'best practise' advice, mostly from T4 (now the Centre for Protection of National Infrastructure –CPNI– more recently known as the National Security Advisory Centre, NSAC), to police forces through their SBs. In October 2001, a further two officers were added to the unit and their remit was extended to include extremism and animal rights issues. Following 9/11, the unit's strength was further increased. A national programme was put into place, under which, by April 2003, all police forces had at least one CTSA in post and the unit was re-titled NaCTSO (National Counter-Terrorism Security Office).

The CTSAs are responsible to their chief constables and some CTSAs may also be allocated to the duties set out under Part 7 of ATCSA 2001. Under these provisions for the 'control of pathogens and toxins', 'managers of laboratories and other premises holding stocks of specified disease causing micro-organisms and toxins [must] notify their holdings, to comply with any reasonable security requirements which the police may impose, and to furnish the police with details of people with access to the dangerous substances'.⁵¹ By 2004 there were about 100 CTSAs in post in all police forces in the UK, Home Office and non-Home Office with, not surprisingly, the largest

⁴⁸ Information supplied by the Head of PICTU, 12/VIII/2004.

⁴⁹ Interview with ATB officer, Presentation at PICTU/ESRC Project Workshop, June 2004, and see also F. Gregory, *Jane's Intelligence Review*, January 2003.

⁵⁰ The detailed discussion of the work of NaCTSO is taken from several interviews with NaCTSO officers in 2002-03.

⁵¹ S. Broadbridge, *op. cit.*, p. 23.

concentration of CTSAs (13) in the areas covered by the MPS and City of London forces.⁵² In 2003 the MPS CTSAs carried out 200 security surveys for businesses operating in the MPS area.⁵³ The lead body for protective security is now CPNI and NaCTSO works within its response framework for protective security as set out on the MI5 website. The CTSAs' potential clients can range through clearing-bank branches, branches of chains/franchises to very locally established commercial enterprises. Additionally, clients are also drawn from other potential target sites, such as universities and communications providers. In the public sector, the natural partners for the CTSAs are their relevant local government Emergency Planning Officers. NaCTSO and the CTSAs are also making links with growing network of resilience forums, such as London First.

Responding to the Catastrophic Event

As the police have long experience of planning for, exercising and handling natural, manmade and terrorist incidents, it is necessary to establish how different the example of 9/11 is felt to be to previous experience. The differences may be summarised as: scale, in terms of numbers of potential casualties, a multi-site incident with geographical separation of the component incidents, as in the case of 9/11 and the London July 2005 incidents and the successful use of commercial aircraft, vessels or vehicles as suicide attack weapons. Potential scale of threat was clearly a factor in the disruption operations mounted on Thursday 10 August 2006 designed to pre-empt possible multiple bomb threats to trans-Atlantic flights.⁵⁴ Added to these factors was the concern, since the mid-1990s, that on the actual evidence of the Sarin attack on the Tokyo Underground and from evidence of CBRN-use planning by international terrorist groups, that some terrorists had discernible ambitions to use CBRN in some way, perhaps in conjunction with an IED. An example of a response to such fears was the MPS anti-terrorism raid on a house in Lansdown Road, Forest Gate, London, on 6 June 2006, where intelligence had suggested that some kind of 'chemical' materials or weapon device might be found. In this case, the raid uncovered nothing suspicious despite very intensive searches.

If attacks of the magnitude of 9/11 cannot be pre-empted or prevented and, making the necessary assumption that a terrorist group would, if it could, seek to use a CBRN element, then the following incident and consequence management issues arise: the crucial need for risk assessments and emergency planning (see the up-dated requirements in the Civil Contingencies Act 2004) and the maintenance or development of mutual aid between emergency services and other emergency responders. Additionally, for the police, there are four specific requirements: a well trained and practiced capability to exercise overall command and control at an incident –'gold' level–; similar capabilities at the more tactical 'silver' and 'bronze' levels of command using Police Support Units and other specialist units to secure the location(s) and maintain public order. The CT response requirement includes: SB, ATB, fire arms units plus additional assets, as required, eg, Security Service Technical Teams, Explosive Ordnance Disposal personnel (possibly from 11 EOD Regiment), specialist scientific support from Dstl (Defence Scientific & Technical Laboratories), if CBRN is suspected, and, lastly, military special forces (SAS/SBS) on standby. Finally, the police have to provide for the securing, as and when possible, of the location(s) as a 'crime scene' which requires the presence of a CID SIO and team.

Not only are all the above needed in a particular incident(s) but they will also be required to be deployed 'just in case' in relation to events such as party political conferences, state visits and world summits.

The new incident management requirements that have arisen, post 9/11 are: the training and equipping of police CBRN teams, preparations to maintain a secure cordon if people have or are suspected of exposure to chemical, biological or radiological weapons, overseeing potentially large-

⁵² Data from NaCTSO Survey of CTSAs, 2004.

⁵³ Metropolitan Police and Metropolitan Police Authority, 'Joint Annual Report for 2003-2004', 2004.

⁵⁴ *The Times*, 11/IX/2006.

scale evacuations, planning for multi-incident scenarios (where mutual aid may be either delayed or unavailable because it is already fully committed elsewhere), recognising that some potential forms of attack using CBR agents may only be known at a later stage through Health Service agencies' collation of patient data and dealing with a suicide bomber(s). Moreover, in the case of the 'deadly and determined' attack, terrorists overseas, as drug traffickers already have in the UK, use automatic weapons. The UK police currently do not deploy officers with small arms able to operate in the fully automatic mode. If that response was required, then military aid would have to be sought.

The nature of the military aid available for the CT element of homeland defence has actually not changed very greatly post 9/11.⁵⁵ The Defence Secretary stated in 2004 that as the Home Office has the 'lead' responsibility it remains the task of the MoD to '... provide appropriate support to the civil authorities', with reconfigurations, where necessary.⁵⁶ The MoD has re-focused its commitment to defend key national targets from a Cold War level of 160 sites down to the most essential, in contemporary terms, 56 sites and to regard the SAS/SBS as interchangeable Special Forces assets 'on call' to the police. The 2004 Defence Review has also indicated that the Special Forces will be augmented, perhaps by an additional SAS 'sabre' squadron.⁵⁷ Moreover, the regular forces are still regarded as the most likely immediate military responders with the 14 regionally-deployed CCRF units regarded as only a '... very short term rapid response'.⁵⁸ The MoD is also trying to enhance the value of its regional military civil contingencies liaison officers.

A very realistic view of military support has been provided by the Cabinet Office Civil Contingencies Secretariat which has commented that 'Neither the production of contingency plans nor the participation in civil exercises guarantees the provision of military support, it is therefore essential that responding agencies do not base plans upon assumptions of military assistance'. Furthermore, the CCRFs '... require mobilisation before deployment. They are not, therefore, well placed to provide immediate... support'.⁵⁹

The CBRN Threat

Prior to 9/11, there was an emerging view that the police needed to provide selected personnel across the country with a level of CBRN training. Some training had already been given to MPS officers.⁶⁰ Thus 9/11 acted as an impetus to get the Police National CBRN Training Centre up and running and, by 2003, the plan was for each police force to have at least one CBRN-trained PSU by May 2003. In parallel with these new training requirements came a joint police and fire services' project for specially developed CBRN protective suits to replace the initial use of military protective suits.⁶¹ Moreover, the assessed requirement for police CBRN-trained personnel has been upgraded from an initial requirement of about 2,500 (a target of 2.5% of total police strength CBRN-trained) to about 6,500 (a revised target of 5% of total strength trained).⁶² The actual current number of trained personnel is over 7,000 and the Police National CBRN Centre and the MPS have produced a CBRN awareness CD-Rom to be used within the training of the remaining 95% of police.

For the police, this very much enhanced CBRN commitment raises four new ongoing requirements. Protective equipment will have to be procured and maintained at a cost of about £1,000 per suit. A continuous training programme has to be maintained for both commanders and PSU members. Both

⁵⁵ Interview MoD staff officer, May 2004.

⁵⁶ House of Commons Defence Committee, 5th Report Session 2003-04, 'Defence White Paper 2003', HC 465-I & II, The Stationery Office, London, 2004, HC 465-II, Q.115.

⁵⁷ Ministry of Defence, para. 2.4., p.7, July 2004, *The Times*, 21/VII/2004.

⁵⁸ HC 415 - II, *op. cit.*, Q.115.

⁵⁹ Cabinet Office, CCS, *Responding to Emergencies*, Draft Guidance, 2004, paras. 3.38-3.39, p. 14.

⁶⁰ Interview MPS SO 12 officer, 7/VII/2004.

⁶¹ Such suits were evident in Exercise Black Knight in February 2003.

⁶² Home Office, Speech: 'Terrorism - Policing the Unknown', by Leigh Lewis, 20/V/2004.

the procurement of protective suits and the training programme has to take account of an anticipated 10% turnover in CBRN-trained personnel per year. All the associated instructional and operational manuals will also require continuous updating.

At a confirmed CBRN incident, it is the Fire Service and other specialist teams, for example, from the police or the military, which will operate in the 'hot zone'. The key police role at the incident is the preservation of life and property which will include provision of the cordon between the identified 'hot zone' and the outer 'cold zone'. This may require the potential need to use firearms to maintain the integrity of the cordon.

Response to the Threat of Suicide Attack

This was the first post 9/11 specific new threat study carried out by the UK police as distinct from the more general studies of response to catastrophic events. The initial work was carried out by the ACPO-TAM Working Group on Suicide Bombers led by a superintendent of the MPS ATB.⁶³ The initial work consisted of an open source study of suicide attacks world-wide supplemented by field work visits to locations where such attacks were experienced, for example, Israel, Sri Lanka and Russia. Field work visits were also made to countries without prior experience of suicide terrorist attacks in order to compare UK response plans to those in this group of countries, such as the US.

This research work covered areas such as typologies of suicide bombers, the psychology of the suicide bomber, commonly-encountered suicide IEDs and their methods of delivery whether by person or vehicle, the 'lone' bomber problem and the bomber with a support, supply and command and control network. This research resulted in a valuable analytical study for use in issue-awareness briefings and training and it was also used as the basis for developing strategic and tactical responses.

Why does the threat of a suicide bomber(s) pose a separate set of challenges to those present where terrorists or extremists simply plants an IED? First, the element of control over the IED may allow a more precise form of targeting. Secondly, the suicide bomber using an aircraft, vehicle or boat may be able to reach target locations in a way and on a scale not available by simply planting an IED as 9/11 showed so dramatically. Thirdly, the suicide bomber gains publicity through the shock value of a human being blowing himself up, leaving a legacy in the public's mind that it could be the passenger/shopper next to them. Fourthly, tactically, a suicide bomber poses four sets of problems for the police:

- Can intelligence help to identify at an early stage a suicide bomb threat and the bomber(s)?
- Can technology or sniffer dogs identify the bomber(s) if earlier disruption operations are either not feasible or are unsuccessful?
- How will the IED be triggered? The options are self-detonation, automatic timer or remote detonation by a third party.
- How do you tackle an identified bomber(s)?

The police team reflected on both the knowledge that they had gained from their research period and the issues, set out above, raised by the research and channelled their findings into response projects. Operation Clydesdale was a project which considered the implications of a response, where intelligence had identified both target and potential perpetrator. Here, the issues related to whether the police would have time to make a suspect identification and carry out an intercept operation at a point where damage could be limited in the event of the device being triggered during interception. Operation Kratos was a linked project, which considered what was called a spontaneous incident in which the police would have no prior intelligence warning but may receive just a 'suspicious behaviour' report from sources ranging from CCTV, a private security guard, a member of the public or a police patrol. Moreover, in this case, they might face the additional

⁶³ Interviews with Working Group leader, 2003 and 2004.

uncertainty about whether the suspect person is the bomb transporter or the actual bomber. In this case, the police have to prepare to tackle a situation without any previous information and where other possible indicators –such as bulky clothing or a wire coming from a shoulder bag– may be indicators of nothing more sinister than that the suspect person feels the cold and has also just bought some garden wire. Furthermore, unlike the situation of facing a person with a firearm, in the suicide bomber case, there may be no realistic option of getting closer and negotiating unless the bomber, in some way, ‘gives up’. Therefore, a senior police officer must prepare to authorise an armed response involving the lethal force option.⁶⁴

As the suicide bomber threat was not covered in the PIRA-orientated ‘Bombs, Police, Response’ operational guidance manual, the Working Party produced training and operational command and control documents as the first element of the response. The second element of the response was to consider, in parallel, the development of new operational aids such as explosives detection-trained sniffer dogs and special detection devices. Normally, our knowledge about special detection devices would, understandably, be limited. However, in December 2003, interviews with the then Metropolitan Police Commissioner Sir John Stevens put some information into the public domain.⁶⁵ The reports referred to the development and deployment of a portable scanner device based on millimetre-wave technology. It was said that this device can detect objects, such as a bomb, through a suspect’s clothes and that information can be relayed to a police control location. Sir John Stevens had referred to the threat of a suicide attack as having taken a ‘quantum leap’ since the attacks in Saudi Arabia, Morocco, Russia and Iraq.

Five conclusions can be drawn from this analysis of the response to the suicide bomber threat:

- (1) Good intelligence remains the fundamental requirement for pre-empting or preventing a suicide bomb attack and this needs to operate in parallel with appropriate preventive security measures.
- (2) Technical solutions’ value depends upon their reliability and their availability in sufficient numbers for rapid emergency response.
- (3) The suicide bomber response has to become an ongoing component of training.
- (4) It raises a particular training requirement for Authorised Firearms Officers, in that they may be instructed to shoot a suspect in a situation where the visibility of the threat is markedly less than where an armed suspect is visibly pointing a firearm.
- (5) Any local evacuation orders, which may be considered in the short time likely to be available in the face of a spontaneous event, will need to be well informed by an understanding of the varied effects of explosions depending on the position of the IED, when detonated.

Because of the ongoing De Menezes case arising out of the aftermath of the 21 July London bombing attempts, further comment on the suicide bomber policies must necessarily be restricted. However, first, the Home Secretary has indicated that after the IPCC has reported that he would look at the issue of a public debate on ‘... lethal policies’ and suggested that the Commons’ Home Affairs Committee might also want to look at the issues.⁶⁶ Secondly, the Metropolitan Police Commissioner Sir Ian Blair has pointed out that the policy was based on ‘... a development of existing law’ and based upon ‘... section 3 of the Criminal Justice Act, the use of reasonable force, which has to be “proportionate and necessary” to the threat’.⁶⁷ Moreover, Sir Ian Blair pointed out that the policy had been developed through the normal official consultations process and approved by ACPO in January 2003. He said ‘... Home Office officials, the CPS, the Treasury, councils [legal counsel], independent advisers were aware of the policy...’.⁶⁸ ACPO, in its post-event review

⁶⁴ *The Times*, 7/XII/2003.

⁶⁵ *The Times*, 23/XII/2003.

⁶⁶ Oral Evidence by the Rt. Hon. Charles Clarke to the Home Affairs Committee, ‘Counter-terrorism and Community Relations’, HC 462-I, 13/IX/2005, Q23.

⁶⁷ *Ibid.*, Q59.

⁶⁸ *Ibid.*

of the suicide bomber policy endorsed the policy as it had been promulgated but note, *inter alia*, the need for: a review of police C3I procedures, the suicide bomber policy to be articulated in a public document and for the police to engage with communities in developing suicide terrorism policies.⁶⁹

Assessing Outcomes from the Police Response

In respect of police performance in counter-terrorism, it is necessary to restate certain factors which underline the policing of terrorism. First, it must take place within the framework of law and the current rules of evidence and give priority to public safety. Secondly, it is a multi-agency activity, where the police are partnered in various ways by the security and intelligence services and other agencies. Thirdly, the policing of terrorism has, as its primary objective, the protection of life and property. Therefore, a priority is given to the pre-emption and disruption of terrorism in order to minimise the risk to public safety which is consistent with the *Pursue* element of the government's 'four Ps' CT Strategy. An important consequence of this strategy is that arrests to cause disruption may be seen to be of almost equal importance in counter-terrorism as the eventual securing of convictions.

However, a disruption strategy has to be balanced against the possible consequence of aggravating radicalisation in an ethnic minority community.⁷⁰ This matter has been taken very seriously in two ACPO-TAM work streams with police forces and by the National Communities Tensions Team. Moreover, three forces are formally measuring Islamophobic incidents. Overall, the police view is that '... we do not see a significant rise in tension nationally... [but] We get reported incidents and reported concerns'.⁷¹ One way of managing potential community tensions, pre-operations, being discussed by the police is '... the idea of panels of independent advisers who might be able to look at intelligence and give a community context and assessment, not necessarily on its veracity but its impact on communities'.⁷²

The police and other agencies are fully aware that reliance cannot solely be placed on pre-emption and disruption. It is equally important to have regard for preventative measures and measures to enhance incident and consequence management. In this area, the UK has been able to build upon its long experience of Irish terrorism and adapt that, where necessary, in the light of the new threats. Here, it is more difficult to provide 'outcomes' evidence, because, to date, there is, fortunately, only the two London bombing incidents to draw upon. Other forms of outcomes information can be derived from lessons learnt and responded to from counter-terrorism exercises, the funding and implementation of agreed capability enhancements, such as the provision of CBRN-trained personnel and the provision of Dedicated Security Posts (DSPs) in police forces and evidence of police force planning actually incorporating CT within force annual plans.

*Outcomes from Established Data Sources: 'Stop and Search' Powers*⁷³

Police forces are required to record anti-terrorist 'stops and searches' under sections 44.1 and 44.2 of the Terrorism Act 2000. It is from this data and consequent arrests that one can begin to identify outcomes issues in respect of counter-terrorism policing. Because of the marginal variability between statistics taken from different sources at different times this section will draw primarily upon the official data as presented, in April 2005, in the Commons Home Affairs Committee's

⁶⁹ 'The Police Service Response to the Threat posed by suicide terrorism', Review by the Association of Chief Police Officers Use of Firearms Committee, ACPO, March 2006.

⁷⁰ Information from Project Workshop.

⁷¹ Minutes of Evidence, 'Terrorism and Community Affairs', Home Affairs Select Committee, 25/1/2005, HC 165-ii, Q 333, answer by ACC Robert Beckley.

⁷² *Ibid.*, Q355.

⁷³ Statewatch and see also these figures as listed in House of Commons, Written Answer by Home Secretary David Blunkett, 27/1/04, *Hansard*, vol. 417, c268-9W.

Table 1. Stops and Searches by Ethnic Classification Recorded under Sections 44.1 and 44.2 of the Terrorism Act 2000 and Resulting Outcomes⁷⁵

Ethnic Group	2001-02	2002-03	2003-04
White	6,629	14,429	20,637
Black	529	1,745	2,704
Asian	744	2,989	3,668
Other/not recorded	618	2,414	2,398
TOTAL	8,550	21,577	29,407

Of the total for 'stops and arrests' figures for 2002-03, the vast majority of these figures were accounted for by eight police forces: MPS, City of London, Thames Valley, Gloucestershire, Cheshire, Greater Manchester, Hampshire and Sussex. In 2003-04, 77.5% (83% in 2002-03) of all TA2000 'stops and searches' were carried out by the Metropolitan Police and the City of London Police. Useful contextual information in respect of the GMP area was provided by Mr Todd, the Chief Constable, when he told MPs that 95% of the use of S44 powers in the GMP area related to their use at Manchester Airport. He said that in the previous year 828 people were stopped at the airport out of the 20 million who passed through. So clearly in the GMP area there is no large-scale use of S44 powers among the GMP population at large.⁷⁶

The Home Office figures showing the breakdown by ethnic origin category show that between 2001-04 around 11% of those stopped, searched and arrested under TA 2000 powers were of Asian origin. However, as Professor Marian FitzGerald has pointed out '... the system used from 1996 until 2003 simply depended on police officers recording the ethnic *appearance* of people they searched according to four very crude categories –white, black, Asian and other–'.⁷⁷ The 'Stop and Search Manual' which was published in March 2005 reflects concerns over ethnic issues but Professor Marian FitzGerald further commented that 'Your chances of being an innocent member of the Asian community going about your lawful business and being stopped and searched by the police are infinitely higher than a white person'.⁷⁸ The Chief Inspector of Constabulary's 2003-04 Report also showed a steady rise in the percentage of persons stopped and searched who were of ethnic minority origin, rising from 14% in 1999-2000 to 25% in 2003-04.⁷⁹ However, the crude nature of these recording categories was further amplified by the comment of Mr Sadiq Khan, Chair of the Legal Affairs Committee of the Muslim Council of Britain, to the Home Affairs Committee when he pointed out that '... the statistics are broken down by ethnicity and not by religion... [and] Those alleged to be involved in 9/11, Madrid and Istanbul are of Middle-Eastern appearance'.⁸⁰

People of Asian origin certainly feature more in percentage terms in these figures but possibly not out of line with the ethnicity of the regions of the world from where the international terrorist threat is most expected, although evidence to the Home Affairs Select Committee pointed out that the 'ethnicity' category gives no clear picture of the religious background of those arrested or stopped.⁸¹ Moreover, ethnicity data is inconclusive. In the MPS area more Asian people were stopped in 2001-02 than Black people but this position was reversed in 2002-03.⁸²

⁷⁴ House of Commons, Home Affairs Committee, 'Terrorism and Community Relation', Sixth report Session 2004-05, HC165-1, The Stationery Office, London, April 2005, paras. 47-58.

⁷⁵ HC165-1, *op. cit.*, para. 50, Lord Carlile of Berriew, 'Report on the Operation in 2002 and 2003 of the Terrorism Act 2000', April 2004, and *Hansard*, WA, 21/12/04, Col. 1555W.

⁷⁶ Oral Evidence, Home Affairs Committee Inquiry into 'Anti-Terrorism Powers', HC886-i, 8/VII/2004, Q 96.

⁷⁷ Marian FitzGerald, *op. cit.*

⁷⁸ See HO Minister Hazel Blears, *Hansard*, Written Answer, 12/IX/2005, Col. 2615W, and Vikram Dodd, 'Asian Men Targeted in Stop and Search', *The Guardian*, 17/VIII/2005.

⁷⁹ Report of HM Chief Inspector of Constabulary 2003-2004, The Stationery Office, London, December 2004, p. 25.

⁸⁰ Oral Evidence, Home Affairs Committee Inquiry into 'Anti-Terrorism Powers', HC886-i, 8/VII/2004, Q 19.

⁸¹ Oral Evidence, Home Affairs Committee Inquiry into 'Anti-Terrorism Powers', HC886-i, 8/VII/2004.

⁸² 'Statistics on Race and the Criminal Justice System', collected pursuant to s. 95 of the Criminal Justice Act 1991, Home Office, June 2004, p. 28, Table 4.5.

A frequent criticism of police counter-terrorism activity is the low arrest rate resulting from ‘stops’ under TA 2000 powers and this criticism is often linked to the low arrest and conviction rate. The Home Affairs Committee pointed out that in 2003-04 ‘... fewer than 1.5% of stops and searches of pedestrians under the Terrorism Act resulted in an arrest’.⁸³ Another perspective, with a useful comparative element, was provided by the DPP to the Home Affairs Select Committee. Mr Macdonald told the Committee in January 2005, that ‘... around 50% of the people arrested under the Terrorism Act later go on to be charged with some form of offence which is about right for serious crime’.⁸⁴ Twenty-three separate categories of offence, under TA2000, were listed in the charging process for the 119 people charged under TA 2000 between 11 September 2001 to December 2004. Seventeen of these were convicted at subsequent trials. In trying to relate ‘outcomes’ to counter-terrorism policy priorities, we should look for significant correlations between objectives and outcomes. From the 23 offence categories used, the following aggregations are evident: the largest group of offences was 59 citations for ‘possessing an article in circumstances which give rise to a reasonable suspicion that its possession is for a purpose connected with the commission, preparation or instigation of an act of terrorism’ (s. 57 [1]); the second largest group of offences was 28 citations for ‘belonging or professing to belong to a proscribed organisation’ (s. 17); the third largest category totalled 16 citations, validating the prominence given to the CBRN/IED/DADA threats and ten offences are recorded under s. 54 [2] of ‘Receiving instruction in the making or use of firearms, explosives or chemical, biological or nuclear weapons’ and six offences are recorded under s. 54[1] of ‘Providing instruction of training in the use of firearms, explosives or chemical, biological or nuclear weapons’.

As UK CT agencies have, over the last few years, been focusing more on international terrorism, and given the existence of the UK’s relatively strict laws on firearms, explosives, dangerous substances and money laundering, it would actually be more worrying if a larger number of chargeable offences and arrests were being recorded. It may be postulated that these figures reflect the publicly stated current parameters of the UK’s threat from international terrorist groups and supporters.⁸⁵ These give the late 2006 position as the probable existence of 200 groupings or networks totalling over 1,600 individuals and with 99 defendants awaiting trial in 34 cases.

A further correlation that should be expected is that non-national or British nationals of North or East African, Middle Eastern and Asian origin, who may also be Muslims, should feature more significantly in the figures, if the main current threat is from Islamist terrorist groups and supporters. This background in terms of geographical area of family origin is also seen in respect of the July 2005 London bombers. However, the actual available statistical evidence is not comprehensive and the Home Secretary informed the Parliament that the nationality and immigration status of those arrested in connection with terrorist offences was not available for the period 1999-2004.⁸⁶

A better correlation of the identified threat with the most likely group of perpetrators comes from press reports of the ethnicity of those arrested and brought to trial, following CT operations. North Africans feature significantly among the arrestees, as do people possessing British Nationality but having Asian, North African or Middle Eastern ethnic origins. The arrestees also do seem to correlate with the generally accepted typology of participants in this form of international terrorism. They represent both long-term terrorist activists and younger, previously unknown sympathisers. Another correlation is between the arrests and the level of resources deployed to effect the arrests. These should be at a high level to reflect the potential threat and the potential risk to the police and other agencies from the target suspects. This correlation does seem to be found both from reports of

⁸³ HC165-1, *op. cit.*, para. 53.

⁸⁴ Minutes of Evidence, ‘Terrorism and Community Affairs’, Home Affairs Select Committee, 25/1/2005, HC 165-ii, Q 368.

⁸⁵ Speech by the MI5 Director-General, ‘The International Terrorist Threat’, London, 9/XI/2006, <http://www.mi5.gov.uk/print/Page568.html>, accessed 15/XI/2006.

⁸⁶ House of Commons Hansard, Written Answer by Home Secretary David Blunkett, 5/V/2004, *Hansard*, vol. 420, c1 554-5W.

arrests, data on the 2005 July London bombings and the August 2006 airliner suspected bomb plots arrests.

In evidence to Parliament, following the London bombings, the Metropolitan Police Assistant Commissioner (Specialist Operations) Andy Hayman provided details of the scale of police operations and referred to the storing of 38,000 exhibits, 1,400 fingerprints, over 160 crime scenes and the investigation of 54 murders and other crimes.⁸⁷ These points were reinforced by the Commissioner Sir Ian Blair stating that it was ‘.. the first time in living memory that the Metropolitan Police has declared something called “mutual aid”, which means that we are paying hundreds of officers from other forces to work with us’.⁸⁸ The parliamentary Intelligence and Security Committee (ISC) also noted, in the context of the London bombings, that ‘An intensive operation, for example, into imminent attack planning, can consume almost half of the Security Services’ operational and investigative resources’.⁸⁹

In an operation in late March/early April 2004, in London and the South-east, eight men, ranging in age from 17-32, were arrested in connection with a range of offences involving half a tonne of ammonium nitrate. These arrests were described as ‘...a massive police and MI5 operation’.⁹⁰ A total of around 700 officers from the MPS, Home Counties forces (Bedfordshire, Surrey, Sussex and Thames Valley) and MI5 were deployed in that operation which carried out 24 searches under TA 000 powers in Uxbridge, Ilford, Colindale, Crawley, Slough, Luton, Horley and Reading.⁹¹ The arrests followed an extensive and intensive surveillance operation by the security service and the police. Assistance was also received from the RCMP, who arrested one suspect in Ottawa.⁹² The cases, following these arrests, are still before the courts so comment is necessarily limited. However, it has been suggested in the press that the arrests might be linked with intelligence suggesting a possible plan to explode a large vehicle-borne IED near a London night club.⁹³

Another series of arrests in early August 2004 stemmed from data found in a computer belonging to a Mohammed Naeem Noor Khan, described as an al-Qaeda computer specialist, who was detained in Pakistan and whose computer data indicated plans and persons possibly planning major actions in the UK such as an attack on Heathrow. Thus on 3 August police from the ATB arrested 13 males aged between 19-32 under TA 2000 powers on suspicion of planning terrorist attacks, many of Pakistani origin but British born, in raids in Blackburn (2), Watford, Luton, and London (5 in Willesden, one in Wembley, one in Sudbury and two in Paddington). The operation stemmed from intelligence sharing between Britain, Pakistan and the US. One man was quickly released but among the detainees is one suspect who is regarded by the MPS as ‘... a significant figure’, however, because of the publicity from the Pakistan arrest it is believed that five further suspects evaded capture.⁹⁴

Prima facie this would appear to have been one of most significant disruption operations against international terrorism in the UK, before the August 2006 arrests, because of both the numbers of arrestees actually charged and the gravity of the charges including the specific use charges under TA 2000. Of the 13 arrested on 3 August, two were freed without charge, two are no longer subject to TA 2000 procedures but have been re-arrested for forgery-related offences and one man has been charged with possessing a prohibited weapon. The remaining eight (Dhiren Barot, Qaisar Shaffi,

⁸⁷ HC462-i, *op. cit.*, Q 47.

⁸⁸ *Ibid.*, Q 51.

⁸⁹ Intelligence and Security Committee, ‘Report into the London Terrorist Attacks on 7 July 2005’, Cm. 6785, The Stationery Office, London, May 2006, p. 7-8.

⁹⁰ *The Times*, x/IV/2004.

⁹¹ Statement by DAC Peter Clarke, Head of MPS ATB and National Co-ordinator of Terrorist Investigations, Metropolitan Police Service *Bulletin* 2004/0041, 30/III/2004, http://www.met.police.uk/pns/DisplayPN.cgi?pn_id=2004_0041, accessed 6/VII/2004, and see also Metropolitan Police and Metropolitan Police Authority, ‘Joint Annual Report for 2003-2004’, 2004.

⁹² *The Times*, 31/III/2004, 1/IV/2004 and 2/IV/2004.

⁹³ See reports in *The Times*, 17/VII/2005, and *The Independent*, 18/VII/2005.

⁹⁴ See the reports in *The Times*, 4/VIII/2004 and 5/VIII/2004, and MPS Press Bulletin 2004/0102.

Mohammed Naveed Bhatti, Abdul Aziz Jalil, Omar Abdul Rehman, Junade Feroze, Zia ul Huq and Nadeem Tarmohammed) have been jointly charged (both conspiracy charges were under S1(1) Criminal Law Act 1977) with conspiracy to plot murder and conspiracy to commit a public nuisance involving radioactive, toxic gas, chemicals or explosives. Dhiren Barot is also charged (S58 TA 2000) with possessing ‘... reconnaissance plans of the US financial buildings and having notebooks with information on explosives, poisons, chemicals and related matters’. Nadeem Tarmohammed has also been further charged under S58 TA 2000. Qaisar Shaffi is also charged (S58 TA 2000) with owning an extract from a terrorist’s handbook which explains the use of chemicals and explosive devices’.⁹⁵ The use of a ‘public nuisance’ charge suggests some possible issues of actual evidence in relation to the non-use of TA 2000 powers in that context.⁹⁶

A feature of all these intelligence-led operations is the great care that is taken in deciding to proceed with an operation. Witnesses before the Home Affairs Committee from the CRE and the Muslim Council of Britain were concerned that the small numbers of persons charged and prosecuted after arrest under TA 2000 powers represented either ‘fishing trips’ by the police or use of TA 2000 powers to tackle other forms of crime. In his evidence Chief Constable Todd of the GMP provided a detailed explanation of these operations. First, he pointed to the basic aim of protecting the public by disrupting and preventing acts of terrorism. Secondly, he drew attention to the important difference between intelligence and evidence. Intelligence may provide the first step in gathering evidence. Thirdly, he stressed that in his force the quality of the intelligence available before an operational decision was made would be reviewed by the ACC (Crime) and even, in a potentially high-profile case, by the Chief Constable himself, with similar practices in other forces. Fourthly, he pointed out that no force acted on its own but within the framework of ‘... Counter-terrorism plc for the UK’, that is to say with the involvement of MI5 and the MPS ATB.⁹⁷

Trial outcomes are also a significant way of assessing outcomes because if the accused are found guilty then, *prima facie*, there was a weight of evidence ‘beyond all reasonable doubt’. In what may be termed a high-profile CBRN-linked new terror threat case, the ricin case was concluded in April 2005 though with only one suspect, Kamal Bourgass, being convicted and sentenced to 17 years imprisonment for conspiracy to cause a public nuisance by the use of poisons and/or explosives to cause disruption, fear or injury. Bourgass was already in prison on a life sentence for the murder of DC Oakes in Manchester in 2003. Four other defendants were cleared of conspiracy charges and a second related trial was abandoned. Some of these suspects were later detained on national security grounds. Commenting on the trial outcomes, an ATB Briefing Note said that if there had been an opportunity for a longer pre-charge investigative process then ‘The quality of the original charging decisions would also have been higher, and it is probable that the suspect who fled the country while on bail and who eventually proved to have been a prime conspirator, would have stood trial in this country. If that had happened, the outcome of the trial process might have been very different’.⁹⁸ In his overall assessment the NCTI, DAC Peter Clarke, said a ‘real and deadly threat’ was prevented.⁹⁹

This case had its origins in police and intelligence service work going back to September 2002 which was focussing warnings of low-level criminality among ‘... a network of Algerians in this country [who] were raising funds for terrorism’.¹⁰⁰ This work led to the identification of three to four groups in the UK totalling about 80 people in all. The police Operation Springbourne concentrated on one of the groups based in London and among 15 arrests was that of David Khalif in Norfolk, where recipes for making ricin, cyanide and other poisons were found. Khalif had at one

⁹⁵ *The Times*, 18/VIII/2004.

⁹⁶ *The Times*, 19/VIII/2004.

⁹⁷ Oral Evidence, Home Affairs Committee Inquiry into ‘Anti-Terrorism Powers’, HC886-i, 8/7/04, Qs. 48, 53 and 62.

⁹⁸ Anti Terrorist Branch (SO13), ‘Three Month pre-charge Detention’, 5/X/2005, *op. cit.*

⁹⁹ BBC News online, <http://news.bbc.co.uk/1/hi/uk/4433709.stm>, accessed 4/X/2005.

¹⁰⁰ J. Stevens, *op. cit.*, p. 304.

time been employed in food factories. It was the discovery of these recipes that ‘... led directly to the raid on Finsbury Park [Mosque] later in January [2003]’.¹⁰¹ The raid, carried out by about 1,000 police, stemmed from the Mosque’s address being found on documents seized in the arrest of Khalif. That raid in turn led to the arrest, among others, of two men from the ‘most wanted’ list.¹⁰²

Sometimes, fortunately, a failed terrorist attack provides usable data that can lead, by intelligence work, to other results. For example, Richard Reid’s nervousness about his IED suggested that he was not the bomb maker and therefore not a complete ‘loner’. Eventually, this understanding was to lead to the arrest, in Gloucester in 2003, and charge of Saajid Badat who subsequently pleaded guilty to conspiracy to place a device on an aircraft in service and was sentenced in March 2005.¹⁰³ In commenting on the outcome the NCTI, DAC Peter Clarke, referred to the fact that the case had involved ‘Three years of intensive and painstaking international investigation’ and said further ‘We must ask how a young Briton was transformed from an intelligent, articulate person who was well respected, into a person who has pleaded guilty to one of the most serious crimes you can think of’.¹⁰⁴ This, of course, is one of the current key issues being addressed by the UK CT agencies.

After some of the defendants were found not guilty in the ricin trial, although some were subsequently detained again on national security grounds, the issue of available evidence to convince a jury clearly remained a substantive issue. However, there is satisfaction at the conviction of Andrew Rowe on 25 September 2005 on two counts of possessing articles useful for terrorist purposes and his sentence to 15 years imprisonment. The Director of Public Prosecutions, Ken Macdonald, commented that ‘This was the first trial prosecuted by the CPS Counter-terrorism Division set up in May [2005] ... The challenge we successfully met was to prove to a jury that although there was no direct link between Andrew Rowe and a particular terrorist act, the possession of these items together with other supporting evidence was sufficient for a jury to conclude that he had them for the purpose of terrorism’.¹⁰⁵ Among the interesting features of the Rowe case were the facts that he was British national, of non-European origin, who converted to Islam in the early 1990s, using the name Yusef Abdullah, and had been under surveillance for some time. Furthermore, Rowe had fought in the Bosnian conflict in 1995 and the radicalising influence of that conflict is regarded, within the UK CT agencies, as having been less well understood than should have been the case.

An important issue for the domestic management of terrorism in the UK arises from a mapping of arrest locations which clearly shows the wide geographical spread of arrests across the country. By contrast, monitoring of person movements related to Irish terrorism could be somewhat more concentrated along the urban and transport corridor between Holyhead and London. However, the recent pattern of international terrorism arrests and incidents means that no police force can assume that its location insulates it from the possibility of being the location for some form of international terrorist activity.

The HMIC Report (‘Closing the Gap’) of September 2005 shows that there still remain significant concerns about the ability of the current structure of provincial police forces to meet some aspects of terrorism policing challenges.¹⁰⁶ For example, the Report notes that ‘... almost none of the forces assessed have planned, tested or practised for a chaotic, distributed event’.¹⁰⁷ The London incidents of 7 and 21 October 2005 would fall into this category of event. Moreover the problems

¹⁰¹ *Ibid.*, p. 304-306.

¹⁰² *Ibid.*

¹⁰³ *The Times*, 4/XII/2003.

¹⁰⁴ BBC News online, 28/II/2005, <http://news.bbc.co.uk/1/hi/england/gloucestershire/4304223.stm>, accessed 4/X/2005.

¹⁰⁵ CPS Press Release, 23/IX/2005, http://www.cps.gov.uk/news/pressreleases/146_05.html, accessed 4/X/2005, and see also

“‘Warrior’ gets 15 Years for Terrorism”, <http://uk.news.yahoo.com/23092005/325/warrior-gets-15-years-terrorism-offences.html>, accessed 4/X/2005.

¹⁰⁶ ‘Closing the Gap’, *op. cit.*

¹⁰⁷ *Ibid.*, para. 5.38.

for smaller forces are evident in the Report's comments about reliance, in those forces, on both '... multi-tasking for individuals' and on assistance from other forces '... for fairly modest operations'.¹⁰⁸

Conclusions

The police seem to be managing the disruption aspect (*Pursue*) of the domestic management of terrorism quite well within the parameters of the available intelligence. In this aspect of CT a major resource issue is the availability of sufficient trained surveillance personnel and other officers to carry out the actions arising from extensive surveillance; this is a matter that needs to be monitored together with its opportunity costs in terms of addressing other NPP priorities. The investigative element is also resource intensive and may, in the end, not even lead to court appearances or only to trials on relatively minor offences. However, this will still meet the UK CT strategy objective of *Pursue* and some of these problems may be resolved through the provisions of the Terrorism Act 2006, although it may be necessary for these forms of non-trial outcomes to be specially recognised within performance assessment criteria, such as those being developed by the Home Office and HMIC. It is very difficult to draw definitive conclusions about the incident and consequence management capability of the police as, fortunately, these capabilities have, as yet, mainly only been tested either in exercises or in the well-practiced scenarios of major event management and enhanced airport security operations. However, the London bombing incidents of July 2005 do provide clear evidence that even the largest force in the country can become seriously stretched in responding to multi-site attacks, both in the incident management and in the post-incident investigative phases. Moreover, these attacks only used IEDs with conventional forms of explosive components and did not involve any CBRN element.

There is certainly evidence of police forces engaging with the other parts of the public sector and also the private sector in the kind of multi-agency contingency planning envisaged in the current National Policing Plan and in the Civil Contingencies Act 2004. One issue that has emerged from several Project sources and from parliamentary inquiry which relates to the *Prevent* and *Prepare* components of the 'four Ps' has been the adequacy of funding arrangements to meet some police CT security needs. Finally, if one considers the police performance data in the periodic surveys by HMIC which give 'best' and 'worst' performing forces over many performance categories and the occasional controversial operational decisions,¹⁰⁹ such as that by Thames Valley Police in June 2004 in a fatal shooting incident and in the July 2005 De Menezes case, then one can postulate that the police may still show a rather varied response capacity to 'spontaneous' or 'surprise' terrorist attacks depending on the random factors of where an event takes place and the functioning of the response command structure in an emergency.

The new head of ACPO-TAM, ACSO Andy Hayman, instigated a review of police counter-terrorism strategy after the July 2005 London bombings. As of July 2006 the final report of the outcome of the review had yet to be published. A delaying factor was the promulgation and now abandonment of plans for police force mergers. Though the DADA inter-agency committee work was suddenly curtailed in Summer 2005 and the future of the smaller police services, PICTU and NaCTSO is a little uncertain and so also is the future of some of the National Coordinator posts. The eventual outcome of the review, announced in early 2007, was rather 'low-key' in that the UK police would simply create three 'hubs' of counter-terrorism expertise and resources outside London. This form of capacity regionalisation can also be seen as in some ways relating to the decision by MI5 to create eight regional stations as part of its ongoing adaptation to new counter-terrorism challenges. Thus the UK police counter-terrorism response seems most likely to remain with its present mix of national roles for some MPS assets and the variable capabilities of the

¹⁰⁸ *Ibid.*, para. 5.42.

¹⁰⁹ *The Times*, 14/VI/2004.

provincial police forces. Nevertheless, ACSO Hayman was very candid regarding provincial capabilities, speaking of his former post of Chief Constable of Norfolk, when he said ‘I have worked in a smaller force alongside two other smaller forces and the extent to which I, as the chief there, could meet some of the demands not just of terrorism, but of serious crime, it was just impossible’.¹¹⁰

The evidence sources, from the outcome on 30 April 2007 of the trial and conviction of five Islamist extremists, on terrorism charges, who had been arrested (Operation Crevice) in 2004 in relation to a plot to use ammonium nitrate to cause massive explosions in public places, have raised new questions about flows of information between MI5 and the police forces in respect of the nature of the prior knowledge about two of the 7 July 2005, London suicide bombers, Mohammad Sidique Khan and Shehzad Tanweer.¹¹¹ These questions are going to be re-examined by the parliamentary ISC but whatever the outcome of that inquiry the debate does very well reflect ACSO Hayman’s concern of the need ‘to get the gearing right in terms of terrorist investigations between intelligence gathering and investigation and what we call “protective security”’.¹¹²

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¹¹⁰ HC 910-II, *op. cit.*, Ev. 54, Q. 274.

¹¹¹ See the reports on ‘Crevice’ at <http://www.mi5.gov.uk/output/Page602.html> and <http://www.rusi.org/research/hsr/intro/commentary/ref:C4638BF>, accessed 3/V/2007.

¹¹² HC 910-II, *op. cit.*, Ev. 54, Q. 274.