



Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

**OFFICIAL REPORT
(Hansard)**

**Northern Ireland Organised Crime
Strategy 2012-15**

27 October 2011

NORTHERN IRELAND ASSEMBLY

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Northern Ireland Organised Crime Strategy 2012-15

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Seán Lynch
Ms Jennifer McCann
Mr Basil McCrea
Mr Alban Maginness
Mr Peter Weir
Mr Jim Wells

Witnesses:

Mr Simon Rogers)	Department of Justice
Mr John Whiting)	Her Majesty's Revenue and Customs
Detective Superintendent Philip Marshall)	Police Service of Northern Ireland
Mr Bob Lauder)	Serious Organised Crime Agency

The Chairperson:

I welcome Simon Rogers, head of policing and organised crime division in the Department of Justice; Detective Superintendent Philip Marshall of the organised crime branch of the Police Service; Bob Lauder, deputy director of Scotland and Northern Ireland Serious Organised Crime Agency (SOCA); and John Whiting from Her Majesty's Revenue and Customs (HMRC). The session will be reported by Hansard. I will hand over for an outline of the paper, after which

members will ask questions.

Mr Simon Rogers (Department of Justice):

I will make a few introductory remarks and then we will be very happy to answer questions about the strategy. I am joined by representatives of the police, SOCA and HMRC: that reflects the inter-agency approach of the Organised Crime Task Force (OCTF) at large and the fact that the strategy was prepared on a collaborative basis. That was not done just with the organisations represented at the table today but with the other members of the OCTF as a whole.

As you will see, the document covers the period 2012-15. It is the first such strategy document for the OCTF, and, after devolution, it was thought that the task force should consider that area. We feel that there is benefit in a strategy document to concentrate minds and to provide information publicly that had not been in the public domain before. It is designed to complement the annual report and threat assessment. The Committee saw that after it was published in June this year. It sets out publicly what the members of the OCTF will seek to do in co-operation to combat organised crime across the various threats identified in the annual report and threat assessment, including human trafficking, fuel fraud, tobacco fraud, drugs, internet crime, environmental crime and the other main threats.

The idea is to give a renewed focus to the work of the OCTF agencies and partners, and it sets a framework within which we will all agree to co-operate. The main objectives are set out in the paper and involve: tackling organised crime in its various guises; informing the public — including, for example, businesses — about trends and so on; and supporting communities where possible, for example through the use of criminal assets that have been recovered.

The paper sets out three core strands of work that are associated with those objectives. Those are awareness, analysis and action, and each is addressed in the paper. Ultimately, our overall aim is to take action against crime gangs with a view to frustrating, disrupting and dismantling them; bringing them before the courts; prosecuting them; removing assets; and supporting those who are affected. The strategy falls under that umbrella. The annex to the document sets out various practical action points that the task force is seeking to fulfil. Finally, the strategy will be reported on in the annual report on the threat assessment. That is a brief introduction, and I will be glad to answer any questions from members.

The Chairperson:

Thank you very much, Mr Rogers. Recently, it was highlighted that, over the past decade, there were 47 prosecutions and only four custodial sentences for fuel smuggling. What way does the strategy seek to deal with the issue of fuel laundering and the prosecution of those who do it?

Mr Rogers:

Fuel laundering is one of the major threats identified, and there is currently a lot of interest in that topic, including the Northern Ireland Affairs Committee report. In the past couple of weeks, sentencing was touched on in a debate in the Assembly. At the opening of the legal year in September, the Lord Chief Justice announced that that is one of the areas that he is looking at in his programme on sentencing, along with environmental crime, which is also relevant to the work that we are interested in. Through his committee, he is looking at whether guidelines can be provided to the judiciary, particularly in the Crown court, which is the area that is of the most interest to us. That would assist judges in dealing with the cases. As you suggested, the figures show that suspended sentences are more common than custodial sentences.

The Chairperson:

How much more work can be done by the OCTF to tackle fuel smuggling? It involves tens of millions of pounds. You gentlemen do not need me to tell you what it is costing the Treasury, but, if it is endemic anywhere in the UK, it is in Northern Ireland. It does not seem to be getting better, despite the efforts being made. Are those efforts not enough, and are sufficient resources not in place? Or, are the efforts that are being made not effective? How could we help to support you to do the job?

Mr John Whiting (Her Majesty's Revenue and Customs):

For the past 10 years and beyond, fuel fraud has been, at least, the joint top priority for what was Customs and Excise and is now Revenue and Customs in Northern Ireland. We have increased our resources on the investigation and detection side year on year. In our office, a significant number of cases have been, or are being, investigated, and many are with the Public Prosecution Service.

There is an issue with custodial sentences, and I put it before the Northern Ireland Affairs Committee. There have been no custodial sentences since 2002. You asked what can make a difference. A custodial sentence would be a more persuasive tool in suggesting to people that

they should not engage in fuel smuggling rather than a suspended sentence, which is what has been given for almost the past decade. Clearly, we are very pleased that the Lord Chief Justice has decided to look at the area.

As I said, we have a large number of people working on this issue. The amount of revenue lost has come down. In fact, the economics of diesel smuggling now almost makes it not cost-effective. There is very little profit to be made in smuggling diesel because the authorities in the Republic of Ireland have increased duty rates more quickly than the UK and because of the change in the exchange rate between the pound and the euro. The cost of diesel in the South is much closer to the cost in the North. There is almost no profit in petrol. Our latest figures, which were produced in an HMRC document that measured tax gaps, indicate that it is so small that it cannot be calculated.

There is little profit to be made from smuggling, so there is now a greater preponderance of laundering. That is much more serious because it has the environmental issues of the toxic waste that is left around our community. It has become an issue in the South as well because its duty rates have gone up.

The Chairperson:

Who is failing to secure the prosecutions? Is the evidence not being gathered? Is it that the PPS is not doing its job? The figures that you have provided are pretty startling.

Mr Whiting:

There have been many prosecutions. HMRC is on a generally increasing curve in the number of cases that are being investigated, that are being put to the PPS and that are being prosecuted.

The Chairperson:

There is number of cases, but people have been put in prison recently for stealing a bag of peas. Let us put it in context in respect of the damage that is done to the environment and the fraud that is put on the Treasury. We are putting people in prison for stealing a bag of peas or a dummy, and yet we cannot get prosecutions on this serious issue. Who is failing?

Mr Whiting:

You can get prosecutions. The decision as to who goes to prison and the outcome of cases lie

with the judiciary.

The Chairperson:

So, do we need to legislate for sentencing?

Mr Whiting:

There is a maximum sentence of seven years.

The Chairperson:

Do we need to set minimum tariffs?

Mr Whiting:

That is not for me to comment on. I think that the Lord Chief Justice indicated that he is looking at this issue because he now recognises that a problem has been created by the fact that people have not gone to prison.

Mr Wells:

Funnily enough, I was going to raise that issue as well.

A few years ago, a rather irate constituent rang me and complained that your staff had just lifted him and his tanker. It was fair cop; he felt that he had been quite correctly lifted. However, three of his rivals drove past while he was being booked, and got away scot-free. He said that he lost a tanker and £11,000 worth of fuel, and that it would take him 10 days to make that back. I thought that that gave an indication of the sheer scale of the issue. He could not understand the irony of what he was saying, in that he was lifting almost £1,200 or £1,300 a day from a scam. I did not do very much for him, I assure you.

If I go into the Northern Bank in Killeel, hold it up and lift £15,000 of cash and then I am caught, undoubtedly, I go to prison. There is no question about it. It must be very frustrating for your staff to go to all the effort, track them down, submit a file to the Crown Prosecution Service, stand in court and give expert evidence and then find that people get away with a £20,000 fine. It sounds like a lot, but those guys are making an awful lot more than £20,000. I am a bit surprised that you are not incensed about the fact that the courts are not prepared to give this issue the seriousness that it deserves. Perhaps you cannot comment on that, but the sense of frustration

certainly came out in the debate. You have now told us that there has not been a custodial sentence since 2002. That is even more ridiculous. How many millions of gallons of diesel have gone back and forwards across the border and been laundered in the intervening period?

Mr Whiting:

I cannot give you a figure today, but we have seized millions of litres of fuel and the range of sanctions that we have — beyond seizure of fuel, equipment and vehicles — includes a range of civil and criminal options. In our criminal cases, we have had significant confiscations and some of our tactics are to make referrals to Mr Lauder, of SOCA, which has taken responsibility for the Asset Recovery Agency. Where we have been frustrated, SOCA has picked up substantial settlements.

You may think that I sitting here and that I am being quite reasonable, but I am frustrated by what happens and that, in the cases we put before the courts, outcomes or sanctions are sometimes not as I would have hoped. The fact is, I must respect the decisions of the court as they are made on the day; but, in the background, I work to try to persuade others to influence those who make those decisions. Through the process of the OCTF, we have put a study to the Judicial Studies Board, comparing the results of cases in England and Wales with those in Northern Ireland. Virtually everyone found guilty in England and Wales has gone to prison but no one in Northern Ireland has done so. We put that information before the judiciary to try to influence its thinking.

Mr Wells:

You have raised the issue that, because of the difference in duty, fuel smuggling has largely died out; it is now fuel laundering. I got this gem of information from Ian Paisley junior, so it must be true. He said in the House of Commons that there is an isotope, or tracer, that can be put in fuel, which cannot be laundered out but can be scanned for, and will immediately identify fuel. No matter what is done to it, no matter how much cat litter or acid they have used, it will show whether the fuel is rebated or unrebated.

Is that technology well advanced? If not, why not? It seems obvious to put some form of invisible marker in the fuel. Is that not the answer? All the time and effort spent on trying to get the marker out of it will be wasted. Where do we stand on that?

Mr Whiting:

It is not as simple as Mr Paisley indicated. I know that he has made those comments at Westminster. We recognise that the launderers have become exceptionally efficient at what they are doing, and it makes it very hard for us to identify the laundered product.

A number of things are happening. Work is being done to make our current markers harder to launder. It is exactly as you describe it. A red dye and a marker go into the fuel. That is what is being laundered out. We want to make that process harder and we have a short-term measure to do so, which I am not prepared to discuss here. We will make it harder and we will do so very quickly. There is a second measure, and this is in response to the particular methodology that the launderers are using, by which we look for the residue from what they use to take out the markers. It is quite scientific, but we are effectively looking for the fuller's earth left in the fuel.

There is a longer-term European project, because we have what is known as the Euro marker. In this, we look at fundamentally changing the markers and develop a much better one. HMRC and the Office of the Revenue Commissioners have begun a tendering process. The project which Mr Paisley mentioned is one of the projects that has tendered. Some of that would be commercial in confidence, but, at this juncture, I do not want to go in to further detail about that company's idea, suffice to say that, at this stage, it is not the silver bullet to solve the problem.

Mr A Maginness:

So he was wrong. *[Laughter.]*

Mr Wells:

That is a dangerous thing to say. This is a totally different issue. I am sure that we all get emails from the widows of African crown princes who have £6 million to invest, and that, if I can provide them with my bank account number, they will give me 10%. My wife is a teacher, and a family came in one day to say that they were taking their children out of the school because they were just about to inherit a vast amount of money from a Nigerian princess: little did they know.

Obviously, people in Northern Ireland are being conned by that. There is a name for it — section-something fraud — it is named after the Nigerian penal code.

Detective Superintendent Philip Marshall (Police Service of Northern Ireland):

It is called section 107.

Mr Wells:

Have we any idea of the extent of that and the amounts of money involved in Northern Ireland? The figures quoted for GB are enormous. They amount to a minimum of several hundred million pounds a year. Are the organised crime staff doing anything to intercept or block that coming into Northern Ireland?

Detective Superintendent Marshall:

There is a financial crime team in the PSNI, within the organised crime branch. On a national level, that team takes part in working parties that look at those organised e-crime frauds that are undertaken, primarily by people in Nigeria, but also by people from other parts of the world. There are moves to try to block the e-mail scam. In Northern Ireland there are probably thousands of those e-mails received on a monthly basis, but they are pumped out worldwide. In order to say what the level of uptake is — that is, how many people have actually been subject to the scam — two things would be needed. First, you have to realise that you have been scammed in order to then report it to the police. We have received reports, primarily from people who notice the scam and bring it to our attention so that we can advise the rest of the community not to be taken in by such scams. However, unfortunately there are individuals in Northern Ireland who have been subject to the fraud and who have lost substantial amounts of money through that. It causes concern. It also causes investigative difficulties, given that you are crossing international borders in order to try to trace who the scam may have emanated from. However, through the OCTF, there is a sharing of the information. We educate at every opportunity that we have. Unfortunately it is not a story that provides a ready headline. The fact that people are being defrauded is quite a dry story. It does not grab the headlines, so people do not take as much notice of it as they should.

Mr Wells:

In dealing with child pornography there are teams of people constantly online identifying and blocking sites. They take down literally thousands of sites. Is the same happening in relation to this subject?

Detective Superintendent Marshall:

Yes.

Mr Wells:

Is that being done throughout the rest of the UK?

Detective Superintendent Marshall:

Representatives of the PSNI certainly sit on a number of national working groups and with the City of London Police, who have a lead in that area. Certain websites and e-mail addresses are attacked in order to disrupt the activities of the organised crime gangs involved in that. However, it may well be that the e-mail addresses are hosted in one country and routed through various countries, so it does cause some investigative difficulties.

Mr McCartney:

There is a scam on Hotmail whereby someone writes to ask you for your details and then, once they get your address, they say that they are in Nigeria and ask you to send 5,000 euro. I found out that there is no mechanism to report that to Hotmail and ask it to close down the account.

Detective Superintendent Marshall:

Yes, that has been highlighted previously, and has been brought to the attention of a group called Action Fraud, which is a UK-wide group that brings together law enforcement from across all parts of the United Kingdom. Such issues have been taken to Hotmail, but Hotmail is not based in this jurisdiction and it is quite difficult. Are you talking about an online ability to report the fraud directly to Hotmail?

Mr McCartney:

It happened to somebody I know, and there is no mechanism within the system to ask that that address be closed down because it is malfunctioning or has been hacked. The PSNI was contacted, and it said the same. The address can be used elsewhere, even though Hotmail and the policing authorities are aware that it is now in the hands of someone who could discredit someone, receive money or whatever.

Detective Superintendent Marshall:

The internet is a great tool for criminals to use. Hotmail addresses are one of the tools that they

use because they are anonymous. It has been brought to the attention of Action Fraud. However, if you close down one address, they move on to the next one. You are constantly chasing them.

Mr McCartney:

I appreciate that you will not stop them. However, if I am corresponding with you on a Hotmail address and someone else signs into it, he or she could be saying things to you and you would think that it is me. At the time, I found it very strange that you could enter into an agreement with someone with an e-mail address but that there is no mechanism to close it down once it is corrupted.

Detective Superintendent Marshall:

That has been brought to the attention of Action Fraud before. However, I will take it back internally to the PSNI, and feed it to partners and to Action Fraud again.

Mr McCartney:

Thank you.

The Chairperson:

I am curious as to the substantial sums of money involved. Are you aware of any figures?

Detective Superintendent Marshall:

There are a number of matters before the courts, but we are talking about millions. Victims in Northern Ireland have lost seven-figure sums. I do not have a total figure for the amount of money lost through fraud over the internet, but we are aware that individuals have been involved in the scams that Mr Wells talked about and have lost seven-figure sums.

The Chairperson:

Has an individual in Northern Ireland lost over £1 million?

Detective Superintendent Marshall:

Yes.

The Chairperson:

That is pretty startling.

You said that you had done some studies of comparisons between sentencing here and in other parts of the UK. Can you give the Committee that information?

Mr Whiting:

Yes. However, that is solely for excise fraud.

The Chairperson:

That would be helpful.

Mr Lynch:

Can you clarify whether the Policing Board is one of your partners or agencies?

Mr Rogers:

The Policing Board is an agency, and it is represented on a number of the OCTF structures; for example, it is represented on the stakeholder group and the acting chairman might attend.

Mr Lynch:

I asked that question because the DOJ has, through correspondence, briefed the Committee of the fact that your strategy has been agreed by all partners. Would that have included the Policing Board?

Mr Rogers:

I believe so, yes.

Mr Lynch:

Can you tell me when you received formal correspondence from the Policing Board offering its endorsement of the strategy?

Mr Rogers:

I cannot do so today. However, I can check that. The draft of the strategy is circulated round all the relevant bodies and comments are invited.

Mr Lynch:

I think it is important.

Mr B McCrea:

Chairman, I do not want to interrupt, but can I come in on that point? I was on the Policing Board, and I understood that SOCA was outside the remit of the Policing Board. During the transfer of the Assets Recovery Agency, there was a voluntary arrangement, or a memorandum of understanding, rather than a statutory or regulatory function, which would explain why you were not involved in the formal process.

Mr Lynch:

The accountability structures are kind of hazy. I thought that there was an overall policing plan and that, therefore, the Policing Board was the accountable structure for scrutiny and accountability. Is your strategy part of the overall policing plan?

Mr Rogers:

It is separate from the policing plan. The Policing Board is an important partner in the OCTF and, as such, we consult with it, it attends meetings and it contributes. However, the OCTF is designed not to take away the operational independence of the individual organisations in it. For example, the police who attend and are what I call partners are not accountable to, say, David Ford or anyone else within that arrangement. Rather, it is a collection of people working together towards a common aim: to try to reduce organised crime, support communities and so on.

Mr Lynch:

Yes, but your strategy is police driven.

Mr Rogers:

No. It is a collective strategy of all the members of the OCTF. Obviously, to deliver it, the police do a great deal of operational work, as do HMRC, SOCA, the UK Border Agency and the Environment Agency, to give a few examples. They are involved in coming up with the strategy, but it is a joint approach.

Detective Superintendent Marshall:

From a PSNI point of view, organised crime is one of our five service priorities. We are

accountable to the Policing Board for any work that I or other parts of the organisation do in respect of organised crime. As I said, the OCTF is a voluntary arrangement to maximise our partnership working. It is about raising awareness across the community about organised crime and sharing resources when we can.

Mr Lynch:

To finish, it is important to get formal confirmation that the Policing Board endorsed your strategy.

Mr Rogers:

OK.

Mr B McCrea:

I am not sure that we have quite got that point. I argue that this is a voluntary arrangement to co-ordinate activity. However, where you have locus, the Northern Ireland Policing Board will have oversight of the PSNI but it will not have oversight of SOCA or HMRC. It is important that they are included, but not on a statutory basis.

I have a couple of quick questions. To go back to fuel laundering: some people expressed disappointment at the failure to get convictions. It could be that the level of evidence presented to the PPS is not sufficient or that the PPS goes for lower level charges because of the evidence. May I presume that you are in fairly detailed discussions with the PPS in an advisory capacity, so that it brings the correct charges?

Mr Whiting:

Yes. I have a good relationship with the Public Prosecution Service. Only once in the past 10 years have I gone back and asked the PPS to review a decision. That review took place in the past three or four months.

Mr B McCrea:

My point is that we are concerned — you may not be — about the number of custodial sentences. I am trying to establish the reason for that. Sometimes the judiciary gets blamed, when, for reasons that can be explained, the issue lies elsewhere in the criminal justice system. I do not think that I am putting you too much on the spot, but it would be helpful if there were more

custodial sentences as part of the deterrent against fuel laundering.

Mr Whiting:

I absolutely agree with that.

Mr B McCrea:

OK. There is also an issue about tobacco. How significant is tobacco fraud compared to fuel laundering?

Mr Whiting:

Tobacco fraud dwarfs fuel fraud. The Chairman described fuel fraud as “endemic”. It has a history in Northern Ireland that other revenue frauds do not have elsewhere in the country. Tobacco fraud is massive and costs the UK Government in the region of £3 billion a year.

A disproportionate element of tobacco fraud is organised in the Province and close by in the Republic of Ireland.

Mr B McCrea:

I think that tobacco fraud sometimes goes unnoticed. There is a tobacco manufacturer in the Province, and it says that fraud has a huge impact on it. It would be useful if we could get figures for the Northern Ireland context. I do not want exact figures. However, when you include the figure for Northern Ireland in the UK figure, the detail sometimes gets lost. Tobacco fraud is a big issue for Northern Ireland. If you can give us those figures now, that would be great. However, if you cannot do so, it would be useful if, when you are providing the Chair with some more information, you could give us some idea of the scale of tobacco fraud here.

Mr Whiting:

I have with me a HMRC document, published annually, in which tax gaps are measured. It details those figures.

Mr B McCrea:

Is Northern Ireland included in that?

Mr Whiting:

What I was going to go on to say is that hydrocarbon oils is the only regime for which we are able to break down figures and come up with a Northern Ireland figure. There are no figures for tobacco fraud in Northern Ireland. I was involved in an operation where we saw cigarettes being smuggled from Belgium through France and into the Republic of Ireland. We intercepted those cigarettes in Belfast as they were en route to Manchester. It was organised from here, but the final customers were in England. That is actually part of the problem. Very often, the cigarettes do not end up in Northern Ireland but elsewhere in the UK.

Mr B McCrea:

I will not press you if you cannot give the detail. However, we would like to know more detail about the size of the problem. You said that, in your experience, there is a huge problem here and not too far from here. It would be useful if, at some stage, we could get some idea of the scale of that. I know that you cannot be absolutely precise, but even if you could be relatively precise, that would be good.

Mr Whiting:

I could probably provide you with some of the seizure figures, which are actually starker in respect of the seizures made in the Republic of Ireland. Many of the cigarettes seized were heading in the direction of Northern Ireland. Of the 120 million cigarettes were seized at Greenore two years ago, and almost all of them were UK brands.

Mr Wells:

They claimed that they were for personal consumption. *[Laughter.]*

Mr Whiting:

They did not. The brands were not ones that people in the Republic smoke. I think that 99 million of them were called 'Palace', which is a UK brand.

Mr B McCrea:

Whatever information you can give will help us to highlight the issue.

I have one last question. Philip, the last time that I met you we talked about human trafficking and the PSNI's policy on dealing with prostitution and things like that. Where are we in that

regard? There is a concern about human trafficking and about how we as a society in Northern Ireland have decided to deal with prostitution.

Detective Superintendent Marshall:

The issue of trafficking and prostitution keeps me awake at night. It is a major concern in Northern Ireland, and it still remains a hidden crime. We still do not know the full extent of it. I will deal with your point about the PSNI's policy first. The policy, as drafted, is at consultation stage in the PSNI, which is dealing with trafficking and prostitution. It is very difficult to separate the two. Quite recently, we have been further liaising with An Garda Síochána. I cannot view trafficking and prostitution as a Northern Ireland issue. It is an all-Ireland, UK and European issue. We are trying to pull all of the matters together in the policy.

As I said, the issue of human trafficking keeps me awake at night. Since April, we have recovered 23 victims in Northern Ireland. We had 25 in the past financial year. Therefore, we are seeing a significant rise. I think that that is the case because we are tackling it differently. We are targeting the organised crime gangs that are involved in trafficking people for the purposes of sexual exploitation. Major work has been done through the OCTF and a number of awareness campaigns that have been run quite successfully, such as the Blue Blindfold Campaign, which highlights the dangers of trafficking and tries to raise awareness in the wider community, and, indeed, a campaign that is being run at ports of entry and exit that focuses particularly on whether people are victims or visitors. We have had some quite positive results from those campaigns. We continue, through our partners, SOCA and the Human Trafficking Centre, to raise awareness of the issue in the community.

Mr B McCrea:

When you have had your internal consultation, have you any timescale for when you would be able to come and talk to the rest of us about it?

Detective Superintendent Marshall:

A piece of work commenced recently, and a study was carried out by the Department of Justice on the demand for prostitution in Northern Ireland and how to reduce that demand. In September, a conference was held in Belfast. I think that we would probably be in a position before Christmas to comment further to the Committee on the actions coming out of that.

Mr B McCrea:

We will leave that with the Chairperson. I am sure that we would be interested in that area. My final point, which I said that I would come back to, is that I happened to visit the science centre yesterday with another Committee. We were shown how electronic fraud is monitored, particularly through IP streaming and suchlike. It occurs to me that when you deal with the websites that Mr Wells mentioned — now, this might be beyond me — if the source of the site is known, it is technically possible to identify a computer from which the site is opened. Records are held for a year so that individuals can be identified. Given that so much of that is cyber-fraud or cyber-exploitation, how much detail do you go into to try to track or trace those people? I think that the technology to do so exists.

Mr Bob Lauder (Serious Organised Crime Agency):

The dangers from cybercrime are enormous. The chameleon effect of cybercrime is a concern throughout the UK. Recently, there has been investment in trying to establish a more robust way to deal with it. SOCA is currently creating and will be part of the cybercrime unit, which will be part of the National Crime Agency structure. It will be cross-cutting. It will not be a directorate in its own right. Its work will cut across other areas, so that the benefits accrued from its expertise will be picked up by areas such as economic crime or serious organised crime in all of its realms. That might involve the Child Exploitation and Online Protection (CEOP) Centre or an internet fraud scam that is ongoing, for example. Cybercrime is a tremendously chameleon structure. It changes very quickly. Claims that are made about indentifying a site and retaining it for a year may well be true. However, by the time that you reach that site it may have changed to something else.

Mr B McCrea:

I accept that Bob. The point I was making is that if a website is identified there will be a traffic stream in which people can be identified until you close it down. I am just saying that that is one way of looking at it. I also take your point that an awful lot of cybercrime actually involves a lot of people losing relatively modest sums of money. For example, you might buy something on the internet and it does not turn up or, if it does turn up, it might be counterfeit goods. I have heard cases of people buying what they thought was a one-off item and ending up with a subscription. It might take them 10 months to work it out. All those issues will concern citizens in Northern Ireland. I will not detain you any longer. When you get that organised, I really think that we would take interest in that.

Detective Superintendent Marshall:

One subgroup of the Organised Crime Taskforce deals with intellectual property crime. Having some of the partners, the Federation Against Copyright Theft (FACT), for example, present on the subgroup has proved beneficial in Northern Ireland, as it has been able to analyse some of the information that it receives from the film industry and identify users in Northern Ireland who are streaming films to other users. That has led to interventions by the Police Service and has demonstrated that the OCTF's work can target individuals.

Mr B McCrea:

I do not think that people know that they can be traced if they download. I am glad that you are working on it, but we need to get the message out a bit more.

Mr A Maginness:

I have a very basic question: where does the fuel to be laundered come from in the first place? I assume that it comes from someone who buys it through the agricultural dispensation relating to the use of agricultural vehicles. Is that the basic method of getting diesel in the first instance?

Mr Whiting:

Do you mean the red or the green diesel?

Mr A Maginness:

The agricultural diesel.

Mr Whiting:

I will try to explain it in basic terms. At the refinery, the majors move the fuel, and a dye is added to some of it and the marker. In Northern Ireland, we add green diesel, so some of the green diesel used in the Republic of Ireland comes from Northern Ireland refineries. Essentially, it leaves here duty-free; the Irish customer claims the duty back.

Mr A Maginness:

I am trying to follow this: when the farmer purchases fuel —

Mr Whiting:

I will just explain: this is the green diesel that goes to the South. When it then leaves the depot in the South, Irish rates of duty and VAT are applied; when the fuel leaves the depot — in effect, the duty point — that is where UK rates of duty and VAT are applied. At that point, everyone in the system in the UK — in Northern Ireland — has to be a registered dealer in controlled oils. They have to declare to whom they are selling bulk supplies of red diesel. Red diesel can go to filling stations and other bulk customers, so it is, in effect, in the market. You could drive into a filling station and fill your diesel car with it.

What also happens is that organised criminal gangs create a fiction around the number of customers to whom they are selling fuel in a filling station. However, that fuel does not go to those customers; it goes into a plant to be laundered and comes out to be sold as white diesel.

Mr A Maginness:

If, in the first instance, I was purchasing red diesel, am I exempted from a certain amount of duty?

Mr Whiting:

The duty is rebated; it is a lower amount to assist —

Mr A Maginness:

Therefore I pay in cash a lower amount than the ordinary motorist.

Mr Whiting:

Yes.

Mr A Maginness:

Why not insist on everybody paying at that point in time and reclaiming it later as a bona fide user of the fuel? That would cut out getting the fuel at a lower, discounted price.

Mr Whiting:

What you describe is what we call the “Danish model” because that is what happens in Denmark; it is a system that is identical to VAT. If I tell you that there is a huge amount of fraud in the VAT system, you probably will not be surprised. In fact, potentially, thousands of people will

buy smaller amounts of red diesel and submit false claims, which we would then have to verify. So, there would be a huge administrative burden to ensure that people are not committing fraud, and we may end up with the same level of fraud as well as that administrative burden. HMRC has considered that question, and lots of people ask it. However, the Danes have a system that is beset with fraud.

Mr A Maginness:

That is the reality in Denmark?

Mr Whiting:

That is the reality in Denmark. If we did that in Northern Ireland or the UK, we would have to do it in conjunction with the Republic of Ireland because, if the Republic did not have that system, it would not work. In fact, we brought in the system of registered dealers in controlled oils a number of years ago, and it put something of a noose around the traders who deal in red diesel. However, there is no similar process in the Republic of Ireland, so we find that the vast majority of fuel that is being laundered in Northern Ireland is green diesel, not red diesel.

Mr A Maginness:

Is that coming from the Republic?

Mr Whiting:

Yes; it does not have this system. So, we have engaged with the Irish to ask them to introduce a system similar to ours, and they are considering that at the moment.

Mr A Maginness:

That is a very sensible suggestion, and it leads on to Mr Marshall's point that a lot of the crime, including tobacco fraud, human trafficking and fuel crime, is all-Ireland crime. So, we should be fighting that on an all-Ireland basis, and I am sure that tremendous efforts are being made in that respect because there is good co-operation between the Garda and the PSNI. I am not sure if there is good co-operation between the Revenues on both sides of the border. Is there? The further question to Mr Lauder is: what additional powers are necessary for us to tackle that serious type of cross-border crime? It seems to me that additional powers should be given to the Revenue on both sides of the border to really get in there and tackle those revenue-related crimes.

Mr Whiting:

Co-operation is fantastic. In fact, I am the chair of the cross-border fuel fraud enforcement group, which is one of the subgroups in the strategy that sits beneath the strategy group. Membership of that subgroup includes the Revenue Commissioners, the Criminal Assets Bureau, the traffic section of the guards, the traffic section and the organised crime branch of the PSNI, the Northern Ireland Environment Agency and the Department of the Environment, Community and Local Government in the Republic of Ireland. So, we match membership: SOCA with the Criminal Assets Bureau; Revenue and Customs with the Revenue Commissioners. We match each side to bring all our minds and powers together. As part of that group, a standing agenda item is: could we bring about a legislative change? When we established the group, it was a concern, and the Secretary of State at the time thought that it would be a great idea to have an absolute offence of fuel laundering. If you catch somebody at a laundering site —

Mr A Maginness:

Strict liability.

Mr Whiting:

Yes. There are real human rights issues around that question. However, the solution that we discovered was to have a conversation with the Public Prosecution Service to look at our existing legislation and agree that there is way of interpreting it to enable us to bring charges on the day for anybody caught at a laundering plant.

That is something that I hope to bring to some crystallisation to in the very near future, in the form of prosecutions. It is only in the past two or three years that we have been able to get that agreement, and we have a significant number of cases with the Public Prosecution Service.

So, we are already thinking about these issues and about what new legislation we can bring forward to make this tougher. Sometimes when we get an idea we share it with the Irish, and vice versa. We are looking at exploring ideas and bringing that legislation into each other's jurisdictions.

Mr Lauder:

In the area of serious organised crime, SOCA, being a relatively new kid on the block, does not have the advantage of the historic relationship that the PSNI has with an Garda Síochána. We co-operate with other member states of the European Union through the Schengen protocol.

Unfortunately the Republic of Ireland, like the UK, has not signed up in full to that protocol, but it has signed up to section 40, which allows for a cross-European border interface in dealing with partners and others. We are in dialogue with an Garda Síochána to try to establish a far more robust protocol for the joint investigation of serious and organised crime so that we are not hampered when we get to the border. There is no legal framework that allows us to extend our reach into the Republic of Ireland, whereas there is a legal framework that allows us to do that in France, Belgium, the Netherlands and most of the central European countries.

We are very conscious of that, and I have brought this issue up with the Northern Ireland Affairs Committee. Although there is not a precise need for the PSNI and an Garda Síochána to enter into that, it is certainly something, on a legal footing, that exercises SOCA and my ability to better contribute. We have a free exchange of intelligence, and, where there are advantages to be taken, we make sure that we engage with the guards in the passing of intelligence to our mutual benefit. The co-operation is good, but we need that legal framework to enhance it.

Mr Whiting:

HMRC and the Revenue Commissioners have been able to use this legislation, and HMRC has deployed surveillance teams in the Republic of Ireland — full agreement, fully covered. That was a real step forward.

Mr A Maginness:

Very good.

Ms J McCann:

You are very welcome. I want to follow on from the question that I think Mr McCrea asked about human trafficking. You said that you have noticed a significant rise in human trafficking in the North. I think that you said that 23 victims had been rescued since April, but that you have no idea of the level of that crime as it sits. Why is that? Is there a lack of intelligence? Why is it that you do not have a sense of how serious it is? You said that it keeps you awake at night and it is obviously a priority for you, but do you see it as a priority in the system? Sometimes we do not hear an awful lot about it, and there does not seem to be the same focus on it as there is on other crimes.

My second question relates to something that Seán and Basil mentioned, and that is the issue

of the accountability of your group and of the strategy. You mentioned a memorandum of understanding, and I think that Basil said that there was no statutory responsibility from the Policing Board for your task force. Can we get a copy of that memorandum of understanding? Given where we have come from with policing, where we are now and where we hope to go in the future, it is essential that we have that accountability and oversight.

I think I am right in saying that the OCTF came from the anti-racketeering unit that used to be with the RUC and Special Branch, and then it went on to the terrorist finance unit and then on to the financial services unit. It is important that we have a sense of where the group is sitting and who it is accountable to, given the way we are with policing and how we want to take it forward. I would be very interested in your comments on trafficking.

Detective Superintendent Marshall:

I made the point about not truly understanding the level of trafficking. Trafficking is used for four reasons: sexual exploitation, forced labour, domestic servitude and the harvesting of human organs. We have seen three of those in Northern Ireland. Thankfully, we have not seen the harvesting of organs. Trafficking, by nature, is a hidden crime. Some people do not realise that they are the victims of trafficking. They feel that they have been facilitated into the United Kingdom or they have been smuggled voluntarily. They do not actually realise that they have been trafficked. Primarily, we see victims of sexual exploitation. This year, of the 23 people that have been recovered, 16 had been subject to sexual exploitation. That means that they have been put into prostitution and subjected to repeated sexual abuse and rape.

One of the reasons why we do not know the true level is that we are not getting as much community information as we would wish. Part of the work of the OCTF is to try to raise awareness around the victims of trafficking and to try to reduce the demand. If we can change the mindset of people who go out and buy sex, that will reduce the demand and, therefore, reduce the level of sexual exploitation in the first place. As it is a hidden crime, we do not have enough information, and we appeal at every opportunity for further information.

The level of recovery has improved this year and will continue to improve. That is due to a number of ongoing investigations that we have been carrying out that focus on the activities of organised crime gangs. Those organised crime gangs are from Asia, mainland Europe and the United Kingdom. They are across a whole range. It is not just native Northern Ireland people

who are involved.

Ms J McCann:

I am sorry for interrupting, but are those gangs also involved in drugs?

Detective Superintendent Marshall:

Yes. Organised crime gangs will commit criminality primarily to make money. One day they may be involved in drugs, the next day they may be involved in human trafficking, and they may see an opportunity to make further money on cigarettes. Therefore, they change their criminality. A number of the crime gangs involved in trafficking use the same importation routes as other commodities, so they vary their criminality.

Trafficking is not an issue just for the police. SOCA, with the Human Trafficking Centre as a co-ordination point across the UK, is very important as, indeed, is the UK Border Agency because of the smuggling and facilitation and immigration crime that is associated with that.

You asked whether trafficking was a priority. It is a priority for me and for the wider organised crime branch in the PSNI. Primarily, our focus is on victim recovery. I would rather recover the victims than catch the criminal involved. It is a close second, but it is secondary to victim recovery. I take the matter very seriously, and I have been raising it within the Police Service as a priority. I am not a lonely voice in the wilderness; certainly, there has been an increased focus on trafficking. New measures have been put in place across my organisation for training around increasing awareness and identifying the indicators of trafficking. That is monitored through one of our project boards reporting through the accountability structures of the Policing Board around serious harm and around increasing the policy. It will be going on as a further project in the future around reducing the demand for prostitution.

Mr Lauder:

In support of Detective Superintendent Marshall, the United Kingdom Human Trafficking Centre sits within SOCA. In addition to raising the profile of this, we have an extensive liaison service across countries in Europe and the wider international field. We are able to engage with the police and law enforcement authorities in countries where these victims are coming from so that we get a united front.

What Mr Marshall says is very true; it is a hidden crime. Awareness of human trafficking has come to the fore in the past two years, and significant profits are being made. Trafficking does not necessarily mean that people are brought into the UK or Northern Ireland from European countries for that purpose. Trafficking takes place between Belfast and Glasgow, Aberdeen and Manchester, Birmingham, London and Dublin; it is a crime that exists within the common travel area. It is very harmful; the damage it causes and the recovery of victims are rising across the United Kingdom on a monthly basis, and there is an awakening of law enforcement about the seriousness of this crime. Organised crime gangs who traffic class A drugs, counterfeit goods, weapons, tobacco or alcohol engage in this crime. It is big business for them.

The Chairperson:

Are there loopholes in immigration legislation that are being exploited in order to carry out this trafficking? Are there gaps? Other countries have had to bring in particular legislation around human trafficking and the sex industry side of it; is that something we need?

Mr Lauder:

No, I think we need to focus on the causes and identify the roots and means. Lots of these unfortunate victims are brought in, as Mr Marshall said, on a legitimate basis. They have genuine papers, but when they get here, they are abandoned and their papers are taken from them and are used again and again in the same fashion. The laws are there, we just need to be better at applying them.

Detective Superintendent Marshall:

I agree that the legislation around trafficking is strong enough. What we should be aiming to do is reduce the demand through raising awareness of the issue and educating people on the dangers. In all parts of the United Kingdom, not only Northern Ireland, prostitution is viewed fallaciously by the media — sexy photographs of a prostitute engaging in this practice on a voluntary basis. The reality is far from that; these are people who are being treated as pieces of meat. They are sold and bought and used by men. Prostitution would not exist in Northern Ireland if it was not for the men who are using those people. That is where the awareness needs to be raised to attack this from a different angle.

The Chairperson:

What is the age range that you are talking about?

Detective Superintendent Marshall:

Of people who are using —

The Chairperson:

Not using; those who are being used and exploited.

Detective Superintendent Marshall:

We have seen people recovered from sexual exploitation who have been aged between their late teens and their mid-forties. The range of people who use those individuals are aged from their teens into their seventies. Studies have been carried out as to the range and the type of person who uses prostitutes, and it is people from all backgrounds. It does not matter whether they are black, white, Protestant, Catholic or Jewish; every community in Northern Ireland uses prostitutes, and that needs to be addressed.

Mr Lauder:

Some of the people who start off as victims move into being facilitators as they travel along their journey. Awareness needs to be given a high profile across the whole of the common travel area. There have been instances of raising the profile within the source countries to make sure that there is awareness within those areas of the community where the victims are taken from. That makes for better awareness in both the source country and the receiving country. It is a massive problem, and we are very conscious that it needs to have a high focus and to be addressed.

Mr Rogers:

We are working on a project to change mindsets that is looking at a number of issues around this; we have done some advertising and have done quite a lot of work on conferences on human trafficking. We are doing research under the changing mindsets project to look at what strategies would work best to change mindsets.

Another large part of the questioning from Ms McCann was about accountability, and I would like to come back to that very quickly. I am not aware of a memorandum of understanding between the Policing Board and SOCA. SOCA goes along on invitation. Each of the partners of the OCTF, which has been in existence for 10 years, has its own accountability arrangements. The Police Service is accountable primarily to the Policing Board but also to district policing

partnerships. There are different departments on it; the Department of Health has an interest in human trafficking, as it deals with the victims. The Department of Justice has its own arrangements. However, no organisation is accountable to the Organised Crime Task Force; it brings all those organisations together for the greater good. It is up to each organisation that comes to the table to fulfil its own accountability arrangements to its home organisation.

Ms J McCann:

Are you saying that, as a group, you are not accountable to anyone?

Mr Rogers:

No.

Ms J McCann:

You have each got your own accountability structures, but there is no accountability for the overall group. That is what I am trying to ascertain.

Mr Rogers:

Because each of us has our own accountability structures, we are accountable. For example, today we are presenting the strategy to the Justice Committee, so there is an opportunity for discussion. Each body is accountable, not the overall body.

Detective Superintendent Marshall:

One of the beauties of this voluntary arrangement is that if you tell the Organised Crime Task Force that you are going to do something, you will be held to account by your own partners. That is a working arrangement.

Mr Whiting:

I could not do my job on my own. You have raised the serious issue of fuel fraud. You seem to be concerned about it; I am just as concerned and have been for 10 years. I am just as concerned about cigarette fraud; there is a whole load of other regimes in my business that I am concerned about. However, in respect of fuel and cigarette fraud in particular, I could not do my job without the assistance of the PSNI and SOCA. I get considerable assistance, which is made easier because we are partners in the Organised Crime Task Force, because we know each other and because assistance is only a phone call away. I can tell you that other bits of the UK are

absolutely green with envy at Northern Ireland's Organised Crime Task Force. It is a voluntary arrangement that delivers perfect results.

Mr Rogers:

Many of the organisations in the partnership, such as the Bank of Ireland, First Trust Bank and Group 4 Security, are not accountable to any of us anyway. As John says, we are glad to have them as partners because the sum of the total is greater than its parts.

The Chairperson:

Correct me if I am wrong, but I think that Ms McCann wants to make sure that, as a group, you are not circumventing individual accountability.

Mr Rogers:

No.

Mr McCartney:

Do the partner organisations listed in the briefing document attend the strategy group meeting, or are they just organisations that are supportive of what you do?

Mr Rogers:

The organisations in appendix A all either go to the strategy group or the individual subgroups.

Mr McCartney:

I take it that the boxes along the bottom are the subgroups.

Mr Rogers:

Yes.

Mr McCartney:

Tobacco smuggling seems to be a bigger issue than fuel smuggling. However, there is no dedicated subgroup to deal with tobacco smuggling.

Mr Whiting:

No, although there is a cross-border tobacco group, which — bizarrely, I suppose — sits outside

of the Organised Crime Task Force. It was created following an action point at a cross-border conference. That conference happens every year. It alternates between North and South. Because the cross-border fuel group has been so successful, we took an action point to create a cross-border tobacco group. You may ask why that does not also sit in the OCTF. At the time that the cross-border fuel group was set up, the problem of fuel fraud was only in Northern Ireland. It was hardly an issue in the South. All the smuggling was in this direction. We had agreement from Ministers in the Republic of Ireland to authorise and permit agencies in the Republic to sit on what was, effectively, a UK group, which I chair. We meet in the South, we alternate where we meet, but I chair every meeting. What happens with the cross-border tobacco group is that we alternate our meetings, but whoever is the host chairs the meeting. It is not an Organised Crime Task Force arrangement.

Detective Superintendent Marshall:

Certainly, in respect of tobacco, it is not just about the duty that is avoided. A lot of the tobacco is counterfeit. Therefore, there are also obvious health issues. That is represented on the intellectual property crime subgroup with a number of partner agencies from that industry.

Mr McCartney:

Operational decisions are a matter for each organisation. How do you, therefore, determine priority? The Chairperson has already mentioned the lack of convictions of people who are involved in fuel smuggling. Is the priority to close down plants?

Mr Whiting:

It is not a lack of convictions; I did correct that point.

Mr McCartney:

The lack of custodial sentences.

Mr Whiting:

The lack of custodial sentence decisions by the judiciary. We have had plenty of convictions.

We have had problems in the past because — this is partly an intelligence issue — a laundering plant can operate 95% of the time without anybody's being there. Therefore, it involves a big effort of intelligence and timing to catch people hands on in order to be able to say

that they are the launderers. It involves an intelligence-led operation, which takes some time. In the past, we were, perhaps, less ambitious. We would dismantle the laundering plant, but we would not catch anybody there. We are now much more ambitious, but it is extremely costly and time-consuming to conduct a surveillance operation to identify people who go into a laundering plant.

Mr McCartney:

That is the point that I am making. Maybe “understandable” is too strong a word, but which is it better to do: close the drugs supply line or try to close the supply line and catch people, when, if you leave it too long and too late, you might lose both?

Mr Whiting:

In my operations, I try to get some successes along the whole supply line. Therefore, we might try to close down a huxter site that has sold only £600 of fuel that day. That is not cost-effective. It costs more to dismantle that huxter site than would be saved in revenue that day. However, the alternative is to give a green light to the public to keep going to that huxter site.

Mr B McCrea:

Before you close the meeting, Chairperson, and just for the record, Mr Rogers said that he was not sure whether there was a memorandum of understanding. I am not absolutely certain. Certainly, Bob will have presented to the Northern Ireland Policing Board in the past. I think that it was explained to us that it was by invitation rather than by statutory obligation. I just want to be clear. I am not sure whether there is actually a formal memorandum of understanding. That was the basis under which we were doing it.

The Chairperson:

OK. Gentlemen, thank you very much for coming along.