

WORLD FACTBOOK OF CRIMINAL JUSTICE SYSTEMS

NORTHERN IRELAND

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GENERAL OVERVIEW

1. Political System.

The origins of the legal system in Northern Ireland was largely introduced on the model of England and Wales, to supplant the system operating under Celtic Law before the 17th century. In 1801, the United Kingdom was established, incorporating England and Wales, Scotland, and the whole of the island of Ireland. The Irish Republic seceded to independent nationhood in 1922. The remaining six counties of Ireland were the subject of the 1920 Government of Ireland Act, which was enacted by the Parliament in London and provided a constitution for Northern Ireland. (However, the Republic of Ireland presently retains in its constitution a claim to these six counties.) This provided a subordinate legislature based at Stormont Castle near Belfast to deal with domestic matters. The Act also conferred a distinctiveness upon the style and substance of Northern Irish statute law.

2. Legal System. Information not obtained.

3. History of the Criminal Justice System.

The Stormont Legislature described above ended in 1972 with the reversion of powers to the United Kingdom Parliament. However, many of the criminal justice arrangements in Northern Ireland remain different from those among England and Wales, primarily because of the continued political divisions expressed in terrorist acts and influential and powerful paramilitary forces acting within the Province of Northern Ireland.

One of the many fascinating but disturbing features of life in Northern Ireland is the recognition of parallel informal justice systems, with paramilitary groups dispensing justice among social groupings who would prefer not to have recourse to the official system. The most severe commonplace sanction has been the punishment shooting, where joints, most often knees, are shot in a crude retributive tariff.

CRIME

1. Classification of Crime.

*Legal classification. The classifications of crimes are similar to those in England and Wales. The one difference is the existence of scheduled offenses. These are basically terrorist offenses which activate distinctive court arrangements. The Prevention of Terrorism (Temporary Provisions) Act of 1989 is an Act of the United Kingdom Parliament which allows exclusion from the United Kingdom, from Great Britain, and/or from Northern Ireland itself.

*Age of criminal responsibility. Offenders under the age of 17 are dealt with by juvenile courts.

*Drug offenses. Information not obtained.

2. Crime Statistics.

The following criminal justice information is provided in annual reports of the Chief Constable of the Royal Ulster Constabulary. (In 1992, the number of offenses known to the police in which criminal proceedings were undertaken totaled 67,532.) Northern Ireland did not provide crime data to the Fourth United Nations Crime Survey. (The Commentary on Northern Ireland Crime Statistics in 1986 provides uniquely good data on trends in crime since 1969. It shows a dramatic increase in both completed and attempted murders during the 1970's. During this time, indictable

crime generally increased at a point when murder was declining, as did sexual offenses. As the total number of recorded crime increased, the clearance rate fell. This reflected the situation in the 1970's, when it was common not to report crimes to the police. Instead, many offenses were reported to a paramilitary group. As the intensity of the troubles fell away, more crimes were reported to the police.)

*Murder. In 1992, 14 persons were found guilty of murder and 11 guilty of manslaughter.

*Rape. In 1992, 184 persons were found guilty of sexual offenses.

*Burglary and Robbery. In 1992, 1,351 persons were found guilty of burglary and robbery.

*Serious drug offense. Information not obtained.

*Crime regions. Information not obtained.

VICTIMS

1. Groups Most Victimized by Crime.

The International Victim Survey showed Northern Ireland to have a lower rate of victimization than any other European country participating (12.5-14.9%). No other victimization information is available.

2. Victims' Assistance Agencies.

Victim support arrangements and compensation for criminal injuries is available in Northern Ireland. An active Victim Support movement works closely with the voluntary organization EXTERN and the charity of the Northern Ireland Association for the Care and Resettlement of Offenders and the Prevention of Crime. (NIACRO).

3. Role of Victim in Prosecution and Sentencing. Information not obtained.

4. Victims' Rights Legislation.

POLICE

1. Administration.

There is one police force in Northern Ireland, the Royal Ulster Constabulary. (The policing role of the paramilitary organizations should not be overlooked.) The presence of the British Army in large numbers in Northern Ireland leads the police and army forces to be commonly referred to as the security forces.

Unlike the rest of the United Kingdom, the police in Northern Ireland are directly responsible to a body appointed by the Government. The arrangements for promotion of officers is as elsewhere in the United Kingdom, with the Chief Constable being responsible for all but the most senior appointments, which are recommended by the police authority and approved by the Secretary of State for Northern Ireland. The Secretary of State for Northern Ireland may direct the Commission to investigate anything which has not resulted in a formal complaint.

2. Resources.

*Expenditures. Information not obtained.

*Number of police. There approximately 8,000 full-time officers in the Royal Ulster Constabulary. Unlike the rest of the United Kingdom, the force is not supplemented by unpaid Special Constables. Rather there is a reserve force of nearly 5,000 officers who are paid and armed. Some of these reserve officers have approached the status of full-time police officers.

3. Technology.

*Availability of police automobiles. Information not obtained.

*Electronic equipment. Information not obtained.

*Weapons. All of the male officers of the RSU carry firearms, as do some of its female officers.

4. Training and qualifications. Information not obtained.

5. Discretion.

*Use of force. Information not available.

*Stop/apprehend a suspect. Information not obtained.

*Decision to arrest. Information not obtained.

*Search and seizure. Information not obtained.

*Confessions. Information not obtained.

6. Accountability.

There is an independent Commission for Police Complaints which has the duty to investigate complaints regarding death and serious injury, and the discretionary power to supervise the investigation of any other complaint received.

PROSECUTORIAL AND JUDICIAL PROCESS

1. Rights of the Accused.

*Rights of the accused. Information not obtained.

*Rights of the accused. Information not obtained.

*Assistance to the accused. Legal aid is widely available in Northern Ireland. Unlike the situation in England and Wales, it is non-contributory. Application is made to the court pending judicial discretion. The court has the right to defer the decision until the defendant's means have been assessed.

2. Procedures.

*Preparatory procedures for bringing a suspect to trial. The investigation of crime is the responsibility of the Royal Ulster Constabulary.

If an offense other than a terrorist offense (scheduled offense) is involved, uncontested cases are heard by a single judge, and contested cases are adjudicated by a 12 person jury and sentenced by a single judge. Each defendant has the right to challenge a maximum of 12 potential jurors without giving a reason.

As in England and Wales, a jury is first invited to reach a unanimous view. If a unanimous decision is not possible, a verdict can be accepted in cases involving a maximum of 2 dissenting opinions. Like England and Wales, but unlike Scotland, the age range for jurors is 18-70.

Scheduled offenses (terrorist offenses) are heard before a single judge and without a jury. These courts, which are known as Diplock courts after the author of a report recommending the need for them in the special circumstances of Northern Ireland, are controversial. Some safeguards exist for defendants in such courts. The judge must

provide written reasons for conviction and there is the automatic right of appeal against conviction and sentence on points of law and fact. In 1990, 43% of defendants who plead not guilty to all charges before a Diplock court were acquitted.

*Official who conducts prosecution. The bulk of summary offenses are prosecuted by the police. The Director of Public Prosecutions for Northern Ireland prosecutes all offenses tried on indictment and may choose to prosecute other cases, as well.

*Alternatives to trial. A system of formal cautioning exists in Northern Ireland.

*Proportion of prosecuted cases going to trial. Information not obtained.

*Pre-trial incarceration conditions. Periods for which suspects are held on suspicion of terrorist offenses may be longer than the limits which otherwise apply, which are identical with England and Wales. As elsewhere in the United Kingdom, a person who considers that the grounds for his or her detention are unlawful may apply for a writ of habeas corpus requiring the person who detained the prisoner to appear before the court to justify the detention. Habeas corpus proceedings take precedence over others.

*Bail Procedure. Information not obtained.

*Proportion of pre-trial offenders incarcerated. Information not obtained.

JUDICIAL SYSTEM

1. Administration.

The Crown Court handles the serious criminal cases. Appeals from the Crown Court are brought to the Court of Appeal. The administration of the court system is the responsibility of the Lord Chancellor. The Northern Ireland Office, under the Secretary of State for Northern Ireland, deals with substantive law, the police and the running of the penal system.

Magistrates courts are organized geographically into 22 districts (petty sessional divisions) and generally deal with minor offenses. Juvenile courts are similarly divided. The county courts are also geographically divided.

Appeals from Magistrates courts against

conviction or sentence are heard by a higher court, which is generally the County Court, whose own jurisdiction is primarily on civil law matters. An appeal on a point of law may be heard by the Northern Ireland Court of Appeal, which also serves as the appellate court for the Crown Court in Northern Ireland. There is a provision for appeal from the Court of Northern Ireland to the House of Lords.

2. Special Courts. Juvenile Courts. Cases involving persons under age 17 are dealt with in juvenile courts by a resident magistrate sitting with two lay magistrates, one of whom must be a woman.

3. Judges.

*Number of judges. The County Courts are presided over by one of twelve County Court judges. In Belfast and Londonderry, the County Court judges are called recorders. The Court of Appeal is presided over by the Lord Chief Justice and two Lords Justices of Appeal.

*Appointment and qualifications. Each Magistrates court is presided over by a legally qualified resident magistrate.

PENALTIES AND SENTENCING

1. Sentencing Process.

*Who determines the sentence? All adults found guilty of a criminal offense in Northern Ireland are sentenced by someone who is legally trained. If the case involves a summary offense, a legally qualified resident magistrate will hear the case and impose sentencing for a finding of guilt.

*Is there a special sentencing hearing?
Information not obtained.

*Which persons have input into the sentencing process? Information not obtained.

2. Types of Penalties.

*Range of penalties. The penalty options available in Northern Ireland closely match those in England and Wales. That is, the sentence can consist of a fine, probation, community work, or imprisonment. One noteworthy difference is that a Magistrates court which has tried a case cannot

commit the case for sentence to the Crown Court.

*Death penalty. For all practical purposes, as in England and Wales, the death penalty has been abolished in Northern Ireland.

PRISON

1. Description.

*Number of prisons and type. The prison estate in Northern Ireland is much newer than elsewhere in the United Kingdom. Another point of contrast (particularly with England and Wales) is that there are no open prisons and, because of the greater average sentence length in these prisons, the prison population is disproportionately composed of those who have been convicted of scheduled offenses.

Of recent historical interest has been the practice of allowing special category status to terrorist prisoners by labeling their offenses political. The conferment and subsequent withdrawal of such status led to a series of prisoner deaths by hunger strike in 1981. The residue of the old system persisted well into the 1980s in the compound system, whereby each of the paramilitary organizations had a separate compound within the Maze prison. The compounds were essentially autonomous, with a commanding officer elected from among the prisoners. Both physically and organizationally, the arrangement evoked images of prisoners-of-war camps rather than conventional prisons.

*Number of prison beds. In contrast with England and Wales, there is no overcrowding in the prisons of Northern Ireland.

*Number of annual admissions. In 1992, the number of prison admissions of untried prisoners was 1,987. The total number of admissions of sentenced prisoners was 2,293. admissions of sentenced prisoners was 2,293.

*Average daily population/number of prisoners. In 1992, the average daily population of convicted prisoners was 1,396. The average daily population of unconvicted prisoners was 413.

*Actual or estimated proportions of inmates incarcerated. Information not obtained.

2. Administration.

*Administration. Information not obtained.

*Number of prison guards. Information not obtained.

*Training and qualifications. Information not obtained.

*Expenditure on prison system. Information not obtained.

3. Prison Conditions.

*Remissions. There is no parole system in Northern Ireland, because of the difficulties and dangers in the supervision of parolees. Remission for good conduct has been allotted to half of the sentence. If a prisoner is convicted of another prisonable offense during the term of a sentence exceeding 12 months, the balance of the original sentence may be ordered to be served consecutively with any new sentence. Terrorist prisoners who have been released and then convicted again during the term of the original sentence must serve the balance of the original sentence in addition to any new sentence.

Prisoners under a life sentence have their cases periodically reviewed by the Secretary of State on the recommendation of an internal review body. This is the most overtly political release arrangement for such prisoners within the United Kingdom.

*Work/education. Information not obtained.

*Amenities/privileges. Information not obtained.

EXTRADITION AND TREATIES

*Extradition. Standards for extradition are identical to those for England and Wales. The legal framework in the United Kingdom distinguishes between various types of states. First are those designated Commonwealth countries and Dependent Territories, where extradition is governed by the Fugitive Offenses Act of 1967. These states include: Australia, Bahamas, Barbados, Botswana, Canada, Cyprus, Dominica, Fiji, Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Lesotho, Malawi, Malaysia, Malta, Mauritius, Nauru, New Zealand, Papa New Guinea, St. Lucia, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Switzerland, Tanzania,

Toga, Trinidad and Tobago, Tuvalu, Uganda, Western Samoa and Zambia. Dependent territories include Belize, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Hong Kong, Monserrat, Pitcairn Islands, St. Helena and the Turk and Cacos Islands.

Second, the U.K has Extradition Acts which govern treaty agreements with foreign states. Such agreements include the following states: Albania, Argentina, Austria, Belgium, Bolivia, Chile, Colombia, Cuba, Czechoslovakia, Denmark, Ecuador, Finland, France, Germany, Greece, Guatemala, Haiti, Hungary, Iceland, Iraq, Israel, Italy, Liberia, Luxembourg, Mexico, Monaco, Netherlands, Nicaragua, Norway, Panama, Paraguay, Peru, Portugal, Romania, Salvador, San Marino, Switzerland and Thailand.

Finally, extradition between the Republic of Ireland and the U.K. is controlled by the 1965 Backing of Warrents Act, in accordance with the 1978 Suppression of Terrorism Act, which gives effect to the European Convention on the Suppression of Terrorism.

A current matter of active concern is the exchange of criminal records among countries of the European Union, particularly in connection with citizens of the Union seeking employment in other Union countries.

*Exchange and transfer of prisoners. Information not obtained.

*Specified conditions. Information not available.

SOURCES

- Asmal, K., "Shoot to Kill?", International Lawyers' Inquiry into the Lethal Use of Firearms by the Security Forces in Northern Ireland. (London: Mercia Press), 1985.
- Boyle K., T. Hadden and P. Hillyard, Law and the State: The Case of Northern Ireland. (London: Martin Robertson), 1975.
- Boyle K., T. Hadden and P. Hillyard, Ten Years on in Northern Ireland. The Legal Control of Political Violence. (London: Cobden Trust), 1980.
- Brown, D., Detention Under the Prevention of Terrorism (Temporary Provisions) Act 1989: Access to Legal Advice and Outside Contact Research and Planning Unit Paper 75. (London: Home Office), 1993.
- Central Office of Information, Citizen's Charter (London: HMSO), 1991.
- Central Office of Information, The British System

of Government (London: HMSO), 1992.

Central Office of Information, Criminal Justice (London: HMSO), 1992.

Central Office of Information, Britain's Legal Systems (London: HMSO), 1993.

Central Statistical Office, Annual Abstract of Statistics (London: HMSO), 1994.

Coogan T.P., The IRA. (London: Fontana), 1980.

Hebenton B. and Thomas, T., Criminal Records (Aldershot: Avebury), 1993.

HEUNI, Criminal Justice Systems in Europe and North America (Helsinki: HEUNI), 1990.

Home Office, Statistics on the Operation of Prevention of Terrorism Legislation 1992.

Home Office Statistical Bulletin 5, 16 pp. 1993.

Home Office, Victim's Charter. (London: Home Office), 1990.

Home Office, Criminal Statistics England and Wales. (London: HMSO), 1992.

Mayhew P., N. Aye Maung and C. Mirrlees-Black, "The 1992 British Crime Survey". Home Office Research Study 132. (London: HMSO), 1993.

Mayhew P. "Findings from the International Crime Survey", Home Office Research and Statistics Department Research Findings 8, 1994.

Northern Ireland Office, A Commentary on Northern Ireland Crime Statistics 1986. (Belfast: HMSO). 1987.

Scorer C. and Hewitt, P., The Prevention of Terrorism Act: The Case for Repeal. (London: NCCL), 1981.

Van Dijk J.J.M. and Mayhew, P., Criminal Victimization in the Industrialised World. (Leyden: Directorate of Crime Prevention, Netherlands Ministry of Justice), 1992.

Note: The most active criminological research facility in Northern Ireland in recent years has been EXTERN. Their reports may be requested from 7-11 Verner St., Belfast.