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# **Punishing Disorder**

**Sentencing of Public Order Offences  
in Northern Ireland**

**Neil Jarman**

**Institute for Conflict Research  
North City Business Centre  
2 Duncairn Gardens  
Belfast  
BT15 2GG  
[www.conflictresearch.org.uk](http://www.conflictresearch.org.uk)  
[director@conflictresearch.org.uk](mailto:director@conflictresearch.org.uk)  
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## Introduction

Through the spring and summer of 2005 there were numerous outbreaks of public disorder in Northern Ireland: including clashes between supporters of Glentoran and Linfield at the Oval in April, clashes between Loyalists and Nationalists in North Belfast following the final games of the Scottish football season in May, an attack on marchers and supporters at the Tour of the North parade in June, attacks on the police by Nationalist youths at the Ardoyne on the Twelfth of July, attacks by Loyalists on the police following searches of the Shankill area in August and severe rioting in West Belfast following the re-routed Whiterock Orange Order parade in September. On each of these occasions the press reported the violence but also acknowledged any cases where people were arrested and charged with public order offences. The media also frequently reported subsequent appearances in court by those charged in the days following the disorder. However, in general such reports only notes that an individual had been charged with a particular offence and, depending on the seriousness of the charge, is due to appear in court, is bailed to appear at a later date or is remanded in custody for a subsequent court appearance. Only rarely do the media report on the eventual outcomes of such cases. In fact attention is rarely paid to the sentences that are handed down by the courts for those convicted of public order offences.

This is in stark contrast to the attention that was paid to the sentences handed down to those convicted of involvement in the disturbances in Bradford in July 2001, when the courts appear to have been determined to express their condemnation of the violence and set a standard for punishing involvement in similar outbreaks of disorder in England and Wales. The level of the sentences had two significant responses. In Bradford members of the families of those convicted launched the ‘Fair Justice for All’ campaign in protest at what they perceived to be the harsh sentences given to their sons and husbands (Allen 2003; Carling et al 2004). Second, in September 2002 John Reid, the Secretary of State for Northern Ireland, announced he would be reviewing the public order law because of the considerably shorter sentences that were being handed down to rioters in Northern Ireland compared with those given to those in Bradford (*BBC News Online* 16.9.2002).

This paper considers a neglected area of public order management, the sentencing of those convicted of serious public order offences and offers some suggestions as to why sentencing levels for such offences are substantially lower in Northern Ireland than they are in England and Wales<sup>1</sup>. The paper is in four sections. The first provides some background on public disorder in Northern Ireland and on legal frameworks for prosecuting offenders. The second section analyses the levels of sentences handed down to people convicted of serious public order offences in Northern Ireland between 1995 and 2003. The third section offers a comparative element by reviewing the sentences imposed on people convicted of involvement in two recent outbreaks of serious public disorder in England and Wales, the disturbances in Bradford in July 2001 and in Wrexham in June 2003, and compares them with the prosecutions for

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<sup>1</sup> A working draft of this paper was circulated among a small group of interested parties. Useful comments were received from CAJ, NIO Criminal Justice Directorate, NI Prison Service and the PSNI and these have informed this final draft.

disorder at Drumcree in July 2002 and in North Belfast between 2002 and 2003. The final section of the paper addresses some issues related to the different responses by the courts in England and Wales and those in Northern Ireland.

## 1. Disorder in Northern Ireland

Rioting and public disorder has been a recurrent and at times a persistent feature of life in Belfast and other parts of Northern Ireland since the mid-nineteenth century (Boyd 1987; Farrell 2000). Rioting has occurred more frequently at times of political tension and especially during periods of debate over the political status of the north (Jarman 1997). Riots and disorder were a prelude to the Troubles in the late 1960s (Purdie 1990) and has been a recurrent feature of the political transition since the paramilitary ceasefires in 1994. Most riots involve clashes between groups of Protestant/Unionists and Catholic/Nationalists or clashes between one of the two main communities and the police. Many are almost set piece or ritualised events and have become relatively predictable. They occur at ‘traditional’ trouble spots and take place during the summer ‘marching season’, when tensions are already high. Most of the riots that have occurred since 1994 have been linked with disputes over loyal order parades or have occurred at interface areas (Jarman 2002). The most widespread rioting in recent years followed the decision by the police to prohibit the Orange Order’s Drumcree Church parade from returning to Portadown via the Garvaghy Road in July 1996. After four days of violence and disorder by unionists protesting against the ban the police reversed their decision and forced the parade through the Catholic area. This then led to three days of disorder in nationalist areas across the north. The following year rioting followed the decision by the police to allow the parade to take place and in 1998 riots again occurred when the parade was stopped. Parade related disorder has also occurred in other locations, with the worst of the recent violence taking place in North and East Belfast, where interface violence has been a persistent and recurrent problem since the Drumcree disturbances in 1996 (Jarman 2002). However, rioting and disorder have also been linked with other events and activities in recent years, including outbreaks of violence on St Patrick’s Day in the University area of Belfast and in relation to football matches, most prominently associated with matches between Rangers and Celtic, although disorder has also been associated with matches between Linfield and Cliftonville and more recently between Glentoran and Linfield.

Despite the frequency of outbreak of rioting and disorder, the police do not collect general statistics for riots or disorder. It is therefore impossible to quantify the overall number of disturbances or the full diversity of their locations or the precipitating factors. But, the PSNI have supplied data for outbreaks of rioting and public disorder in seven of the main interface areas of North Belfast<sup>2</sup>, which has been the most persistently troublesome area of Northern Ireland in recent years (Table 1). Their figures indicate that there were 392 cases of rioting and 1,700 disturbances in the main interface areas in North Belfast between January 1996 and April 2005.

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<sup>2</sup> The seven interface areas are: Alliance/Glenbryn; Clifton Park Avenue; Duncairn Gardens; Limestone Road; Torrens; Westland-Little America; and White City-Whitewell.

**Table 1: Public Disorder in Interface Areas in North Belfast, 1996-2005.**

<b>Year</b>	<b>Riots</b>	<b>Disturbances<sup>3</sup></b>	<b>Total</b>
1996	90		90
1997	73		73
1998	67		67
1999	86		86
2000	0	364	364
2001	59	328	387
2002/03	0	104	104
2003/04	1	238	226
2004/05	4	122	115
2005/06 <sup>4</sup>	12	544	556
<b>Total</b>	<b>392</b>	<b>1,700</b>	<b>2,092</b>

Source: PSNI North Belfast.

Although the police are unable to provide overall statistics for the number of instances of rioting and disturbances more widely across Northern Ireland, something of the scale of these disturbances, and the use of violence and force more generally, can be illustrated by police data on their use of baton rounds (plastic bullets), police injuries, petrol bombing incidents and the numbers of arrests made by the police (Table 2). It should, however, be noted that the figures in Table 2 include all ‘security related policing incidents’ rather than simply those cases involving rioting and disorder.

**Table 2: Security and public order statistics, 1995-2005.**

	<b>Baton Rounds Fired</b>	<b>Police Officers Injured</b>	<b>Petrol Bomb Incidents</b>	<b>Persons Charged</b>
1995	273	370	325	440
1996	6,949	459	1,169	595
1997	2,527	357	847	405
1998	1,236	435	855	459
1999	111	395	343	296
2000	22	446	480	303
2001	91	809	542	269
2002	255	456	591	334
2003		132	263	302
2004		136	186	223
2005	281	403	548	352
<b>Total</b>	<b>11,745</b>	<b>4,398</b>	<b>6,149</b>	<b>3,978</b>

Source: Police Service of Northern Ireland, Statistics Branch

<sup>3</sup> The additional category of ‘disturbance’ from 2000 onwards appears to have resulted in a reduction in the number of events categorised as riots. Disturbances appear to include those events which would involve charges of riotous behaviour rather than the more serious charge of riotous assembly / riot.

<sup>4</sup> The data is for the period 1 April 2005 to 31 December 2005.

These figures indicate that over the past ten years, a period when the main paramilitary organisations have been on ceasefire for much of the time, outbreaks of public disorder have remained a significant problem in Northern Ireland. While the police data reveals a large number of petrol bombing incidents, police injuries and baton rounds being fired, they also indicate that nearly four thousand people have been charged with various offences related to the violence. However, it is worth noting that the number of persons charged each year does not appear to fluctuate as much as the other factors.

### **Policing, Prosecution and Punishment**

The primary responsibility for responding to outbreaks of public disorder rests with the police and much research on public disorder focuses on the role of the police either as an agent in stimulating disorder or in helping to manage the disorder and restore a sense of public order. Although there is an expectation that an outcome of any police intervention will be arrests and prosecutions, there has been very little consideration given to this area of activity and there has been no analysis of the nature of any punishment of those involved in public disorder. The current procedure for bringing a prosecution in Northern Ireland is that PSNI are the main body responsible for investigating allegation of a criminal offence. The investigating body can then either charge an individual or submit a report to the Public Prosecution Service, which then decides whether a case is to be proceeded with. The Prosecution Service will only initiate or continue a prosecution if the Test for Prosecution is met, which requires (a) that evidence is available that provide a reasonable prospect of conviction and (b) a prosecution would be in the public interest. If these two elements are met a prosecution can be taken forward (Public Prosecution Service 2005).

Sentencing of convicted offenders however is a matter for the court, while the overall parameters of sentence levels are set down in legislation defining the offence. The sentence levels set out in legislation are a general guide to the perceived severity of the offence and, as there is always an element of discretion for judges, the sentence handed down in any case can in turn be considered an indication as to how seriously the judges consider the offence to be and how severely, or in what form the offender should be punished. However, it is worth noting that there are a number of different philosophical frameworks that structure the principle that offenders should be punished in some way. Punishment can serve as an act of retribution or revenge by society towards those who break its rules and standards, it can be used to incapacitate or prevent the offender committing further acts, it can aim to prevent or deter the offender or others from committing the offence, it can be used to set an example, it can aim to reform or help rehabilitate the offender or it can have a restorative element, and it can involve a combination of these different elements (Miethe and Lu 2005 pp15-24). A review of the scale of sentencing may provide some indication of the overall severity with which an offence is viewed, but it cannot offer much in the way of understanding the rationale behind the sentence levels, although it may offer some suggestions as to the wider social impact of a sentence. One can reasonably assume that if sentences are set at the low end of a scale, then the message being conveyed is that this offence should not be considered as too serious, but one can also assume that

the sentence will not act as much of a deterrence either to the individual being convicted or to others who might be inclined to commit the same offence

### **Offences against the Public Order**

The three main charges brought against people involved in serious public disorder are riot or riotous assembly, affray and riotous behaviour. In Northern Ireland rioting remains a common law offence, although it is also a scheduled offence under the Terrorism Act 2000. Riot is legally defined as a disturbance involving three or more persons, who assist each other in carrying out acts of violence, which alarms or terrifies at least one person. Affray, also a common law offence, involves the fighting of two or more persons, which alarms or terrifies at least one person. In both cases the maximum sentence is life imprisonment. Riotous or disorderly behaviour is an offence under Article 18 of the Public Order (Northern Ireland) Order 1987. This was initially punishable by a term of imprisonment not exceeding six months, but the maximum sentence was increased to twelve months in 2003 (see below). Two other commonly used charges are ‘possession of a petrol bomb in suspicious circumstances’ and ‘throwing a petrol bomb’. Both are offences under the Protection of the Person and Property Act (NI) 1969. Convictions are liable to a maximum sentence of five years for possession of a petrol bomb and ten years for throwing a petrol bomb.

The three main offences are similar to the offences of riot, affray and violent disorder that pertain in England and Wales, defined under the Public Order Act 1986. There are some differences however. Riot under English law requires twelve participants rather than the three required by common law, while violent disorder requires a minimum of three participants. The maximum sentence for riot in England and Wales is ten years, compared to life in Northern Ireland and the maximum sentence for affray is three years, compared with life in Northern Ireland. In contrast the maximum sentence for violent disorder in England and Wales is five years, whereas the maximum sentence for riotous behaviour in Northern Ireland is now one year. There is a rising scale of charges for public order offences in Northern Ireland, which depend on the scale of the disorder and the number of people involved, but there is a much larger gap in terms of sentence levels between the charge of common law riot and riotous behaviour than there is in England between riot and violent disorder.

Regardless of the scale or the nature of the disorder there are a number of factors that will determine the eventual charge that is brought in any prosecution. The police are limited in recommending the charge that should be brought according to the nature and the quality of the evidence they have been able to gather, rather than the nature of the activity at the time of the disorder. Furthermore, the final decision on any prosecution is taken by the Public Prosecution Service (until June 2005 known as the Director of Public Prosecutions) who relies on the Test for Prosecution. In practice prosecutors in Northern Ireland have used the lower charge of riotous disorder than the more serious charge of riotous assembly. Thus the charge that any individual may eventually face in court is not necessarily reflective of the level of disorder they were involved in but rather of the quality and nature of the available and useable evidence.

## 2. Prosecuting Public Disorder

Data on prosecutions and convictions for public order offences in Northern Ireland is not readily and easily available in a comprehensive format. The Police Service of Northern Ireland, the Northern Ireland Office (NIO) and the Public Prosecution Service all have some statistics and general information but the data from the various sources does not always appear to be comparable. The Northern Ireland Statistics and Research Agency provided the most comprehensive range of statistics on public order prosecutions and this data has been used as the source of material for this review.

Table 3 reveals that sixty three people have been prosecuted for the offence of rioting between 1995 and 2003, while over the same period one hundred and thirty nine individuals have been prosecuted for affray, eight hundred and forty six for riotous behaviour and sixteen for unlawful assembly. The pattern of prosecutions broadly reflects the scale of violence indicated by Table 2, although there appears to have been a significant increase in the number of prosecution in 2003, the first year following the intervention by the Secretary of State on this issue in 2002.

**Table 3: Northern Ireland Prosecutions for Public Order Offences, 1995-2003.**

Year	Riot	Affray	Riotous Behaviour	Unlawful Assembly <sup>5</sup>	Total
1995	12	7	74	1	94
1996	4	0	152	6	162
1997	5	5	108	7	125
1998	4	15	155	0	174
1999	7	8	87	0	102
2000	1	30	38	0	69
2001	1	15	40	0	56
2002	3	24	80	1	108
2003	26	35	112	1	174
Total	63	139	846	16	1,064

Table 4 indicates that 848 of the 1,064 individuals prosecuted for serious public order offences were found guilty of the charges and that the courts imposed a wide variety of sentences for these offences. Only a small number of people were sentenced to prison, while two thirds of those convicted received either a suspended sentence or a fine. Overall 9% received custodial sentences, 34% received suspended sentences, 15% received various forms of community supervision, 31% were fined, 6% received conditional discharges and 6% received 'other' sentences.

<sup>5</sup> Although the data reveals that 16 people have been prosecuted for unlawful assembly, only one person was convicted. The conviction occurred in 2002 and the individual was sentenced to community supervision. No further consideration will be given to prosecutions for unlawful assembly in this paper.

**Table 4: Sentencing for Riot, Affray, Unlawful Assembly and Riotous Behaviour, 1995-2003.**

Year	Immediate custody	Suspended custody	Community Supervision	Fine	Conditional Discharge	Other	Total
1995	10	29	2	25	1	5	72
1996	6	61	0	57	9	7	140
1997	3	40	0	32	8	21	104
1998	11	27	30	55	7	7	137
1999	7	12	13	39	1	2	74
2000	5	13	7	20	1	1	47
2001	1	12	16	13	8	1	51
2002	13	25	18	6	9	2	73
2003	19	67	41	13	7	3	150
Total	75	286	127	260	51	49	848
%	9	34	15	31	6	6	

The following tables provide a detailed breakdown of the sentences handed down to individuals convicted of each of the three main offences of riot, affray and riotous behaviour between 1995 and 2003 (Tables 5, 7 and 9) and the average length of sentence for those receiving a custodial sentence for riot, affray and riotous behaviour (Tables 6, 8 and 10).

Over this period fifty-five people were convicted of riot of the sixty-three who were prosecuted. Notably, the largest number of convictions for riot occurred in 2003, which accounts for almost half of all convictions over the nine years for which data is being analysed. Sixteen of the convictions for riot occurred between 1995 and 1997, while only four people were convicted of riot between 2000 and 2002. Twelve of those convicted (22%) received a custodial sentence, while twenty-eight (51%) received a suspended sentence. However, 28% of those convicted of riot received community supervision, a fine or a conditional discharge (Table 5).

**Table 5: Northern Ireland Sentencing for Riot, 1995-2003.**

Year	Immediate custody	Suspended custody	Community Supervision	Fine	Conditional Discharge	Other	Total
1995	6	3	0	0	0	0	9
1996	2	0	0	1	1	0	4
1997	0	3	0	0	0	0	3
1998	1	0	0	0	1	0	2
1999	1	5	1	0	0	0	7
2000	1	0	0	0	0	0	1
2001	0	1	0	0	0	0	1
2002	0	1	1	0	0	0	2
2003	1	15	8	0	0	2	26
Total	12	28	10	1	2	2	55
%	22	51	18	2	4	4	

The length of custodial sentence received by those convicted of riot ranges from an average of 36 months for the two individuals convicted in 1996 to just three months for the person so punished in 2003 (Table 6). The overall average sentence for the twelve persons sentenced to prison for rioting was 19.9 months. It is worth noting that the average sentence declined over the nine-year period and the lowest average sentences were given for the most recent convictions.

**Table 6: Average Sentence for Immediate Custody for Riot, 1995-2003.**

Year	Number	Average Sentence Length (months)
1995	6	21.0
1996	2	36.0
1997	0	-
1998	1	24.0
1999	1	9.0
2000	1	6.0
2001	0	-
2002	0	-
2003	1	3.0
Total	12	19.9

Between 1995 and 2003, seventy-nine people were convicted of affray of the one hundred and thirty nine prosecuted for the offence. Nineteen of these (24%) received a custodial sentence, thirty eight individuals people (48%) received a suspended sentence and twenty two people (28%) were either given community supervision, a fine, a conditional discharge or an ‘other’ form of sentence (Table 7). Convictions for affray have occurred fairly evenly over the period but as with convictions for riot, the largest number occurred in 2003, which accounted for one third of all convictions.

**Table 7: Northern Ireland Sentencing for Affray, 1995-2003.**

Year	Immediate custody	Suspended custody	Community Supervision	Fine	Conditional Discharge	Other	TOTAL
1995	0	0	0	0	0	0	0
1996	0	0	0	0	0	0	0
1997	0	5	0	0	0	0	5
1998	3	0	4	0	1	2	10
1999	2	1	0	1	0	0	4
2000	4	11	0	4	0	0	19
2001	1	6	0	0	3	0	10
2002	4	1	0	0	0	0	5
2003	5	14	6	0	1	0	26
Total	19	38	10	5	5	2	79
%	24	48	13	6	6	3	

The average sentence for the fifteen individuals convicted of affray is 20.2 months, which is similar to the average sentence for those convicted of riot (Table 8). In

contrast to the decline in the average level of custodial sentence for riot, the average custodial sentence for affray has fluctuated quiet dramatically, with the joint highest average sentences handed down in 1999 and 2002 and the lowest in 2001.

**Table 8: Average Sentence for Immediate Custody for Affray, 1995-2003.**

Year	Number	Average Sentence Length (months)
1995	0	-
1996	0	-
1997	0	-
1998	3	12.0
1999	2	30.0
2000	4	16.5
2001	1	9.0
2002	4	30.0
2003	5	12.8
Total	15	20.2

The largest number of convictions for serious public order offences has been for riotous behaviour, with 713 people being convicted between 1995 and 2003 out of 1,064 people prosecuted for this offence. Table 9 shows that just forty four individuals (6% of the total) were sentenced to prison, while 220 people (31%) received a suspended sentence and 449 persons (63% of the total) were given community supervision, a fine, a conditional discharge or some other form of sentence.

**Table 9: Northern Ireland Sentencing for Riotous Behaviour, 1995-2003.**

Year	Immediate custody	Suspended custody	Community Supervision	Fine	Conditional Discharge	Other	Total
1995	4	26	2	25	1	5	63
1996	4	61	0	56	8	7	136
1997	3	32	0	32	8	21	96
1998	7	27	26	55	5	5	125
1999	4	6	12	38	1	2	63
2000	0	2	7	16	1	1	27
2001	0	5	16	13	5	1	40
2002	9	23	16	6	9	2	65
2003	13	38	27	13	6	1	98
Total	44	220	106	254	44	45	713
%	6	31	15	36	6	6	

The average custodial sentence for those convicted of riotous behaviour was 3.5 months (Table 10). The level of sentence for riotous behaviour fluctuated substantially over the year period, however the average sentence for 2003, the most recent year for which data is available, is below the average for the period.

**Table 10: Average Sentence for Immediate Custody for Riotous Behaviour, 1995-2003.**

<b>Year</b>	<b>Number</b>	<b>Average Sentence Length (months)</b>
1995	4	5.0
1996	4	3.0
1997	3	4.3
1998	7	3.0
1999	4	3.5
2000	0	-
2001	0	-
2002	9	3.7
2003	13	3.0
Total	44	3.5

Table 11 indicates that a total of 127 people have been convicted of petrol bomb offences of the two hundred people who have been prosecuted.

**Table 11: Northern Ireland Prosecutions and Convictions for Petrol Bomb Offences, 1995-2003.**

<b>Year</b>	<b>Prosecutions</b>	<b>Convictions</b>
1995	16	9
1996	33	14
1997	42	23
1998	35	27
1999	31	21
2000	14	14
2001	14	8
2002	8	5
2003	7	6
Total	200	127

Altogether thirty-seven of the one hundred and twenty seven persons (29%) convicted of petrol bomb offences received a custodial sentence (Table 12). A total of fifty individuals (39%) were given suspended sentences and the other thirty-nine individuals (31%) were sentenced to community supervision, given a fine, a conditional discharge or 'other'.

**Table 12: Northern Ireland Sentencing for Petrol Bomb Offences, 1995-2003.**

Year	Immediate custody	Suspended custody	Community Supervision	Fine	Conditional Discharge	Other	Total
1995	2	2	2	0	0	3	9
1996	5	8	0	0	1	0	14
1997	3	19	0	1	0	0	23
1998	8	6	9	3	0	1	27
1999	7	8	4	1	1	0	21
2000	2	5	4	1	2	0	14
2001	3	1	3	0	1	0	8
2002	4	0	1	0	0	0	5
2003	3	2	0	0	1	0	6
Total	37	50	23	6	6	4	127
%	29	39	18	5	5	3	

Finally, the average custodial sentence for those convicted of petrol bomb offences was 16.7 months, although the range for annual average sentences varied from 36 months in 1995 to 9.9 months for the eight people given prison sentences in 1999 (Table 13).

**Table 13: Average Sentence for Immediate Custody for Petrol Bomb Offences, 1995-2003.**

Year	Number	Average Sentence Length (months)
1995	2	36
1996	5	21.4
1997	3	17
1998	8	9.9
1999	7	15
2000	2	15
2001	3	13.7
2002	4	19.5
2003	3	18
Total	37	16.7

The NIO data thus reveals that 22% of people convicted of riot received a custodial sentence, compared with 24% of those convicted of affray, 29% of those convicted of petrol bomb offences and 6% of those convicted of riotous behaviour. It also reveals that the average sentence for those people given custodial sentences for riot was 19.9 months compared to 20.2 months for affray, 16.7 months for petrol bomb offences and 3.5 months for riotous behaviour.

There were also wide variations in the average sentences for rioting. In 1996 the people convicted of rioting received average sentences of 36 months, but the one person convicted in 2003 received a sentence of three months, less than the average sentence for the lesser offence of riotous behaviour. The average sentence for petrol

bomb offences varied from 36 months for those convicted in 1995 to 9.9 months for those convicted in 1998, but declined by a half over the nine year period. A smaller decline in sentence levels is evident for riotous assembly from an average sentence of 5 months in 1995 to 3.0 months in 2003.

Although there is some fluctuation in these patterns there seems to be considerable variation in levels of sentencing over time. However, it is worth noting that, although the number of prosecutions jumped in 2003, the lowest average sentences for both riot and riotous behaviour were also handed down in that year, the most recent for which data is available. This may of course be influenced by the context in which the offence took place, the circumstances of the individual, and the court in which the case was heard. Nevertheless the data indicates that there has been a general, if erratic, pattern of decline in the average custodial sentence for riot, riotous behaviour and petrol bomb offences over the period for which data has been analysed.

### **Wider Contexts**

Outbreaks of rioting and disorder in Bristol, London, Liverpool and elsewhere in England between 1980 and the mid-1990s generated significant concern, analysis, reviews of policy, and led to the introduction of a new Public Order Act in 1986 (Benyon and Solomos 1987; Scarman 1981; Townshend 1993; Waddington 1992). However, little attention has been paid to how effective the new legislation was in practice and how it has been used to prosecute offenders, rather the episodic and occasional nature of rioting in England (Campbell 1993; Keith 1993; King and Brearley 1996; Panayi 1996; Power and Tunstall 1997) has meant that the focus of attention has largely fallen first on attempts to understand the causes of the disorder and prevent further outbreaks and second on improving methods of policing to reduce the potential for disorder and to prevent violence from escalating when the police intervene (Bessel and Emsley 2000; della Porta and Reiter 1998). In contrast the nature of any eventual punishment handed down to those convicted of rioting or public disorder has yet to be analysed.

When rioting broke out in a number of towns in Northern England through the late spring and early summer of 2001 the British Government acted swiftly in commissioning independent inquiries in Burnley and Oldham (Clarke 2001; Ritchie 2001), they also drew on the findings of the Ouseley Report on Bradford in the Government sponsored overview of the findings (Cantle 2001). This rapid response to the violence was in sharp contrast to the response by the authorities in Northern Ireland to the persistent and recurrent disorder that had been occurring in North Belfast since 1996 (compare Table 14 with Tables 1 & 2) and may well have been a factor in the decision by the NIO to set up the Dunlop Inquiry in late 2001 (North Belfast Community Action Project 2002).

**Table 14: Disorder and Injuries in England in 2001.**

	<b>Bradford Easter 2001</b>	<b>Bradford July 2001</b>	<b>Burnley</b>	<b>Oldham</b>
Nos. involved in disorder	c.100	400-500	400	500
Police Injuries	0	326	83	2
Public Injuries	20	14	28	3
Cost of damage	£117,000	£7.5-10m	£0.5m	£1.4m

*Source: Ministerial Group 2001:7*

While the British Government initiated a new policy agenda on the theme of building community cohesion in response to the disorder in the north of England, the judiciary in Bradford (in particular) appeared to take a hard line on those convicted on involvement in the disorder (Carling et al 2004). When the courts began to hand down sentences of four and five years for rioting family members of those sentenced began to organise in protest (Allen 2003) and the police and politicians in Northern Ireland began to take notice. Some voices were raised asking why rioting and serious disorder was so persistent in parts of Northern Ireland and why so few people were being charged with public order offences. John Reid, Secretary of State for Northern Ireland, in turn announced that he would review the apparent ‘discrepancy’ between levels of sentences for public order offences in Northern Ireland and Bradford and also noted:

*Rioting in Northern Ireland has almost become a recreational activity to some people and unfortunately the courts have viewed it to some degree like that, that it isn't such an unusual event as it is in Bradford or Oldham (BBC News Online 16.9.2002).*

As a result three interlinked initiatives were implemented.

First, during the spring and summer of 2002 close circuit television cameras were installed in many of the interface areas in North and East Belfast that had experienced persistent disorder. A number of these cameras were destroyed or damaged when they were first erected, but they were subsequently replaced (*BBC News Online* 20.3.2003; 9.5.2003). Video cameras were also used in a more systematic manner to gather evidence during disturbances at some parades. Although no specific research has been carried out, the presence of the cameras was regarded by the police as a positive factor in reducing the levels of disorder at many contentious locations since the summer of 2001 (*PSNI Press Release* 5.12.2002). Subsequently, cameras have been installed in other interface areas of North and West Belfast (*Belfast Telegraph* 23.11.2004)

Second, the government announced plans to increase the penalties for those involved in rioting. Under the Criminal Justice (Northern Ireland) Order 2003, the sentence for riotous behaviour was increased from six months to twelve months and riotous behaviour became an offence arrestable without a warrant (*NIO Press Release* 9.6.2003, *Belfast Telegraph* 9.6.2003). Despite the increase in sentences riotous

behaviour remained a summary offence, to be tried by a magistrate and the accused would not have the option of a jury trial. These changes came into force in June 2003.

Third, in certain areas the police initiated a more aggressive policy of prosecuting those involved in violent disorder and were more willing to charge people with the more serious offence of riot rather than riotous behaviour. To be able to do so however, the police needed high quality evidence, and they have increasingly relied upon CCTV and video equipment to gather this, instead of relying on the verbal evidence of police officers. It thus continues to be the quality of the evidence that determines the nature of the charge, rather than the nature of the event itself, but greater effort goes into ensuring the necessary evidence is available. This is made easier by the set piece nature of much of the recent disorder, which has either taken place at flashpoint locations or at annual or predictably contentious events.

### **3. Comparing Punishments**

This section of the study looks at the response of the wider United Kingdom criminal justice system to four recent outbreaks of serious public disorder. Two of these case studies discuss the response to events in England and Wales: the disturbances in Bradford on 7 July 2001 and in Wrexham on 22 and 23 June 2003, while the others consider the response to outbreaks of violence in Northern Ireland: a riot at Drumcree on 7 July 2002 and a number of outbreaks of disorder in North Belfast through 2002 and 2003. The case studies primarily focus on the nature and level of sentences handed down to those individuals convicted of involvement in the public disorder. Due to the limited scope of this study and its primary focus on sentence levels in Northern Ireland a broader comparison with sentencing for public order offences across the UK has not been attempted.

#### **Bradford 2001**

The rioting in Bradford in July 2001 was one of a series of outbreaks of public disorder in towns across Northern England and followed disturbances in Oldham, Leeds and Burnley<sup>6</sup>. Due to fears of an intervention by the National Front the final day of the month-long Bradford Festival, planned for 7 July, was cancelled and an anti-fascist rally was held in the city centre. A number of minor incidents led to a running battle between police and public, which in turn developed into a series of major confrontations through the evening of 7 July in the Manningham area of the city. Disturbances continued over the next few days, most notably in the Ravenscliffe estate on 9 July. It is estimated that between four and five hundred people were active on the streets of Bradford on the evening of 7 July, with damage to property estimated at £7.5-£10million.

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<sup>6</sup> This section is based on the report *Fair Justice for All: The Response of the Criminal Justice System to the Bradford Disturbances of July 2001*, by Alan Carling, Darrell Davies, Amritha Fernades-Bakshi, Neil Jarman and Peter Nias (2004). The full report is available at [www.betterbradford.org.uk](http://www.betterbradford.org.uk)

The West Yorkshire Police established a special operation, Operation Wheel, to deal with the investigation of the disturbances. The police drew heavily on video evidence in preparing their cases and created both a context video, designed to show the overall course of events, and a compilation video for each accused person to show the part they played as the events unfolded. Virtually every prosecution relied to some extent on video evidence and the more serious the public order offence, the heavier the reliance on video. Without the video evidence, it is unlikely that as many people would have been charged with riot. Video images were also compiled into ‘Wanted’ posters, which were displayed prominently in Bradford, in the media and on the Internet. The police enjoyed extensive support and co-operation from the public, above all from the Asian population, in identifying the faces on the posters.

Two hundred and fifty six individuals were prosecuted for offences related to the disturbances on 7 July 2001, one hundred and seventy eight were charged with riot, forty-four with violent disorder, seven with affray, eleven with threatening behaviour and sixteen with other offences<sup>7</sup>. All but two of the defendants were male. The median age was 20, the two oldest defendants were 46. The sixty-nine juveniles (those aged 17 or less) comprised 27% of all defendants. The available evidence suggests that 90% of defendants were of Asian background, while the remainder were white. A total of two hundred and sixteen people were convicted of public order offences arising from the disturbances<sup>8</sup>. One hundred and fourteen adults and fifty-six juveniles were convicted of riot; thirty adults and five youths were convicted of violent disorder, while six adults were convicted of affray and nine of threatening behaviour. One hundred and eighty seven of the two hundred and sixteen people convicted of public order offences received a custodial sentence (Table 15).

**Table 15: Nature of Sentence for those Convicted of Public Order Offences in Bradford.**

Principal Charge		Prison	Detention and Training Order	Community Order
Riot	Adult	110		4
	Youth	12	36	8
Violent Disorder	Adult	22	1	7
	Youth		3	2
Affray	Adult	1		5
Threatening Behaviour	Adult	2		3
Total		147	40	29

One hundred and twenty two people convicted of riot were sent to prison and thirty-six were given detention and training orders, while the remaining twelve received community orders. Twenty-six of the thirty-five people convicted of violent disorder

<sup>7</sup> A further 12 people were initially charged with public order offences related to disturbances in the Ravenscliffe estate on 9 July 2005 (Carling et al 2004:26).

<sup>8</sup> Forty-four of the defendants were granted leave to Appeal against their sentences. Sixteen Appeals were upheld, the average reduction in sentence in the successful cases was just short of 12 months, 8 juveniles also entered Appeals, of which all but one were successful.

were also given custodial sentences. The convictions for affray and threatening behaviour resulted in three custodial sentences. There were five Community Orders issued in connection with affray, and three for threatening behaviour. Four people convicted for threatening behaviour were fined amounts ranging from £100 to £250.

Table 16 lists the length of sentence for those imprisoned for riot and violent disorder. This indicates that the sentences for adults convicted of riot are much higher than for juveniles convicted of the same offence. In fact, juveniles convicted of riot received similar sentences to adults convicted of the lesser offence of violent disorder. The average sentence of adults for riot is just under 4 years and 3 months, whereas it is around 18 months for the other two categories of sentence – almost a three-fold difference in the length of sentence.

**Table 16: Length of Sentence for those Convicted of Riot and Violent Disorder in Bradford.**

Sentence	Adult Riot	Juvenile Riot	Adult V. Disorder
1 year or less	5	6	10
2 years or less	6	4	10
3 years or less	14		2
4 years or less	20		
5 years or less	51	2	
6 years or less	6		
7 years or less	3		
8 years or less	3		
9 years or less	2		
Total	110	12	22

There are two points of interest with regard to these sentences. First, the figures suggest that a *combination* of age (adult status) and charge (riot) has had the primary influence on sentencing policy. Second, there is nevertheless a large variation in the sentencing of adults for riot. The custodial sentences cover almost the entire range available, from 10 months to 9 years, where the maximum sentence is 10 years. The lowest non-custodial sentence was 200 hours Community Order, while the most common custodial sentence was 4 years 6 months (twenty seven individuals). Fourteen individuals were sentenced to longer than five years imprisonment and eighty-five were given sentences of shorter duration.

### **Wrexham 2003**

During the summer of 2003 there were a number of serious public order incidents across Britain involving attacks on refugees or clashes between what was generally termed ‘local men’ and refugees. The most serious of these events were the riots in the Caia Park estate in Wrexham on 22 and 23 June 2003 (*Guardian* 24.6.2003; 25.6.2003; 26.6.2003). The disturbances began with a dispute between ‘local men’ and Iraqi Kurdish refugees living on the estate, which erupted into hand-to-hand

fighting involving around forty people. One Kurd ended up in hospital with serious head injuries.

The following night further rioting broke out with around two hundred local youths confronting riot police, many of whom were brought in from neighbouring forces. Petrol bombs were thrown, property was attacked and four police officers were injured. Intensive policing of the estate and work by local people prevented any further violence. The disorder was variously blamed on racism, disaffected young men, alcohol, the British National Party and poor policing. Some people claimed tensions had been rising for sometime, others said the violence was unexpected. Many, if not all, of the refugees moved out of the estate as a result of the attacks. By the beginning of July seventy three people had been arrested and fifty-four people charged with public order offences.

The first trial, against twenty-four people, came to court in October 2003, four months after the events. All twenty-four persons (twenty-two males, seven of whom were under eighteen, and two girls under eighteen, none with Iraqi names) admitted charges of violent disorder under the 1986 Public Order Act, four also admitted charges related to petrol bombs. All were given custodial sentences, totalling 57 years and 10 months. Information relating to the sentences of the young people is constrained by the Child and Young Persons Act 1933, but information is available for the fifteen adults convicted<sup>9</sup>. One person received a sentence of five years for throwing a petrol bomb; the others were convicted of violent disorder: three were sentenced to four years, three received three years, four received two year prison sentences, two were given eighteen month sentences, and one each received a twelve-month and an eight month sentence. The nine young people received combined sentences of 19 years and 2 months.

There were three further trials relating to the disturbances in Caia Park. In December 2003 seven men were charged with affray for their involvement in events on the first night of the violence, they received average sentences of 15 months. In February 2004 seven Iraqi Kurds received an average sentence of five months for their involvement in the disturbances on the first night, while two other Iraqi's were acquitted. The final trial in March 2004 resulted in the conviction of ten more 'local' males. Nine adults received sentences of between 10 and 18 months for unspecified public order offences, while a 13 year old boy was given a supervision order (*BBC News Online* 12.12.2003; 14.2.2004; 16.3.2004).

The evidence from the four court cases relating to the Caia Park riots suggests that the disturbances on the second night involving clashes with the police were treated more seriously than the events on the first night when the disorder involved 'local people' and refugees. The disturbances on the first night involved charges of affray, while the events on the second night primarily involved charges of violent disorder. The first night involved fighting between rival gangs of males, while the disorder on the second night involve the use of petrol bombs and attacks on property and the forces of the

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<sup>9</sup> Data was supplied by The Court Service, Wales and Chester Circuit. See also *Daily Post* 23.10.2003: [icnorthwales.icnetwork.co.uk](http://icnorthwales.icnetwork.co.uk).

state. In each of the four trials some considerable emphasis was placed on the fact that the individuals who were charged were clearly identified from CCTV images and their actions were thus clearly visible. In one case the judge commented that the pictures of the riot emulated ‘the worst scenes in Belfast 25 years ago’.

### **Drumcree 2002**

There have been protests and disorder related to the Orange Order’s parade from Drumcree Church each year since 1995, with serious rioting erupting in 1996, 1997 and 1998. Thereafter the disorder had been less serious, and in 2002 the police decided to impose a less elaborate and extensive barricade to block the road between Drumcree Church and the Garvaghy Road. However, after the formal protest by Portadown Orangemen had taken place a group of between thirty and forty Orangemen and their supporters broke through the barricade and attacked the police with stones and other missiles. Police in riot gear eventually repelled the crowd and the barricade was reinforced by the army. The police fired three plastic bullets and used water cannon in bringing the disorder under control, while twenty-four police officers were injured in the violence. Three individuals were arrested and charged the following day with riotous assembly. They were initially remanded in custody, due to the ongoing volatility of the political environment. Eventually fifteen people were prosecuted for their involvement in the disorder at Drumcree.

Although the police scaled down the barricades for Drumcree in 2002, they introduced a more co-ordinated approach to evidence gathering through a network of video cameras. These were also centrally controlled rather than being operated by different officers on the ground and several cameras could thus be focused simultaneously on particular individuals. The police thus hoped to be able to gather clearer evidence of who was responsible for any unlawful behaviour, while officers on the ground were able to concentrate on dealing with events on the ground rather than trying to identify those involved in any rioting. This police commander believed that, whereas in the past they had to prosecute people based on available evidence, this approach enabled them gather high quality evidence of what had happened and who was responsible for the disorder, and individuals could more readily be charged with an appropriate offences.

The case against those charged with involvement in the disorder at Drumcree in July 2002 eventually came to caught in November 2003, some sixteen months after the event. This was in stark contrast to the speed in which people were prosecuted for participating in the disorder in Wrexham, where the first cases came to court just four months after the events. Fifteen men eventually faced charges of riotous assembly at Belfast Crown Court. All of them pleaded guilty. Twelve of the men received suspended jail sentences of between twelve and eighteen months and one received a six month suspended sentence. The other two men were bound over for a year (*Belfast Telegraph* 11.11.2003; *Newsletter* 11.11.2003).

The response to the prosecutions and sentences were interesting. Although the Orange Order initially condemned the violence at Drumcree, they also challenged the decision

to charge the men with riotous assembly and argued they should have been charged with the lesser offence of riotous behaviour. The defence lawyer also argued that the men were ‘law abiding citizens who got caught up in the heat of the moment’. However, Judge Kevin Finnegan said the violence was an ‘outrageous episode’ and the men should consider themselves very lucky not to have been punished more severely (*BBC News Online* 10.11.2003; *Newsletter* 11.11.2003).

The level of the sentences handed down to those convicted of riotous assembly at Drumcree in 2002 are very different from those imposed on people convicted of rioting in Bradford in 2001 and of violent disorder in Wrexham in 2003. Concerns were subsequently raised by the police and by some politicians both about the apparent lack of seriousness with which public disorder is treated by the courts in Northern Ireland, and also about the length of time it frequently takes for cases to be dealt with. The police had hoped that the trial of those charged with offences at Drumcree in 2002 would have been completed prior to the following Drumcree parade in July 2003, in order to act as a deterrence, but this did not happen. However, police scepticism with the judicial process was noted in an interview with a senior officer who noted that in the past the local magistrates had dealt with charges of riotous behaviour with no more than a £50 fine, which the officer regarded as being no more than a slap on the wrist. He believed that this gave a message that throwing stones at the police in certain circumstances and in the context of the marching season was understandable and should not be considered as a serious offence.

### **North Belfast: 2002-2003**

There have been persistent outbreaks of serious public disorder in many parts of North Belfast in recent years. In many instances the disorder began in response to contentious parades or to clashes between rival groups at many of the numerous contentious interfaces across the area (Jarman 2002). One response to the recurrent disorder at a limited number of specific locations was the installation of a number of close circuit television cameras across the area from June 2002 onwards. Cameras were installed across North Belfast to monitor the interfaces at North Queen Street, Limestone Road and in various points in the Ardoyne–Glenbryn and Whitewell-White City areas. A number of cameras were also installed to monitor the interfaces in East Belfast<sup>10</sup>. Senior police officers in both areas believe that the cameras have been a significant factor in reducing levels of violence in each area (although there has been no independent evaluation of the impact of the CCTV cameras). The PSNI in North Belfast stated that from January 2001 until June 2002 there had been one hundred and seventy four ‘serious riots’ in the area<sup>11</sup>, but that from June to December 2002, following the installation of the CCTV cameras, there were (just!) twenty-five riots (*PSNI Press Release* 5.12.2002). They also noted that they had used CCTV images to charge ninety six persons with two hundred and seventy seven public order offences. The police thus believe that the cameras have a deterrent effect on potential rioters,

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<sup>10</sup> CCTV Cameras have subsequently been installed in a number of other flashpoints in North Belfast, see *Belfast Telegraph* 23.11.2004.

<sup>11</sup> It is worth noting the difference between these figures and those supplied by the same command unit on Table 1.

provide a useful early warning system for possible disorderly situations and have enabled the police to gather better quality evidence against those involved in disorder.

However, while the police may have been happy that they have been able to use CCTV images to enable them to charge people with various public order offences, there has been no consideration given as to whether the use of CCTV evidence has had any impact on the response by the courts to the those charged with public order offences. Data supplied by the PSNI on one hundred and thirty six people prosecuted for public order offences committed in North Belfast between 4 May 2002 and 2 August 2003 indicates that few individuals received a significant punishment upon conviction (Table 17). The data also indicates that in a number of cases charges of riotous assembly were downgraded to charges of riotous behaviour, while a number of charges of having an offensive weapon were subsequently withdrawn.

**Table 17: Serious Public Order Convictions, North Belfast, 2002-2003.**

	<b>Riotous Assembly</b>	<b>Affray</b>	<b>Riotous Behaviour</b>	<b>Disorderly Behaviour</b>	<b>Total</b>
Imprisoned			10		10
Suspended Sentence			18		18
Community Service	3		16	1	20
Bound Over			1	2	3
Probation	3		12	1	16
Fine			4	1	5
Juvenile Attendance Centre	2		2	1	5
Juvenile Caution			1	1	2
Juvenile Liaison Report			1	1	2
Conditional Discharge			9	1	10
Sentence Deferred			2		2
No Result	3	8	18	5	34
Withdrawn				1	1
No Further Action			1		1
Failed to Appear			5	2	7
<b>Total</b>	<b>11</b>	<b>8</b>	<b>100</b>	<b>17</b>	<b>136</b>

Eight people were convicted of riotous assembly (in five other cases charges of riotous assembly were reduced to riotous behaviour at trial), of these three individuals were sentenced to ninety hours community service, one person received twelve months probation and two received six months probation, while two people received attendance centre orders. Ten people received custodial sentences for riotous behaviour and eighteen received suspended sentences (Table 18). Custodial sentences varied from one month to nine months, with the average sentence being 5.5 months. Suspended sentences varied from one month to twelve months, the average sentence was three months.

Although the custodial sentences for riotous behaviour are significantly lower than sentences for violent disorder in Bradford and Wrexham, they are somewhat higher

than the average sentences for riotous behaviour in Northern Ireland over recent years, where the average custodial sentence has been 3.5 years (Table 10). This suggests that the Government review of the legislation in 2002 has had some impact on sentencing practice.

**Table 18: Custodial and Suspended Sentences for Riotous Behaviour, North Belfast, 2002-2003.**

	<b>Custody</b>	<b>Suspended</b>
One month	1	6
Six weeks	1	
Two months		4
Three months		2
Four months	1	3
Five months	1	1
Six months	2	1
Seven months	2	
Nine months	2	
Twelve months		1
Total	10	18

One notable feature of these prosecutions is that seventeen individuals (one adult and sixteen juveniles) faced multiple charges of either riotous assembly or riotous disorder for offences committed on various dates. These include one individual who faced charges of rioting on twenty separate dates, another of rioting on fifteen occasions, one of thirteen offences, one of eleven and three of rioting on ten separate occasions. None of these individuals received a custodial sentence, rather most received community service or probation orders. These figures reinforce suggestions both that rioting is regarded by some young people as a ‘recreational’ activity (Jarman and O’Halloran 2001) and that the thought of facing prosecution does not act as much of a deterrent.

#### **4. Punishing Disorder?**

Public order law in Northern Ireland is similar to that in England and Wales, although the range of offences and scale of punishments has diverged since the introduction of the 1986 Public Order Act. As noted earlier the lack of any analysis of the use of the 1986 Act in England and Wales makes a broad comparison of sentencing trends impractical at this stage and, although the legal regimes differ slightly, Northern Ireland remains part of the United Kingdom and it is therefore difficult to rationalise why sentence levels should be significantly different. If anything one might expect the sentence levels in Northern Ireland to be more severe, if conviction and sentencing does actually aim to punish the culprit and deter others. However, the brief summary of the response by the criminal justice system to four recent major outbreaks of disorder indicates that this is clearly not the case.

In each of the four case studies the police produced high quality video footage to assist in prosecuting the accused. However, the nature of the charges used to prosecute individuals and the eventual sentences given to those found guilty varied significantly. In Bradford and at Drumcree charges of riot were brought by the prosecution, in both cases the defence solicitors argued that in at least some cases the defendants had acted out of character, were caught up in the passions of the moment and would not act in such a manner in a similar situation in the future. In Bradford this did not appear to have much impact on the judges and those convicted received substantial terms of imprisonment. In contrast in the case of those convicted of rioting at Drumcree suspended sentences were imposed.

There is a similar contrast between the events in Wrexham and in North Belfast. In Wrexham the violence was confined to one estate and lasted over two nights. This led to many of those involved facing charges of violent disorder, which carries a maximum sentence of five years and at least three people received sentences of four years for this offence. In contrast the disorder in North Belfast took place in number of different locations and occurred on a number of different dates over a period of a year. Many of those initially charged with riotous assembly eventually faced a lesser charge of riotous behaviour, while none of the eight individuals convicted of rioting received custodial sentences. In contrast ten of the seventy-five individuals convicted of riotous behaviour were imprisoned and received sentences ranging from one to nine months. However, as noted above none of the juveniles convicted of repeat offences received a custodial sentence.

The data from Northern Ireland indicates that relatively few people have been prosecuted and convicted in recent years for public order offences in comparison to the number of riots and outbreaks of serious public disorder and with the number of people charged with public order offences. Furthermore, only a small number of those convicted have received custodial sentences, while the average length of custodial sentences are lower than the sentences given for similar offences in England and Wales. However, the focus of this paper is not to argue that the levels of sentence for public disorder offences in Northern Ireland should be increased to come into line with those imposed recently in England and Wales. Rather it is to consider why sentences in Northern Ireland have been so low and comparatively scarce for the scale of the disorder.

There is no obvious reason for this. The maximum sentence levels in Northern Ireland for offences of riot and affray are considerably higher than for the same offences in England and Wales, although the sentence levels for riotous behaviour are considerably lower than for violent disorder, for which there is no comparable offence in Northern Ireland. One might also have expected that the persistence of public disorder as a recurrent social problem might well have led the courts to impose more severe sentences for those convicted, or at least for those convicted of multiple offences.

However, there has long been an acknowledgement of the persistent nature of inter-communal conflict in Northern Ireland. In the early 1970s William Whitelaw, then

Secretary of State, coined the term ‘acceptable levels of violence’, which still has significant currency in both public and official attitudes to forms of violence. There has thus been something of a resigned tolerance of certain forms of public disorder, which have come to be considered as variously as normal, understandable, ‘traditional’, ‘not really that serious’ or simply unavoidable. This ‘tolerance’ of certain forms of violence, particularly between members of the two main communities, has continued throughout the current transitional period (Jarman 2004). For many people rioting has become an established, if not completely accepted, feature of both the marching season and of the ongoing inter-communal tensions at interfaces. This violence often takes place within a formalised, even ritualised, framework, and is not considered to be too serious as long as it involves little more than fighting between groups of people and does not involve damage to property or loss of life.

What is perhaps unexpected is that such tolerance should extend to the prosecution service and the court system. Such a sense of tolerance is difficult to confirm, but a number of factors suggest that it does exist. In regard to the prosecution service the data (which is also backed up by anecdotal evidence from police officers) suggests that the PPS is at times reluctant to pursue a charge of riotous assembly and is often willing to reduce the seriousness of the charge to riotous behaviour and to drop secondary charges. One police officer suggested that the financial implications of any disorder, in terms of damage to property, was one of the main elements that would be taken into consideration when deciding whether a prosecution was brought and what charges might be faced.

The nature of the sentences handed down by the courts for all forms of public disorder over a period of several years is one obvious indication that these offences are not considered as being a particular problem for the social fabric of Northern Ireland. The low level of punishments convey little sense of disapproval and are likely to have little in the way of a deterrent effect, either to those convicted or to their peers. Instead the response by the courts suggests a reaction closer to ‘they happen, but as long as they do not last too long or spread too wide, then they should not be considered as serious’, rather than the sense of outrage and concern that was generated by the violence in Bradford and elsewhere. The sentences are little more than a slap on the wrist, coupled with a sense of ‘boys will be boys’.

Interviews with police officers as well as some public statements by senior officers, have suggested a certain degree of frustration within the PSNI both at the practice of reducing the charges to be faced and the low levels of sentences handed down for public order offences. The PPS and the courts may rightly guard their independence from the desires of politicians and from the police, but some police officers have asserted that the current approach to prosecutions and the current sentencing levels do not create any sense of deterrence to those who might consider becoming involved in public disorder and thus do not assist the police or those working within the communities in maintaining public order.

The sentences imposed on those convicted of involvement in the riots in Bradford did provoke a flurry of interest in Northern Ireland and led to calls for tougher sentences to be imposed on those convicted of public order offences. This brief interest was, as noted, in turn backed up by revisions to the legislation and an increase in the available sentence for riotous behaviour. But the British Government chose not to bring the public order legislation in Northern Ireland into line with that in the rest of the United Kingdom as some police officers have advocated. This suggests that the British Government believes that the current sentence provision is generally adequate and that they are not overly unhappy at the approach that has been taken by the courts over recent years. Although the Government has amended the legislation, the revised sentence levels do not yet appear to have translated into measurably tougher sentences being handed down by the courts. It was interesting to note that in one recent case, relating to the disorder following the Glentoran-Linfield match in May 2005, the magistrate saw little point in imposing a jail sentence when a two-month sentence he had imposed in a previous case had been suspended on appeal (*BBC News Online* 19.7.2005). This response suggests that some members of the judiciary are dissatisfied by the approach that is and has been adopted by the courts.

## Conclusions

There has been considerable interest over recent years at the impact of policing on public disorder, at the need for and benefits of police reform to improve the policing of public order, and at the scope for mediators and community workers to reduce the potential for violence on the streets. There has also been a considerable investment in CCTV cameras as a further tool to deter rioting and aid in the prosecution of offenders. However, there has been little interest paid in the actual process of prosecuting those involved in acts of disorder or of the deterrent effects of the sentences handed down to those convicted of serious public order offences.

This paper reviews the data on prosecutions and convictions for riot, affray, riotous behaviour and for petrol bomb offences in Northern Ireland between 1995 and 2003. The analysis indicates that relatively few people have been prosecuted for these offences and that few of those convicted receive custodial sentences. Case studies of recent outbreaks of disorder in four locations across the United Kingdom indicate that the courts in Northern Ireland appear to take a much softer approach to serious public disorder than those in England and Wales. This, it is argued is largely due to a greater tolerance or acceptance of outbreaks of public violence in Northern Ireland as a result of the recurrent disorder stretching back over several decades.

The current approach to prosecutions appears to be little more than a process of going through the motions. There does not appear to be any real belief that the prosecution process will effectively serve to punish offenders, or that successful prosecutions and sentencing will act as any form of deterrent. One obvious conclusion is that there is a need for a thorough review of the current approaches to the control and management of public disorder through the prosecution of offenders and that consideration be given to the development of a more effective range of responses to reduce levels of disorder and deter the current high levels of participation in disorder in many areas.

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