

## **PUBLIC PROSECUTIONS IN NORTHERN IRELAND**

*“Laws are like cobwebs where the small flies are caught, the great break through and the middle-sized are alone entangled in it<sup>1</sup>.”*

Most prosecutions in Northern Ireland prior to 1972 were conducted by Police Officers from the Royal Ulster Constabulary (RUC). Rarely did anyone below the Rank of Inspector prosecute a case. Prosecutions on behalf of government departments and serious (indictable) offences were the responsibility of Crown Solicitors and Crown Counsel. The Hunt Report on the RUC (1969) and the (MacDermott Working Party) Report on Public Prosecutions in 1971 spelled the death knell for the role of police in serious criminal prosecutions. The involvement of Crown Solicitors in prosecutions was at the same time abolished. The office of the Director of Public Prosecutions was created. The first DPP for NI was Sir Barry Shaw. This prosecution system remained in force for thirty three years.

The criminal justice system in Northern Ireland was about to undergo a radical change as The Belfast (Good Friday) Agreement of April 1998 provided for, among other things, a review of the criminal justice system. The Criminal Justice Review group was established under the chairmanship of Mr. Jim Daniell Director of Criminal Justice at the NI Office at that time. The Group comprised a five-member team of officials representing the Secretary of State for NI the Lord Chancellor and the Attorney-General. Five independent assessors including both legal practitioners and academics made up the remaining membership. Work began in earnest in June 1998 and eventually reported to the Government in March 2000.

The Report recommended a new Public Prosecution Service for NI which would be totally responsible for all prosecutions currently being conducted by the then RUC and latterly the Police Service of NI (PSNI). One of the significant recommendations in the justice system was that 17 year old youths would be brought within the jurisdiction of the youth courts. The Justice (Northern Ireland) Act 2002 extends the youth justice system to include 17 year olds. Youth courts only dealt with young people from 10 to 16 years heretofore. Another significant recommendation was that children less than 15 years of age should, if

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found guilty, of a criminal offence in a youth court be provided for within the care system administered by Social Services Trusts.

The Public Prosecution Service for Northern Ireland (PPS) (formerly the Department of the Director of Public Prosecutions (DPP)) was established on 13<sup>th</sup> June 2005. The PPS has responsibility for consideration and, where appropriate, the prosecution of all criminal cases in Northern Ireland. Prior to the creation of the PPS, criminal cases at all levels were prosecuted by the DPP and, in Magistrates and Youth Court cases, the PSNI.

Established under the Justice (Northern Ireland) Act 2002, the PPS was originally conceived as part of the Review of the Criminal Justice System in Northern Ireland (2000). The key services the PPS provide are:-

- The decision to prosecute in all criminal cases in Northern Ireland investigated by the Police Service of NI.
- Prosecutorial/Pre-charge advice to police
- Review of all charges prior to submission to court
- An enhanced service to victims and witnesses
- Production and issue of all summonses
- PPS lawyers conducting prosecutions in the Magistrates, Youth and County Courts (Appeals)
- The PPS will handle approximately 70,000 cases per year
- A range of diversionary options (alternatives to formal court processes), such as informed warnings and cautions administered by police; and
- Diversionary youth conferences are where the DPP chooses to refer the young offender to a youth conference rather than initiating a prosecution against him/her. These conferences are arranged and monitored by the Youth Justice Agency

The Justice (Northern Ireland) Act 2002 provided for a system of youth conferencing within the youth court system in NI as part of the move towards a more restorative form of justice. This has introduced a new layer into the judicial process for dealing with child offenders upon a finding of guilt.

The Public Prosecution Service at time of writing is headed by Sir Alasdair Frazer the Director of Public Prosecutions for Northern Ireland. Sir Alasdair is the second incumbent in the role since 1972. There is also a Deputy Director of Public Prosecutions. The DPP must be a barrister or

solicitor who has practised in Northern Ireland for not less than 10 years. Both posts are public appointments made by the Attorney General for Northern Ireland to whom the Director is responsible.

As well as assuming responsibility for all criminal cases previously prosecuted by the Department of the Director of Public Prosecutions (DPP) and the Police Service of Northern Ireland (PSNI) the Director also considers files with a view to prosecution when requested in writing to do so by a Government Department. That would include the Driver and Vehicle Testing Agency and the Department of Social Development.

Prosecutions are initiated or continued where it is satisfied that the Test for Prosecution is met. The key principles applied in the Test for Prosecution are as follows:

- Whether the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction - 'the Evidential Test' and
- Whether a prosecution is required in the Public Interest - '*the Public Interest Test*'.

Each of these stages must be separately considered but a decision as to whether or not a prosecution is in the public interest can only arise when the evidential test has been satisfied.

The funding for the PPS is provided by the Secretary of State for Northern Ireland. The Director is responsible for ensuring that public monies provided are used efficiently. All members of staff are Northern Ireland Civil Servants.

New regional offices of the PPS have been regionally established. There will be four regions in total, each coexisting with one or more court divisions.

Each region will be headed by a Regional Prosecutor (Assistant Director of Public Prosecutions) who will have overall responsibility for decision making on investigation files and for the conduct of prosecutions in that region, with the exception of certain files which will be dealt with centrally

There are also a number of Sections, each headed by an Assistant Director, which deal largely with specialised or complex areas of work. These include:

- Central Prosecutions;
- Fraud and Departmental;
- Policy; and
- High Court, International and Restraint and Confiscation.

Corporate Services is responsible for a variety of support services including Finance, Human Resources and Business Improvement.

The Rt. Hon. Lord Clyde has overseen the implementation of the Criminal Justice Review recommendations, including those related to the prosecution service.

The PPS will also be subject to continuous and independent review by the Criminal Justice Inspectorate.