



Use of Section 74 of the Criminal
Justice (Scotland) Act 2003–
Religiously Aggravated Reported
Crime: an 18 Month Review

**USE OF SECTION 74 OF THE CRIMINAL JUSTICE
(SCOTLAND) ACT 2003 - RELIGIOUSLY
AGGRAVATED REPORTED CRIME: AN 18 MONTH
REVIEW**

Kathleen Doyle

Justice Department Analytical Services Division
Scottish Executive

Scottish Executive Social Research
2006

Further copies of this report are available priced £5.00. Cheques should be made payable to Blackwell's Bookshop and addressed to:

Blackwell's Bookshop
53 South Bridge
Edinburgh
EH1 1YS

Telephone orders and enquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

Email orders
business.edinburgh@blackwell.co.uk

The views expressed in this report are those of the researchers and do not necessarily represent those of the Department or Scottish Ministers.

© Crown Copyright 2006

Limited extracts from the text may be produced provided the source is acknowledged. For more extensive reproduction, please write to the Chief Researcher at Office of Chief Researcher, 4th Floor West Rear, St Andrew's House, Edinburgh EH1 3DG

CONTENTS

| | | |
|-----------------------|---|----|
| MAIN FINDINGS | | i |
| CHAPTER ONE: | INTRODUCTION AND CONTEXT | 1 |
| CHAPTER TWO: | AIMS AND METHODOLOGY | 2 |
| CHAPTER THREE: | FINDINGS | 5 |
| | UPDATE OF CROWN OFFICE RESEARCH | 5 |
| | ANALYSIS OF CASES (January 2004 – June 2005) | 6 |
| | EXAMINATION OF CASES PROCEEDING TO GUILTY VERDICT | 12 |
| CHAPTER FOUR: | RECOMMENDATIONS | 15 |
| APPENDICES | | |
| | APPENDIX A: | 16 |
| | APPENDIX B: | 19 |

MAIN FINDINGS

Update of Crown Office and Procurator Fiscal Service (COPFS) Report

- When comparing the first six months of operation of Section 74 (27th June 2003 – 31st December 2003) with data for the same period in 2004 (27th June – 31st December 2004) – the number of incidents reported with a religious aggravation increase by 55%. During these 2 time periods, there were broadly similar patterns of Section 74 usage, with the exception that football related offences accounted for a higher percentage of reported cases in June-December 2004 and a higher percentage of cases were brought against 16-20 year olds in June-December 2004. Due to the limited timescale of this comparative exercise, the significance of these fluctuations should not be overemphasised.

Analysis of cases reported to COPFS between January 2004 and June 2005.

- There were 532 cases with religious aggravation reported to COPFS between 1st January 2004 and 30th June 2005. The rate of increase in the number of cases was compared for six month periods between January 2004 and June 2005. This analysis showed that the rate of increase in the number of cases being reported to COPFS was also increasing.

- An extraction of the COPFS database for these cases revealed that there were a total of 726 charges with a religious aggravation reported between 1st January 2004 and 30th June 2005, of which 441 (61%) were proven. Three hundred and eighty six (88%) of the proven charges were for Breach of the Peace.

- The majority of the incidents reported to COPFS during this period occurred within the West of Scotland – 303 (57%) in Glasgow and 124 (23%) in Lanarkshire. However, of the individuals accused of committing religiously aggravated offences in Glasgow, 44% lived outwith Glasgow and 30% lived outside of Glasgow and Lanarkshire. It appears that although the majority of offences reported to COPFS occur in the West of Scotland, a significant minority of those accused of committing these offences reside elsewhere.

- There were 635 accused in the cases considered of which 92% were male with the majority falling between the ages of 21 and 40. Over one third (37%) of those accused live outwith Glasgow and Lanarkshire whilst 34% live within Glasgow and 30% within Lanarkshire.

- Whereas the majority of the offences occurred in Glasgow or Lanarkshire, the amount of offences in Lanarkshire decreased over this period when comparing six month periods between January 2004 and June 2005. The amount of offences reported in Glasgow increases when doing a similar exercise.

- Reported offences most commonly occurred in the street (28%), followed by football stadia (19%) and residential areas (15%). However, the proportion of offences reported that occurred in a football stadium increased when comparing six month periods between January 2004 and June 2005.

- During this period, 174 (33%) of cases were reported as related to football, 64 (12%) as related to marches/parades and 242 (45%) involved alcohol.

- The conduct reported was deemed to be derogatory towards Roman Catholicism in 64% and derogatory towards Protestantism in 31% of cases considered here.

Data sources

- The data used in this report posed a range of methodological problems. The findings in this report should thus be treated with suitable caution.

CHAPTER ONE : INTRODUCTION

1.1 Section 74 of the Criminal Justice (Scotland) Act 2003 was implemented on 27th June 2003 and states that ‘an offence is aggravated by religious prejudice if –

(a) at the time of committing the offence or immediately before or after doing so, the offender evinces towards the victim (if any) of the offence malice and ill-will based on the victim’s membership (or presumed membership) of a religious group, or of a social or cultural group with a perceived religious affiliation; or

(b) the offence is motivated (wholly or partly) by malice and ill-will towards members of a religious group, or of a social or cultural group with a perceived religious affiliation, based on their membership of that group’.¹

The Act states that, when sentencing, the Court must take the aggravation into account and must state the extent of, and the reasons for, the aggravation making a difference to the sentence which would otherwise have been imposed if the offence did not feature such an aggravation.

1.2 In response to Action Point 16 of the Action Plan on Tackling Sectarianism in Scotland, the Scottish Executive and the Crown Office and Procurator Fiscal Service (hereafter COPFS) have worked together to provide an analysis of the cases containing a religious aggravation reported by the police to COPFS between 1st January 2004 and 30th June 2005. The specific aims of this research project were:

- to gain an understanding of the information collected on religious aggravated offences and provide practical recommendations in order to obtain a more systematic and robust evidence base;
- to provide an update of the research previously conducted and published by the COPFS (June, 2005); and
- to provide an in-depth examination of case information available from the COPFS.

1.3 The rest of this report is structured as follows. Chapter 2 will look at the methodology used and discuss the analytical limitations of the available data sources. Chapter 3 will present the findings of this study, and chapter 4 will present recommendations for future research activity.

¹ Crown Office and Procurator Fiscal Service (2005) *Sectarian/Religiously Aggravated Crime: An analysis of the first 6 months* (Edinburgh: Crown Office and Procurator Fiscal Service)
<http://www.crownoffice.gov.uk/Resource/Doc/9/0000077.pdf>.

CHAPTER TWO: METHODOLOGY

2.1 An initial scoping exercise was undertaken to determine the information available from COPFS. The COPFS Case Management Database is a live, operational database used to manage the processing of reports submitted to Procurators Fiscal by the police and other reporting agencies. It is a national database for the entire Service and contains two types of information about cases reported to the Procurator Fiscal: a copy of the initial report to the Procurator Fiscal and electronic data relating to the accused and the charges against the accused. As the case is processed, additional data about witnesses, court dates and the results for each charge as well as important case documents will be added to the database. The Procurator Fiscal will often make changes to the initial charges reported by the police and these changes are reflected in the electronic case data although details of the original charge as it was reported are not retained in the database and the text of the police report remains in its original format. It is therefore possible, when comparing police reports with the case data, to find a closed case in which the charges contained in the initial report are different from the charges, for which the accused was convicted, as recorded in the database. For example, an initial report may include a charge of religiously aggravated assault but the database shows that the accused was later convicted of breach of the peace with no religious aggravation. These considerations mean that great care must be taken when interpreting data from the database and that it is not always possible to obtain statistical information in a way that would be possible from a statistical database. In addition, much of the contextual information about the nature of the religious aggravation is available in the text of the police report but is not held as data in the database. This meant that the police reports were used as the primary source of contextual information about the religious aggravation and follow up queries about the progress of the case were answered using the case data.

2.2 As police reports to COPFS are used as the main data source for this study, the figures presented in this report cover only the incidents where a religious aggravation was reported by the police to the COPFS.

2.3 It should be noted that not all incidents of religious aggravation come to the attention of the police and it is therefore not possible to draw conclusions on the total amount of incidents with religious aggravation. This report should, therefore, not be used to determine the level of religiously aggravated incidents in Scotland or to compare the level of such incidents between different areas of Scotland.

2.4 The COPFS database was used to identify case numbers involving a religiously aggravated charge from 1st January 2004 to 30th June 2005 and provide information on the proceedings of such charges through the court system. The police reports relating to these case numbers were then retrieved electronically from the database and analysed.

2.5 There is a standard format for all reports provided to the Procurator Fiscal, the Standard Prosecution Report (SPR), but it is a general format that is applicable to all offences reported by all reporting agencies and it therefore has limited scope to standardise the collection or presentation of information perceived as impacting on religious prejudice, (e.g. the role of alcohol, football or marches). Consequently, the richness and robustness of the information is variable both within and across police forces. This lack of reliability in the data necessitates that a great deal of caution should be employed when interpreting figures in this report.

2.6 The primary information contained in the police reports to COPFS and the electronic data which tracks cases through the justice system is essentially the same. However, as police reports count cases and the electronic data counts accused and charges, there are some practical difficulties in associating information from these two sources. In order to address these practical difficulties, it was decided to track cases that involved one accused and one charge.

2.7 The cases that fulfilled this criteria (one accused with one charge) were followed through the court process allowing for contextual information (derived from the police reports) to be associated with information on the progress of these cases.

2.8 For analytical purposes, the 18 month period being reviewed was divided into 3 separate six months periods: 1st January to 26th June 2004; 27th June to 31st December 2004; and 1st January to 26th June 2005². This enables the same period to be considered when updating and comparing figures with those published by COPFS (COPFS, 2005).

² Which will be referred to as June – December 2004, January – June 2005 and June – December 2005 throughout the remainder of this report.

CHAPTER THREE: FINDINGS

3.1 This chapter is separated into 3 sections. Section 1 compares the findings from the COPFS report on the first 6 months (27th June 2003 – 31st Dec 2003) of the operation of Section 74 of the Criminal Justice (Scotland) Act 2003 with data for the same period in 2004 (27th June 2004 – 31st Dec 2004). Section 2 explores cases with a religious aggravation between Jan. 2004 and June 2005 using the COPFS data base and police reports. Section 3 combines data from the police reports and the COPFS database to explore the context and progress of cases involving one accused and one charge (see paragraphs 2.4-2.6 for an explanation of this approach).

Section 1: Update of COPFS Report

3.2 In June 2005, COPFS published a report analysing the first 6 months (27th June 2003 – 31st Dec 2003) of operation of Section 74 of the Criminal Justice (Scotland) Act 2003. This section compares the data collected on the first 6 months of operations with data from the same period during 2004 (27th June 2004 – 31st Dec 2004). Annex A contains the updated main tables from the original COPFS report, which compare the figures for 27th June 2003-31st Dec 2003 and 27th June 2004 – 31st Dec 2004. These tables indicate the following main findings:

- The number of reported incidents increased from 108 to 168, a 55% increase. This increase of 59 incidents is largely a result of the increased reporting within Glasgow and Lanarkshire; from 58 to 90 in Glasgow and from 24 to 48 in Lanarkshire.
- The percentage of incidents that occurred in Glasgow did not change significantly (54% to 55%), whereas the proportion of incidents that occurred in Lanarkshire increased slightly (22% to 29%)
- The police were the intended target of religious aggravation in 57 of the 168 cases between June and December 2004. In terms of the percentage of all cases, the police were the targets in 34% of cases in June –December 2004, compared to 36% in June – December 2003.
- A broadly similar proportion of cases involved accused being reported as under the influence of alcohol, however this finding should be taken cautiously due to the large amount of cases where the role of alcohol was not stated.
- In 100 of the 168 cases between June and December 2004, the conduct was viewed as derogatory towards Roman Catholicism, while in 57 cases the conduct was derogatory towards Protestantism. Between the two periods considered, there is a slight decrease in the percentage of cases viewed as derogatory to Roman Catholicism 63% to 59%, and the percentage of cases viewed as derogatory to Protestantism slightly increased from 29% to 34%. It should be noted that no information was available on the victim's religion, and thus it is not possible to infer from these data which religious group was targeted by these offences.
- During both the time periods considered, the majority of cases were brought against males. When considering the age of all accused, there would seem to have been an

increase in the proportion of accused aged 16-20 year olds (from 18% to 28%) and decrease in those aged 21-30 (from 40% to 31%).

- Due to the high number of cases which did not state whether the incident was related to football or a march/parade, it is difficult to come to strong conclusions of any such associations. However, if we were to assume that all cases that were linked to football or a march/parade were reported as such, there was an increase in football related incidents (14% to 21%) and a decrease in march/parade related incidents (15% -9%) between these 2 time periods.

3.3 The evidence from the cases considered during this period (June – December 2004) largely concur with the initial trends identified in the COPFS report. There are some slightly fluctuations, however these should not be over- emphasised due to the limited time covered by these comparisons. A further examination of the cases, presented in the next section, will provide a better understanding of relevant trends and a more in-depth examination of the characteristics of those who were charged with religiously aggravated offences between Jan 2004 and June 2005.

Section 2: Analysis of Cases between January 2004 - June 2005

3.4 Two data sources are used in this section to further explore the cases reported to COPFS between Jan 2004 – June 2005. The first is the COPFS database, which allows charges to be tracked through the court process, and the second is police reports to COPFS, which allows consideration of the circumstances of each event leading to a charge. It should be noted that as police reports are concerned with a particular incident that may give rise to a number of charges for a number of different offenders, there are less police reports than charges.

Analysis of COPFS data base January 2004-June 2005.

3.5 Based on data from the COPFS data base there were 726 charges with a religious aggravation from 1st January 2004 to 30th June 2005. At 17th January 2006, 441 (61%) of these charges were proven, 105 (14%) were found to be not guilty, 13 (2%) not proven and 13 (2%) had been deserted. Ninety six charges (13%) had yet to be completed and 21 (3%) had not been taken any further. No proceedings had been taken in relation to 37 charges (5%).

3.6 Of the 441 charges proven, 386 (88%) were breach of the peace, 29 (7%) were in relation to assault charges³ and 13 (3%) were vandalism charges⁴. Each charge recorded has a corresponding aggravation code that categorises the charges into different types of religious prejudice. Table B - 1 in the appendix provides a breakdown of the aggravation codes for charges proven.

³ This is an aggregate figure that includes different types of assault charges including police assault.

⁴ The remaining 13 cases were dispersed across a range of other charges which cannot be detailed here due to data protection.

Analysis of Police Reports to COPFS Jan 2004 – June 2005

Numbers of Cases and location of incident

3.7 Six hundred and forty cases have been reported to Procurators Fiscal since Section 74 came into force. Table 1 gives a breakdown of all these cases, however the majority of this report will focus on the 532 cases that occurred between 1st January 2004 and 30th June 2005 and for which the police reports were analysed. Table 1 shows that there has been an ongoing increase in the number of cases during this period, with the number of cases increasing by larger amounts every 6 months. This upward trend is expected after the introduction of a new measure, and so it is too early to discern particular patterns from this data.

Table 1 Number of Cases for each 6 month period

| Six month periods | Number |
|--|---------------|
| 27 th June – 31 st December 03 | 108 |
| 1st Jan - 26th June 04 | 130 |
| 27th June 0-30th Dec 04 | 168 |
| 1st Jan - 26th June 05 | 234 |
| Total | 640 |

Source: Crown Office and Procurator Fiscal Service (2005) *Sectarian/Religiously Aggravated Crime: An analysis of the first 6 months* (Edinburgh: Crown Office and Procurator Fiscal Service) and the police case papers for all cases between 1st January 2004 to 30th June 2005

3.8 Whereas the data for the whole of Scotland does not provide a great insight into the use of Section 74, it is possible to detect some interesting findings when looking at the data for individual Local Authority areas. Table B - 2 in the appendix provides detailed results for all Local Authority Areas, with the results for Glasgow and Lanarkshire reproduced in Table 2. These tables show the majority of offences occur in Glasgow and Lanarkshire. A total of 427 cases between January 2004 and June 2005 were located within Glasgow and Lanarkshire (North and South combined), 303 and 124 respectively. The number of reported incidents in Glasgow increased from 59 in the first 6 months to 154 in the last 6 months of this review while Lanarkshire's incidence reduced from 47 to 29 in the same period. Notably, the reduction in the number of cases within Lanarkshire was predominantly within North Lanarkshire. Whereas the time series is too short to assess whether such a change is significant, for example it may be due to exceptionally local circumstances in this period, it is still unexpected, especially when compared to the increase in cases in Lanarkshire found in section 1 of this chapter.

3.9 It is worth restating at this point that these figures are based on police reports to Procurators Fiscal and thus represent police activity to detect and report offences that are religiously aggravated. As such, they should not be taken to reflect the amount or pattern of such offences that occur in Scotland.

Table 2 Offences that Occurred within Glasgow and Lanarkshire

| Local Authority Area | 1st Jan - 26th June 04 | | 27th June - 30th Dec 04 | | 1st Jan - 26th June 05 | | Total | |
|----------------------|------------------------|------|-------------------------|------|------------------------|------|--------|------|
| | Number | % | Number | % | Number | % | Number | % |
| Glasgow | 59 | 45.4 | 90 | 53.9 | 154 | 65.5 | 303 | 57.0 |
| North Lanarkshire | 28 | 21.5 | 29 | 17.4 | 15 | 6.4 | 72 | 16.5 |
| South Lanarkshire | 19 | 14.6 | 19 | 11.4 | 14 | 6.0 | 52 | 9.8 |
| Total | 106 | 81.5 | 138 | 82.7 | 183 | 77.9 | 427 | 83.3 |

• **Note to table**

The percentages shown here do not add to 100 as they are based on the proportion of all offences across Scotland, not within the Glasgow and Lanarkshire areas.

Source: Police case papers for all cases between 1st January 2004 to 30th June 2005

3.10 Table 3 presents the location of offences for the 532 cases reported to Procurators Fiscal between Jan 2004-June 2005. The incidents occurred in various places across Scotland with the most frequent being busy main streets (n=151: 28.4%). One hundred incidents (18.8%) occurred in football stadia while 79 (14.8%) occurred in a residential area and 67 (12.6%) in a private household. For each 6 month period considered, the number of incidents more or less saw a gradual increase for each locus, with the exception of those located on a busy main street and in a football stadium. The number of reported incidents on a busy main street increased from 39 in January – June 2004 to 43 in June – December 2004, and to 69 incidents in January – June 2005. The number of reported incidents that occurred in a football stadium increased from 10 in January - June 2004 to 55 in January – June 2005. The proportion of reported incidents that occurred in a football stadium rose from 8% to 24% during the same period. Thus, there seems to be more active use of this measure in football stadia. Please see the later paragraphs of this report which consider all football-related incidents, including those that occurred outwith a football stadium.

Table 3 Locus of Offences for each 6 month period

| Locus of Offence | 1st Jan - 26th June 04 | | 27th June - 30th Dec 04 | | 1st Jan - 26th June 05 | | Total | |
|--------------------|------------------------|-------|-------------------------|-------|------------------------|-------|--------|-------|
| | Number | % | Number | % | Number | % | Number | % |
| Club/pub | 12 | 9.2 | 16 | 9.5 | 21 | 9.0 | 49 | 9.2 |
| Domestic Dwelling | 18 | 13.8 | 25 | 14.9 | 24 | 10.3 | 67 | 12.6 |
| Football Stadium | 10 | 7.7 | 35 | 20.8 | 55 | 23.5 | 100 | 18.8 |
| Main Street | 39 | 30.0 | 43 | 25.6 | 69 | 29.5 | 151 | 28.4 |
| Police Car/Station | 7 | 5.4 | 14 | 8.3 | 13 | 5.5 | 34 | 6.4 |
| Residential Area | 25 | 19.2 | 21 | 12.5 | 33 | 14.1 | 79 | 14.8 |
| Transport | 5 | 3.8 | 5 | 3.0 | 6 | 2.6 | 16 | 3.0 |
| Other | 14 | 10.8 | 9 | 5.4 | 13 | 5.5 | 36 | 6.8 |
| Grand Total | 130 | 100.0 | 167 | 100.0 | 235 | 100.0 | 532 | 100.0 |

Note to table

- Not all of the percentages sum to 100 due to rounding
- Source: Police case papers for all cases between 1st January 2004 to 30th June 2005

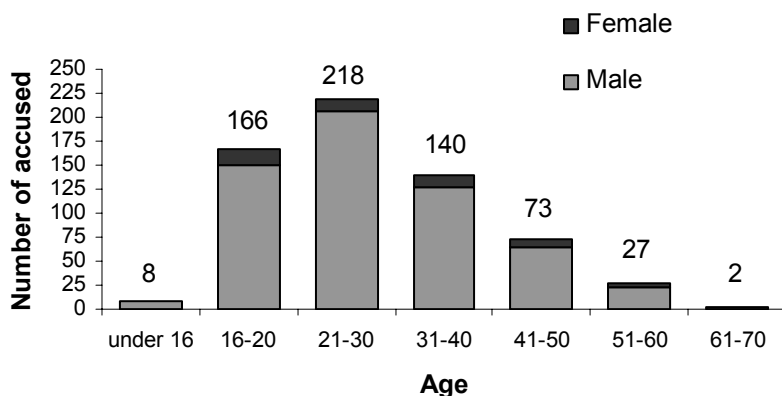
3.11 When comparing the difference in the locus of the incidents for Glasgow and Lanarkshire, 44% in Glasgow in comparison to 26% in Lanarkshire occurred on busy main street. Moreover, proportionately more incidents occurred within a private household and a residential area in Lanarkshire; within Glasgow 9% and 17% of incidents occurred in a private household and a residential area respectively, in comparison to 19% and 25% in Lanarkshire⁵.

Analysis of individuals accused of an offence with religious aggravation

3.12 From all the 532 cases considered here, there were a total of 635 individuals accused of religious prejudice. The overwhelming majority of the accused were male (92%) with an average age of 29 years. Figure 1 shows the number of accused within each age bracket for male and female accused. The most frequent age group is 21-30 for males and 16-20 for females. Just over one third of all accused were between the ages 21-30 while 26% were between 16-20 and 22% between 31-40.

⁵ As all the offences within a football stadium occurred in Glasgow the proportions for all other areas in Glasgow were skewed when being compared to Lanarkshire. As a result, offences located within a football stadium were omitted when calculating all the figures in this paragraph.

Figure 1 Age of accused for male and female



Note to chart

- The total number here is 634 as the age for one of the accused was not detailed within the case paper.
- Source: Police case papers from 1st January 2004 to 30th June 2005

3.13 The majority of the accused reside within Glasgow and Lanarkshire, 34% and 30% respectively. Details can be found in Table B - 3 in the appendix. For each 6 month period examined the proportion of the accused across all Local Authority areas increased gradually with the exception of North Lanarkshire where the proportion of accused decreased from 26% in January – June 2004 to 12% in January – June 2005.

3.14 When looking at the area of residence for individuals accused of committing an offence in Glasgow, an interesting pattern emerges: 44% of the offences in Glasgow were committed by those who reside outwith Glasgow while 30% of offences in Glasgow were committed by those who live outwith Glasgow and Lanarkshire. Conversely, offences located within Lanarkshire were primarily committed by those living within Lanarkshire, with 58% living in North Lanarkshire and 33% in South Lanarkshire. It would appear that although religious aggravated offences are predominantly reported in Glasgow, a significant minority of individuals committing these offences lived throughout Scotland.

Victims of an offence with religious aggravation

3.15 In 507 of the 532 cases considered, the conduct of the accused was viewed as derogatory to Roman Catholicism or Protestantism; 343 (64%) and 164 (31%) respectively. It should be noted that there is no information available on the victims’ religion and thus it is not possible to infer from these data whether members of a particular religion were subjected to these offences.

3.16 The conduct of the accused was directed toward certain individuals and/or groups which were categorised as follows: the community⁶, civilian⁷, police and worker⁸. From all

⁶ Community denotes groups within the general public for instance passers by, neighbours, football supporters, March participants and so on.

⁷ Civilian can include an individual known or unknown to the accused.

⁸ Worker includes a member of staff in the leisure industry, transport or hospital.

532 cases, a total of 647 individuals/groups were targeted. In 41% of cases the target was the community, a civilian in 24% of the cases and a worker in 7% of the cases. The police were subjected to religious aggravation in 28% of the cases.

Incidents related to the Consumption of Alcohol, Football or Marches

3.17 The data collected from the police reports was examined thoroughly to explore any links between alcohol, marches, football and cases with religious aggravation. It should be noted that the police reports did not consistently record information about these elements and thus the data contained in the following sections should be treated with caution.

3.18 In 255 (out of 532) cases, the police reports explicitly stated whether alcohol was involved in the incident⁹. The police reported that in 242 of these cases the accused was under the influence and in 13 cases the accused was not. It could be inferred from a further 73 cases that it was likely the accused was under the influence¹⁰, however, this was not explicitly stated in the police report. Table 4 provides a detailed account of the locus of the offences when the accused was, or was likely to be, under the influence of alcohol. These loci are widely dispersed with the most frequent occurring on a busy main street, which is particularly noticeable amongst accused who were likely to be under the influence of alcohol. Notably, due to the way in which the locus of the incidents are reported, it is possible that a number of the incidents that occurred on a main street would have been outside a pub or club.

3.19 In 64 (out of 532) cases, the police reports stated that the case was specifically related to a march or parade. The number of cases increased from 14 to 35 between January – June 2004 and January – June 2005. Not surprisingly, the majority of these offences (45) took place on a busy main street, 9 in a residential area and 6 in a club or pub¹¹. Of these 64 cases, 52 occurred in relation to County Grand Orange Lodge Parades, 6 in relation to the Apprentice Boys of Derry Marches and 6 in relation to Republican Marches. The conduct of the accused revealed that in the majority of the cases religious aggravation was directed towards the participants and/or spectators of the march.

Table 4 Locus of Offences for Accused Under the Influence of Alcohol

| Locus of Offence | Accused under the Influence of Alcohol | | | | | |
|-------------------|--|------|--------|------|--------|------|
| | Yes | | Likely | | Total | |
| | Number | % | Number | % | Number | % |
| Club/pub | 35 | 14.0 | 8 | 11.0 | 43 | 13.7 |
| Domestic Dwelling | 44 | 18.2 | 2 | 2.7 | 46 | 14.6 |
| Football Stadium | 14 | 5.8 | 2 | 2.7 | 16 | 5.1 |
| Main Street | 65 | 26.9 | 35 | 47.9 | 100 | 31.7 |

⁹ The level of information provided in the police reports is inconsistent whereby it is not standard practice to document the role of alcohol. Further to this, the inconsistency also means that it is impossible to establish when there are multiple accused within one case whether all or one of the accused was under the influence. Within the 242 cases where the police stipulated the accused was under the influence 38 of these cases have more than one accused.

¹⁰ When documenting the information within the police reports the contextual information (location, time and description of the incident) was taken into consideration and it was noted whether the accused was “likely” to be under the influence of alcohol.

¹¹ The remaining 4 cases cannot be disclosed due to data protection.

| | | | | | | |
|--------------------|-----|-------|----|-------|-----|-------|
| Police Car/Station | 19 | 7.9 | 9 | 12.3 | 28 | 8.9 |
| Residential Area | 35 | 14.5 | 12 | 16.4 | 47 | 14.9 |
| Transport | 10 | 4.1 | 1 | 1.4 | 11 | 3.5 |
| Other | 20 | 8.3 | 4 | 5.5 | 24 | 7.6 |
| Grand Total | 242 | 100.0 | 73 | 100.0 | 315 | 100.0 |

Note to table

- Not all percentages add to 100 due to rounding
- Source: Police case papers for all cases between 1st January 2004 to 30th June 2005

3.20 Just under one third (174) of all cases were related to a football match or the support of a particular football team¹² with 100 occurring in a football stadium, 31 on a busy main street, 17 in a pub or club, 15 in a residential area, 6 in a private household and 5 in other locations that cannot be easily slotted into one of the above categories¹³. Of the 100 incidents located in a football stadium, 63 were in Celtic Park, 25 in Ibrox Stadium (Rangers Football Club), and 11 at Hampden Park (Scotland’s national football stadium)¹⁴. Sixty-one cases took place during old firm matches (Rangers and Celtic) while 39 involved other football teams playing against one of the old firm teams, most notably Heart of Midlothian and Celtic (n = 19)¹⁵. The details of the remaining 74 cases that did not occur in a football stadium are quite diverse and can only be presented in very broad categories. Thirty one cases occurred in relation to an old firm game, 16 cases occurred as a result of the accused(s) targeting an individual wearing football regalia, 10 cases involved the accused(s) stating his/her support for Rangers Football Club whilst targeting a Celtic supporter and 4 cases involved the accused(s) stating his/her support for Celtic Football Club whilst targeting a Rangers supporter.

3.21 When examining the police reports, it was interesting to note that in only 16 of the 532 cases the police set out the motive of the offence. From these 16 cases the police detailed the motive of the crime according to the accused in 4 cases and according to the victim/witnesses in 12 cases. The police reports also detailed the police officer’s view of the motive in 5 cases. Thus, it is clear that documenting the motive of the crime is not standard practice across police forces and, where the motive of the crime is documented, it is not done in a consistent way.

Section 3: Cases Known to Proceed to a Guilty Verdict

3.22 The proceedings for 385 (out of 532) cases involving one accused with one charge were able to be ascertained (see paragraphs 2.4-2.6 for an explanation of this approach). A total of 276 (72%) of these cases resulted in a verdict of guilty. These guilty cases were analysed and it became evident that similar trends were emerging in comparison to all the cases considered during this period:

¹² When documenting the information of football related incidents consideration was not only given to football games but also language that referred to a particular football team and reference to football regalia/symbols. This may reflect the difference in the figure provided by COPFS.

¹³ The remaining case cannot be disclosed due to data protection.

¹⁴ The location of the remaining case cannot be disclosed due to data protection.

¹⁵ A detailed breakdown of football games when the offence occurred within a football stadium cannot be presented due to data protection.

- In 95% of the cases the accused was charged with, and found guilty of, committing a breach of the peace. In 176 of these cases the corresponding disposal was ascertained for all charges with 68% of offenders receiving a fine for their conduct¹⁶.
- The majority of these cases occurred in the west of Scotland with 45% of those accused residing outwith Glasgow and 32% residing outwith Glasgow and Lanarkshire.
- The types of place where the incidents occurred were widely dispersed with 26% percent on a busy main street, 23% in a football stadium, 14% in a residential area, 13% in a domestic dwelling, 7% within or outside a pub or club, 7% in a police car/station, 3% within a mode of public transport and 7% in other locations.
- The accused were predominantly male with an average age of 30. The most predominant age group is 21 - 30 for males, while 36% of all accused were between the ages 21 – 30, 25% between 16 – 20 and 22% between 31 – 40.
- In 67% of cases the conduct was viewed as derogatory to Roman Catholicism while 30% of the cases were viewed as derogatory to Protestantism¹⁷.
- From the 276 cases found guilty, a total of 324 individuals/groups were targeted. In 45% of the cases the target was the surrounding community, a civilian was targeted in 17% of the cases and a worker in 3% of the cases. The police were subjected to religious aggravation in 34% of the cases.
- In 133 of these cases the police explicitly stated whether alcohol was involved in the incident; the accused was under the influence in 125 of these incidents while the accused was not under the influence in 8 incidents.
- In 33 cases (12%) the police stated that the incident was in relation to a march or parade.
- A football match or the support of a particular football team featured in 103 of the 276 cases examined here, of which 63 (61%) took place within a football stadium. The remaining 40 cases were widely dispersed in a pub or club, residential area or a private household.

3.23 As the data source for the guilty cases was merged with an extraction from the COPFS data base, it was possible to look at the aggravation code used by the police or the Procurator Fiscal and the corresponding information collected from the case papers. What became evident when analysing this data was an inconsistency in the reporting and use of religious aggravation codes for offences related to football. There were disparities in the number of cases related to a football match or the support of a particular team based on information collated from the police reports and the corresponding religious aggravation charge codes in the COPFS data base. Table 5 provides details of the religious aggravation codes for the 102 incidents related to football according to the text of the police reports. In 37 cases it was clear within the narrative of the police case papers that the incident was related to a football game or the support of a particular team yet the relevant charge used only

¹⁶ Due to court processes disposals can be related to a number of different charges for the one accused. This figure represents cases where the disposal was solely for one charge with a religious aggravation.

¹⁷ Please note that no information was available on the victims' religion.

the religious aggravation instead of the religious/football aggravation. Furthermore, there were 8 incidents where the offence was located within a football stadium yet the religious aggravation code did not reflect this. It is unclear why these disparities occurred and it is impossible to know if the charge code was inputted incorrectly by the police or amended, if at all, by the Procurator Fiscal.

Table 5 Cases Related to Football (police case papers) by Religious Aggravation Code (Crown Office database)

| Aggravation Code | Number | % |
|------------------------------|---------------|----------|
| Religious Prejudice | 37 | 36 |
| Religious Prejudice Football | 65 | 64 |
| Grand Total | 102 | 100.0 |

Note to table

- There is one case not presented due to data protection.
- Source: Crown Office and Procurator Fiscal Service (2005) *Sectarian/Religiously Aggravated Crime: An analysis of the first 6 months* (Edinburgh: Crown Office and Procurator Fiscal Service) and the police case papers for all cases between 1st January 2004 to 30th June 2005

CHAPTER FOUR: RECOMMENDATIONS

4.1 In order to gain a more robust evidence base it is recommended that:

- COPFS and the Scottish Police Service should consider ways of including consistent information about the nature of the religious aggravation in all cases where it is relevant. Details of the motive of the crime, from the accused, police and victim/witnesses perception, should be sought. Details regarding whether the accused and/or victim/witnesses were, or were not, under the influence of alcohol should be explicitly documented. Similarly, whether a football match or the support of a particular football team and/or a march or parade is, or is not, related to the incident should be explicitly documented. This would allow a more robust assessment of the association between Section 74 aggravations and these factors.
- COPFS and the Scottish Police Service should consider a mechanism to ensure consistent recording of aggravation codes.
- Future research should consider collecting information from police reports in a format that is easily associated with the electronic data collected by COPFS on progress through the court system. Consideration should be given to tracking accused and/or charges rather than cases.
- Further research could consider conducting some research around the operation and impact of Section 74. This could include:
 - The implementation of Section 74 in police forces areas;
 - Underlying beliefs and motivations of those convicted of religiously aggravated offences could be examined through further research in order to establish an understanding of the issues from an offenders' perspective.
 - The impact of the legislation on offenders and their offending
 - The sentencing patterns in religiously aggravated cases.

APPENDIX A

Motive of the Crime – did the police reports set out the perception of the victim and witnesses as to the motive of the crime?

| Is the motive set out in police reports? | June – Dec 2003 | | June – Dec 2004 | |
|--|-----------------|-----|-----------------|-----|
| | Number | % | Number | % |
| NO | 81 | 88 | 165 | 98 |
| YES | 19 | 20 | 3 | 2 |
| Grand Total | 108 | 100 | 168 | 100 |

Alcohol – did the police report reveal if the accused was under the influence of alcohol at the time of the offence?

| Was the accused under the influence? | June – Dec 2003 | | June – Dec 2004 | |
|--------------------------------------|-----------------|-----|-----------------|-----|
| | Number | % | Number | % |
| Not Stated | 55 | 51 | 99 | 59 |
| Yes | 53 | 49 | 68 | 40 |
| No | ~ | ~ | 1 | 1 |
| Grand Total | 108 | 100 | 168 | 100 |

Original Charge – What type of charge was the aggravation added to?

| Charges | June – Dec 2003 | | June – Dec 2004 | |
|-----------------|-----------------|----|-----------------|-----|
| | Number | % | Number | % |
| Breach of Peace | 99 | 92 | 159 | 81 |
| Assault | 8 | 7 | 7 | 4 |
| Other | 3 | 3 | 29 | 15 |
| Grand Total | 110 | | 195 | 100 |

Note to table

The number of charges does not correspond with the number of reports as there can be multiple charges within each report.

Police – were the police the target?

| Were the police a target? | June – Dec 2003 | | June – Dec 2004 | |
|---------------------------|-----------------|-----|-----------------|----|
| | Number | % | Number | % |
| Yes | 39 | 36 | 57 | 34 |
| Other targets | 69 | 69 | 147 | 87 |
| Grand Total | 108 | 100 | 168 | ~ |

N.B. The percentages for the June –Dec 2004 data does not add to 100 as some cases had more than one target.

Particular Religious Group Targeted - Was a particular religious group verbally targeted?

| Religious group verbally targeted | June – Dec 2003 | | June – Dec 2004 | |
|-----------------------------------|-----------------|-----|-----------------|-----|
| | Number | % | Number | % |
| Protestant | 31 | 29 | 57 | 34 |
| Catholic | 68 | 63 | 100 | 59 |
| Other | 3 | 3 | 6 | 4 |
| Not known | 0 | 0 | 5 | 3 |
| Missing data | 6 | 5 | 0 | 0 |
| Grand Total | 108 | 100 | 168 | 100 |

Note to table:

1. "Other" includes Muslim, Jewish and Christian religions.
2. There were 6 cases not presented within the Crown Office research table in relation to religious group verbally targeted and these cases have been labelled "missing data" for the purpose of this table.

Football - Was the incident related specifically to football or the support of a particular team?

| Was the incident related to football? | June – Dec 2003 | | June – Dec 2004 | |
|---------------------------------------|-----------------|-----|-----------------|-----|
| | Number | % | Number | % |
| Not Stated | 93 | 86 | 113 | 67 |
| Yes | 15 | 14 | 55 | 33 |
| Grand Total | 108 | 100 | 168 | 100 |

Accused - Number of male and female accused.

| Gender | June – Dec 2003 | | June – Dec 2004 | |
|-------------|-----------------|-----|-----------------|-----|
| | N | % | N | % |
| Male | 105 | 90 | 180 | 92 |
| Female | 11 | 10 | 16 | 8 |
| Grand Total | 116 | 100 | 196 | 100 |

Age – Ages of Male and Female Accused.

| Age Group | June – Dec 2003 | | | | June – Dec 2004 | | | |
|-------------|-----------------|----|--------|----|-----------------|----|--------|---|
| | Male | | Female | | Male | | Female | |
| | Number | % | Number | % | Number | % | Number | % |
| Under 16 | | | | | | | | |
| 16 – 20 | 17 | 15 | 3 | 3 | 45 | 24 | 7 | 4 |
| 21 – 30 | 43 | 37 | 3 | 3 | 60 | 30 | 3 | 1 |
| 31 – 40 | 27 | 23 | 1 | 1 | 43 | 22 | 5 | 3 |
| 41 – 50 | 12 | 10 | 3 | 3 | 21 | 11 | 0 | 0 |
| 51 – 60 | 5 | 4 | 0 | 0 | 10 | 5 | 1 | 0 |
| 61 - 70 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 |
| 71 - 80 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Grand Total | 105 | 90 | 11 | 10 | 180 | 92 | 16 | 8 |

Marches - Number of cases connected to Marches.

| Was the incident connected to Marches? | June – Dec 2003 | | June – Dec 2004 | |
|--|-----------------|-----|-----------------|-----|
| | Number | % | Number | % |
| Not Stated | 92 | 85 | 153 | 91 |
| Yes | 16 | 15 | 15 | 9 |
| Grand Total | 108 | 100 | 168 | 100 |

Geography - Location of offence.

| Location of Offence | June – Dec 2003 | | June – Dec 2004 | |
|---------------------|-----------------|-----|-----------------|-----|
| | Number | % | Number | % |
| Pub | 6 | 6 | 16 | 10 |
| Private | 32 | 30 | 25 | 15 |
| Outside | 32 | 30 | 64 | 38 |
| Other | 37 | 34 | 63 | 37 |
| Grand Total | 108 | 100 | 168 | 100 |

Note to table

There were 108 cases considered in the research conducted by COPFS however there is a discrepancy with their numbers in the report where only 107 cases have been presented.

APPENDIX B

Table B - 1 Guilty Charges by Religious Aggravation Code

| Aggravation | Number | % |
|--------------------------------------|---------------|----------|
| Religious Prejudice & Racial | 5 | 1 |
| Religious Prejudice | 292 | 66 |
| Religious Prejudice on Bail | 52 | 12 |
| Religious Prejudice Football | 88 | 20 |
| Religious Prejudice Ov0 Child | 3 | .7 |
| Religious Prejudice & Racial on Bail | 1 | .3 |
| Total | 441 | 100 |

Source: Crown Office and Procurator Fiscal Service 0 extraction of religious aggravated offences at 17th January 2006.

Table B - 2 Local Authority Area where offences occurred for all cases considered

| Council Area | 1st Jan - 26th June 04 | | 27th June - 30th Dec 04 | | 1st Jan - 26th June 05 | | Total | |
|-----------------------|-------------------------------|------------|--------------------------------|------------|-------------------------------|------------|--------------|------------|
| | Percent | N | Percent | N | Percent | N | Percent | N |
| Aberdeenshire | ~ | ~ | ~ | ~ | ~ | ~ | ~ | ~ |
| Angus | ~ | ~ | ~ | ~ | ~ | ~ | ~ | ~ |
| Argyll and Bute | ~ | ~ | ~ | ~ | ~ | ~ | 1.1 | 6 |
| Ayrshire | 3.1 | 4 | 4.8 | 8 | 3.4 | 8 | 3.8 | 20 |
| Clackmannanshire | ~ | ~ | ~ | ~ | ~ | ~ | 0.8 | 4 |
| Dumfries and Galloway | ~ | ~ | ~ | ~ | ~ | ~ | 0.6 | 3 |
| Dundee | ~ | ~ | ~ | ~ | ~ | ~ | 1.1 | 6 |
| East Dunbartonshire | ~ | ~ | ~ | ~ | ~ | ~ | 0.9 | 5 |
| East Renfrewshire | ~ | ~ | ~ | ~ | ~ | ~ | ~ | ~ |
| Edinburgh | 3.1 | 4 | 1.2 | 2 | 1.3 | 3 | 1.7 | 9 |
| Falkirk | 0.0 | 0 | 0.0 | 0 | 2.1 | 5 | 0.9 | 5 |
| Fife | ~ | ~ | ~ | ~ | ~ | ~ | 1.1 | 6 |
| Glasgow | 45.4 | 59 | 53.9 | 90 | 65.5 | 154 | 57.0 | 303 |
| Highland | ~ | ~ | ~ | ~ | ~ | ~ | ~ | ~ |
| Inverclyde | 1.5 | 2 | 1.2 | 2 | 0 | 0 | 0.8 | 4 |
| North Lanarkshire | 21.5 | 28 | 17.4 | 29 | 6.4 | 15 | 13.5 | 72 |
| Perth and Kinross | ~ | ~ | ~ | ~ | ~ | ~ | 0.6 | 3 |
| Renfrewshire | 0.0 | | 1.2 | 2 | 2.6 | 6 | 1.5 | 8 |
| Scottish Borders | ~ | ~ | ~ | ~ | ~ | ~ | ~ | ~ |
| South Lanarkshire | 14.6 | 19 | 11.4 | 19 | 6.0 | 14 | 9.8 | 52 |
| Stirling | 1.5 | 2 | 1.8 | 3 | 1.3 | 3 | 1.5 | 8 |
| West Dunbartonshire | | | | | | | 0.6 | 3 |
| West Lothian | ~ | ~ | ~ | ~ | ~ | ~ | 1.1 | 6 |
| Western Isles | ~ | ~ | ~ | ~ | ~ | ~ | ~ | ~ |
| Grand Total | 100.0 | 130 | 100.0 | 168 | 100.0 | 234 | 100.0 | 532 |

Note to table

~ indicates that the results can not be shown here due to data protection.

Source: Police case papers from 1st January 2004 to 30th June 2005

Table B – 3 Accused Residence

| Local Authority Area | N | % |
|-----------------------------|----------|----------|
| Aberdeen | 9 | 1.4 |
| Aberdeenshire | ~ | ~ |
| Angus | ~ | ~ |
| Argyll and Bute | 12 | 1.9 |
| Clackmannanshire | 5 | 0.8 |
| Dumfries and Galloway | 6 | 0.9 |
| Dundee | 7 | 1.1 |
| East Ayrshire | 9 | 1.4 |
| East Dunbartonshire | 8 | 1.3 |
| East Lothian | ~ | ~ |
| East Renfrewshire | 9 | 1.4 |
| Edinburgh | 23 | 3.6 |
| Falkirk | 11 | 1.7 |
| Fife | 18 | 2.8 |
| Glasgow | 215 | 33.9 |
| Highland | ~ | ~ |
| Inverclyde | 7 | 1.1 |
| Midlothian | 3 | 0.5 |
| North Ayrshire | 17 | 2.7 |
| North Lanarkshire | 113 | 17.8 |
| Perth & Kinross | 6 | 0.9 |
| Renfrewshire | 10 | 1.6 |
| Scottish Borders | 3 | 0.5 |
| South Ayrshire | 4 | 0.6 |
| South Lanarkshire | 74 | 11.7 |
| Stirling | 14 | 2.2 |
| West Dunbartonshire | ~ | ~ |
| West Lothian | 12 | 1.9 |
| No Fixed Abode | 12 | 1.9 |
| England | 7 | 1.1 |
| Northern Ireland | 13 | 2.0 |
| Missing | 1 | 0.2 |
| Grand Total | 635 | 100.0 |

Note to table

~ indicates that the results can not be shown here due to data protection.

Source: Police case papers from 1st January 2004 to 30th June 2005

ISSN 0950 2254
ISBN 0 7559 6335 0
Price £5.00

www.scotland.gov.uk/socialresearch

The text pages of this document are produced from 100% Elemental Chlorine-Free material.
The paper carries the Nordic Ecolabel for low emissions during production, and is 100% recyclable.

Astron B49302 11/06

