

SECRET

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| FILE TITLE: <i>SITUATION</i> | | SERIES <i>IRELAND</i> |
| PART BEGINS: <i>23 JANUARY 2001</i> | | PART: <i>88</i> |
| PART ENDS: <i>1 FEBRUARY 2001</i> | CAB ONE: | |

LABOUR ADMINISTRATION

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SECRET

PART

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| DATE CLOSED | 1 FEBRUARY 2001 |
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Series : IRELAND

File Title : Situation

Part : 88

| Date | From | To | Subject | Class | Secret |
|------------|-------------|----------|---|-------|--------|
| 23/01/2001 | FA/APS | NIO | (M) Meeting with SDLP | C | 0 |
| 23/01/2001 | | | Draft British Government's Statement on Policing Accompanying Pu | U | 0 |
| 23/01/2001 | | | Draft Statement by the Two Governments | U | 0 |
| 23/01/2001 | AG | PM | OTRs | C | 0 |
| 24/01/2001 | FA/APS | AGO | OTRs | C | 0 |
| 24/01/2001 | NIO | Ch.Staff | Possible Future Sequence of Events:Bill Jeffrey Note | U | 0 |
| 24/01/2001 | FA/APS | NIO | (M) Meeting with UUP | R | 0 |
| 25/01/2001 | AGO | FA/APS | OTRs | C | 0 |
| 25/01/2001 | Ireland/HMA | NIO | Meeting with Irish Minister | C | 0 |
| 26/01/2001 | AG | SS/NIO | Terrorists on the Run | C | 0 |
| 26/01/2001 | NIO | NIO | Irish Officials Meeting with Sinn Fein Last Night | C | 0 |
| 26/01/2001 | NIO | NIO | Introductory Meeting with First and Deputy First Ministers | C | 0 |
| 26/01/2001 | Ireland/HME | NIO | Irish Times Opinion Poll 26 January | R | 0 |
| 26/01/2001 | | PM | - Letter from Helen Jackson MP - Sorry to hear about Peter Mandel | C | 0 |
| 29/01/2001 | AG | SS/NIO | Sinn fein list | C | 0 |
| 29/01/2001 | MOD | | Indicative timings for demolitions | U | |
| 29/01/2001 | NIO | NIO | Introductory Meeting with the SDLP, 29 January | C | 0 |
| 29/01/2001 | NIO | NIO | Introductory Meeting with Sinn Fein, 29 January | C | 0 |
| 29/01/2001 | NIO | NIO | Introductory Meeting with the UUP, 29 January | C | 0 |
| 29/01/2001 | NIO | FA/APS | Finucane, Hamill and Nelson - Possible inquiries | U | 0 |
| 30/01/2001 | NIO | Ch.Staff | PMs Meeting with Sinn Fein | C | 0 |
| 30/01/2001 | | FA/APS | From David Lavery, Northern Ireland First Minister's Office: Judgme | U | 0 |
| 30/01/2001 | NIO | NIO | PMs Meeting with Gerry Adams and Martin McGuinness | C | 0 |
| 30/01/2001 | NIO | Ch.Staff | Briefing for Tonight's Meeting with Adams and McGuinness | C | 0 |
| 30/01/2001 | NIO | NIO | Secretary of State's Introductory Meeting with the PUP, 29 January | C | 0 |
| 30/01/2001 | NIO | NIO | Secretary of State's Introductory Meeting with the DUP, 29 January | C | 0 |
| 30/01/2001 | NIO | NIO | Secretary of State's Introductory Meeting with the UDP, 29 January | C | 0 |
| 30/01/2001 | HS | SS/NIO | "On the Runs":Pre-Conviction Cases | C | 0 |
| 30/01/2001 | SS/NIO | PM | Northern Ireland-Initial discussions with parties | U | 0 |
| 30/01/2001 | SS/NIO | PM | Northern Ireland-Forthcoming District Council Elections | U | 0 |
| 30/01/2001 | NIO | NIO | Policing: Conversation with Seamus Mallon | C | 0 |
| 30/01/2001 | AG | SS/NIO | Terrorists on the run | C | 0 |
| 31/01/2001 | SS/NIO | PM | Dinner with the Taoiseach this Evening | S | 259 |
| 31/01/2001 | France/HMA | FA/PS | Northern Ireland: Trimble and Mallon in Paris | U | 0 |
| 31/01/2001 | NIO | FA/APS | Points arising from the meeting with the SDLP on 23 January | C | 0 |
| 31/01/2001 | FA/APS | NIO | (M) Dinner with Taoiseach | C | 0 |
| 31/01/2001 | SS/NIO | AGO | Terrorists on the Run - Liam Averill | C | 0 |
| 31/01/2001 | MOD | FA/APS | Ulster Television: Possible Injunction | R | 0 |
| 01/02/2001 | Ch.Staff | NIO | (M) Prime Ministers Meeting with the Taoiseach: 31st January 2001 | C | 0 |
| 01/02/2001 | FA/APS | NIO | (M) Meeting with UUP | C | 0 |
| 01/02/2001 | FA/APS | NIO | (M) Meeting with Seamus Mallon on Policing | C | 0 |
| 01/02/2001 | MOD | FA/APS | Bloody Sunday Inquiry | U | 0 |
| 01/02/2001 | FA/PS | NIO | Martti Ahtisaari | S | 14 |
| 01/02/2001 | NIO | NIO | Plans B, C and D | C | 0 |
| 01/02/2001 | NIO | FA/APS | All Party Irish in Britain Parliamentary Group | U | 0 |
| 01/02/2001 | Telegram/IN | | Telno 25 Dublin: Race for new fine Gael Leader begins | R | 0 |
| 01/02/2001 | | | Irish Stability Programme | U | 0 |

RESTRICTED
RACE FOR NEW FINE GAEL LEADER BEGINS
From: DUBLIN

TO PRIORITY FCO
 TELNO 25
 OF 011135Z FEBRUARY 01
 INFO ROUTINE BIS NEW YORK, BOSTON, CABINET OFFICE, EU POSTS
 INFO ROUTINE NEW YORK, NIO BELFAST, NIO LONDON, WASHINGTON

MY TELNO 20

FCO PLEASE PASS TO PS/NO 10
 NIO(LONDON) PLEASE PASS TO PS/SOSNI

SUMMARY

1. John Bruton loses no confidence motion. Party likely to elect new leader next week. Michael Noonan early favourite.

DETAIL

2. As predicted in TUR, John Bruton, the former Taoiseach, was deposed as party leader last night. At the conclusion of a tense 7 hour party debate, Bruton lost a no confidence motion by 39 votes to 33. In a dignified speech, after the vote, Bruton resigned, accepted the democratic decision, and publicly committed himself both to standing at the next election and supporting whoever became the Party's new leader.

3. The arrangements for electing a new leader are expected to be put in place later today to allow Bruton's successor to be in post within the next week.

4. In addition to Michael Noonan and Jim Mitchell, who jointly provoked the leadership challenge(see TUR), an additional candidate, Enda Kenny(Mayo) has emerged to challenge for the leadership. Kenny was first elected to the Dail in 1975, has wide grass roots support in the Party and few enemies. He is reported to be QUOTEgreat on the hustingsQUOTE, to have the common touch and to be the QUOTE Bertie AhernQUOTE of the Fine Gael Party. Other challengers may emerge in the next few days.

COMMENT

5. The no confidence debate, following on a leadership challenge only 2 months ago, has been a bruising experience for the Party. Wounds now need to be healed. The new leader will have to convince the Parliamentary Party, and the grass roots, that he /she can reunite and revitalise Fine Gael and deliver additional seats at the next election. On the basis of the Taoiseach's public forecast for the timing of next election, the new leader will have around 18 months to turn things round. But the election could well come sooner if Ahern judges that an earlier timing makes sense for Fianna Fail.

6. Noonan and Mitchell have both been at pains to pay tribute to Bruton's 10 years service as Party leader in their attempts to unify the Party. Noonan(a former Heath Minister) is the real heavyweight. He is a rhetorical street fighter(a gurrrier in Irish parlance) who enjoys the confidence of the grass roots. He would make a considerable impact in head to head engagement in the Dail with Ahern - an arena where Bruton's parliamentary style failed to impress. Noonan is already the odds on favourite, but with other

file

Prime Minister

Bertie will be sorry to
lose John Bruton.

Noonan would be a
more formidable opponent.

Michael Ahern

✓

candidates emerging the result may not be a foregone conclusion.

ROBERTS

Sent by DUBLIN on 01-02-2001 11:35
Received by No10 on 01-02-2001 13:01

CONFIDENTIAL and PERSONAL

~~CS~~
mf

FROM: BILL JEFFREY
Political Director
1 February 2001
BJ/MR/696(L)

SECRETARY OF STATE(L&B)

cc Mr Pilling
Mr Watkins
Mr Fittall
Ms Bharucha
→ Mr Powell No.10-FAX

PLANS B, C AND D

We should know by Sunday whether the big deal the Prime Minister has been negotiating with Sinn Féin is on or not. It would be as well to think about what to do if it isn't.

2. The thinking behind the big deal has been that the only reasonably sure way of getting things on track until after the Election is to deal with the arms issue in such a way that some IRA weapons are actually put beyond use before the Election and to get the Policing Board moving with SDLP and Sinn Féin nominees.
3. This could come unstuck in several ways. Adams might well come back on Sunday and say that the IRA can do the deal; that he will do his best to deliver the putting of arms beyond use before the Election; but that a lot will depend on the context being right and he cannot give a categorical assurance now, even privately. He might be even more discouraging than that. Sinn Féin might ask for more time before signing up for the Policing Board. The SDLP may – against expectations – still prove difficult to land, especially if Sinn Féin are hesitating.
4. So far, the Prime Minister has, sensibly in terms of the negotiation, presented the big deal as all or nothing. But if, for any of these reasons, it turns out not to be on, what would be the next best thing? And what would be a reasonable price to pay for it?
5. If the Sinn Féin tactic is as I've described it above – to try to get our best offer in return for, in effect, re-engagement and best endeavours – I think the Prime Minister's immediate reaction should be to take everything else off the table. But if our best assessment is that Adams is genuinely unwilling or unable to give the necessary private assurance, the objective should still be to get the IRA engaged in constructive discussions with de Chastelain, on the understanding that these discussions will lead to an agreement on modalities in good time. The "best second best" would be re-engagement for a purpose, with a private understanding that modalities would be agreed before the Election. This might not be enough to get Trimble past the Election, but it would be better than nothing. At the other end of the scale, IRA re-engagement with de Chastelain on a minimal basis to get themselves on the right side of the argument – "a mere phonecall" – would be worse than nothing from Trimble's point of view.

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6. On "our" side of the balance sheet, the elements that seem to me to be dependent on a big deal are the two towers in South Armagh, the public assurance on OTRs, and perhaps the implementation group, although it will be hard to get that genie back in the bottle. The assurances we have given on policing could stand, but only if Sinn Féin (and the SDLP) are willing to nominate to the Policing Board.

7. I therefore think that Plan B would involve:

- IRA re-engagement with de Chastelain for the stated purpose of agreeing with the IICD how weapons would be put beyond use;
- a private understanding that such agreement would be reached by Easter;
- Sinn Féin and the SDLP to nominate to the Policing Board;

in return for which we would offer:

- demolition of the Newtownhamilton supersangar and the Magherafelt Army base;
- continued best endeavours to address the individual cases of OTRs (including the rapid return to Northern Ireland of the 12 in whom we now know there is no outstanding prosecution interest), but no comprehensive statement;
- maintenance of the assurances already given on policing, including the review at the 12 month point;
- the implementation group.

8. If even a private assurance about when modalities would be agreed was impossible for Sinn Féin, plan C could be the same deal but without, say, Magherafelt or the implementation group.

9. If no deal can be done, we would be into designing the softest possible landing. Without going into details here (because I am actually more optimistic), I think plan D would have the following main elements:

- a formal review under the Agreement to take place over the Election period, which would need to cover all the outstanding unresolved issues – decommissioning, normalisation, policing, and (if the institutions could not be sustained while the review was going on) the steps necessary to create conditions in which they could be restored;
- an attempt (probably unsuccessful) to persuade Trimble that it was in his own interests to stay in the institutions until the review had been completed;
- if that attempt failed, and the UUP decided to withdraw their Ministers, the suspension of the Assembly and the Executive for the duration of the review (this would almost certainly have to be done unilaterally and therefore not formally cover the North/South institutions, since – even if the unionists had already walked – it would be highly controversial with the Irish).

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As I say, I am not in fact that pessimistic, but it is as well to know, contingently, where we might be heading.

[Signed]

BILL JEFFREY
11 Millbank ☎ 6447

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10 DOWNING STREET
LONDON SW1A 2AA

S 14 /01

From the Private Secretary

1 February 2001

Dear Bill,

MARTTI AHTISAARI

NO FURTHER COPIES SHOULD BE MADE OF THIS LETTER

As you suggested, I contacted Martti Ahtisaari today. I persuaded him to go to the British Embassy in Helsinki so that we could have a full discussion on the Brent.

Ahtisaari gave me an account of his and Cyril Ramaphosa's meeting in Paris last week. He did not know the names of the people they had met, but it had not been Gerry Kelly. He thought they were straight ("real") IRA people. (He asked whether, next time he was over, he could have a look at our picture gallery - he claims he had seen one such before, in Cyprus).

The meeting had begun with the normal Republican lecture on how nothing was working and how the British were failing to meet their commitments. But it had become more interesting subsequently. Ahtisaari identified two main points:

- they had gone to some lengths to explain why it was impossible to destroy weapons, and pointed out that the bulk of the IRA's arms were with ordinary people and not in dumps. But they did not exclude opening more arms dumps to inspection, though whether this would be one or more was not specified;
- they had also been willing to consider a review mechanism for implementing agreements reached. Ahtisaari said he had taken them through our obligations (not dealing direct with the IRA etc) which I had put to him before. They also made clear it would impose obligations on both sides. The IRA remained interested.

I took Ahtisaari through where we were in the negotiations, stressing their sensitivity and the very delicate stage we had now reached. Adams and McGuinness were now talking to others in the IRA. They had agreed to put to their colleagues the proposed deal, which included not only the IRA re-engaging with de Chastelain and reaching agreement on modalities, but actually putting weapons beyond use by Easter. I took him through the other elements, stressing that we could only proceed with normalisation if the security threat justified it; and that required actual decommissioning.

Ahtisaari was greatly encouraged, but interjected at one stage that this would not involve him and Ramaphosa. On the contrary, I told him: the Republicans were keen that action at the dumps should be subject to inspection by the two of them. We and the Irish had said we were content with them having a role, but the IICD had to be satisfied that the weapons were beyond use. We would need to find a way through on this.

I went on to the second problem:

This would enable the weapons inside to be better protected from misuse, but they would not actually be destroyed. This would be unacceptable to both us and the Irish, and we wanted Ahtisaari to know of this point just in case the idea was raised with him. The weapons would not meet the terms of the deal if they were still recoverable for use by the IRA.

Ahtisaari was very grateful for the briefing, and said that none of this had been discussed. I asked him if there was a possibility that the people he had met last week were trying to soften him and Ramaphosa up by seeking to rule out weapons destruction. Ahtisaari thought not: they seemed to be genuine in what they were saying.

Comment

We left it at that. Ahtisaari is now up to speed but is not expecting further contacts with the IRA immediately. No dates have been set for the next inspections, but he and Cyril have insisted, given their busy diaries, that the IRA start to look for dates now. They did not think they needed to stick to a three monthly cycle, but also recognised that it could not be left too long.

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AND NOT A REPRODUCTION
OF THE ORIGINAL DOCUMENT

Preem 49/2068

Letter dated
01/02/2001

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- 3 -

Ahtisaari will be in London on 6/7 February and I said that I or someone else involved would brief him on latest developments (you and I might do this together).

I am copying this to Paul Priestly (Northern Ireland Office) and Jonathan Powell.

Yours ever,

A handwritten signature in black ink, appearing to be 'John Sawers', written in a cursive style.

JOHN SAWERS

Bill Jeffrey
NIO

SECRET - PERSONAL

87140

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JS
JPO
Press



MINISTRY OF DEFENCE
WHITEHALL LONDON SW1A 2HB

Telephone 020 721 82111/2/3

SECRETARY OF STATE

MO 19/3/21C

1 February 2001

Dear Michael,

BLOODY SUNDAY INQUIRY

Further to our conversation earlier today, and to your conversation with Bill Byatt, I attach the bull points that you wanted on Army photographs and MOD representation at the Inquiry. Let me know if you need anything else.

Yours ever,
David

(D P WILLIAMS)
Private Secretary

Michael Tatham Esq
No 10 Downing Street



Recycled Paper

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BLOODY SUNDAY INQUIRY – ARMY PHOTOGRAPHS AND THE REPRESENTATION OF THE MOD AT THE INQUIRY**POINTS TO MAKE FOR THE PRIME MINISTER****A. Army photographs taken on Bloody Sunday**

1. Army orders from 1972 show that a small number of soldiers were issued with cameras to take photographs on the day.
2. Despite exhaustive searches in the MoD and elsewhere (such as the Imperial War Museum) none of these photographs has been found. It appears that the photographs were not provided to Lord Widgery and that the vast bulk were probably destroyed in 1972 or soon after.
3. This is not surprising. The soldiers were not skilled photographers; their cameras were basic. It is probable that any photographs they took were of poor quality and not worth preserving.
4. The work undertaken by the MOD to try to find the photographs has been explained to the Inquiry in a detailed witness statement.

B. MOD representation at the Inquiry

1. The MOD is not a party to the Inquiry, therefore it is not permanently represented by Counsel. The reasons were summarised by MOD Counsel at a hearing on 15 January.
2. In essence, this is because the MOD of today is neither making nor facing allegations in connection with Bloody Sunday. Allegations can be answered only by the individuals who were involved at the time.
3. But the hearings are always attended by one or more officials from the MOD who assist the Inquiry, and Counsel for the MOD invariably attends when asked to do so by the Tribunal.
4. **Not for use:** Informal indications suggest that the Tribunal agrees that the MOD should not be a party.

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10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

1 February 2001

SUBJECT
MASTER

FILED ONE

Dear Paul

MEETING WITH SEAMUS MALLON ON POLICING

The Prime Minister and Secretary of State had a short and inconclusive meeting with Seamus Mallon in the House this afternoon. Bill Jeffrey, Jonathan Powell and I were also present.

There was a brief discussion of some of the outstanding SDLP concerns. Mallon quibbled with the new formula on Gough, arguing that there needed to be a clear commitment, not simply an objective. The Secretary of State explained that this would hold the Implementation Plan hostage to unforeseen practical problems. However Mallon could rest assured we would do our utmost to meet the April target. On the Special Branch, Mallon indicated he would like to see a sense of the time-table extending beyond September. The Secretary of State explained that by then we envisaged the Policing Board taking on some of these decisions. Mallon more or less accepted that the gap had been fully bridged on the Part Time Reserve, but he remained unhappy with the position on the Full Time Reserve. He asked why we could not offer enhanced redundancy packages or one year contracts. The Secretary of State said the real issue here was manpower shortage. We could perhaps give Mallon on a private basis some indicative figures. But we had to bear in mind the Chief Constable's need to maintain an operational and effective police service.

On flags/emblems, Mallon sought a clear statement that in the event of there being no consensus within the Policing Board, the default would be Patten. The Prime Minister said the language we had used publicly virtually amounted to this. But there were presentational sensitivities in respect of the Unionists which could not be cast aside without causing big problems. He could also not afford to put himself in a situation in which he could be accused of having given private assurances. This whole matter needed to be handled with the utmost care. The Secretary of State said the SDLP could point to his predecessor's public language and say they were satisfied with their understanding of this. But they should not

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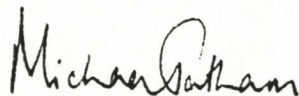
attribute words or undertakings to the Prime Minister. Mallon indicated he was content with what he had heard from the Prime Minister and Secretary of State.

The Prime Minister handed over the latest form of words (attached) on Inquiries. Mallon read through this and made no serious comment on the substance but said he would have to consult within the party.

The Prime Minister emphasised that we had gone a long way to accommodate SDLP concerns. We had to be very clear that we would be getting in return a firm commitment to nominations to the Policing Board and support for policing (the Secretary of State had earlier made clear that the new language on Gough and Special Branch was contingent on this). Mallon said he could not be put on the spot at that moment. If the SDLP could make a positive decision, they would do so and stick to it. He would come back to us. (After the Prime Minister's departure, the Secretary of State and Mallon agreed they should meet again tomorrow in Belfast to discuss these issues further.)

Mallon raised a final point. He hoped there was no question of the twelve month review being used as a stepping stone to allow Sinn Fein to come onto the Policing Board in a year's time once the review was completed. The Prime Minister gave Mallon a categoric assurance that there was no suggestion at all of this in the package being discussed with Sinn Fein.

Yours ever



MICHAEL TATHAM

Paul Priestly
NIO

CONFIDENTIAL

CONFIDENTIALCases of Patrick Finucane, Robert Hamill and Rosemary Nelson

The Government accepts that these three cases are a source of public concern, both in themselves and in terms of maintaining the necessary confidence in the administration of justice. At the moment, investigations continue in all three cases: by Sir John Stevens in relation to the murder of Patrick Finucane; by the Ombudsman in relation to aspects of the police investigation of the murder of Robert Hamill; and by Colin Port in relation to the murder of Rosemary Nelson.

When these investigations have been completed and any subsequent proceedings have been concluded, the Government will, in each case, consider carefully and flexibly whether any more needs to be done to meet public concern and ensure that justice is done. It will be willing, in particular, to consider in each case the option of an inquiry or, as a preliminary step, the appointment of a senior judge to examine the papers relevant to each investigation and advise on the best way forward.

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B.J/MR/695a(L)-1.2.2001



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

1 February 2001

SUBJECT
MASTER

Dear Paul

FILED OFF

MEETING WITH UUP

The Prime Minister and Secretary of State met with David Trimble, David Campbell and David Lavery in the House this afternoon. Jonathan Powell, Bill Jeffrey and I were also present. Trimble opened with a brief moan about having had to hang around Charles de Gaulle airport in order to come back for the meeting.

The Prime Minister said we were still working on a comprehensive approach to resolving the various elements under discussion. Sinn Fein were demanding that part of this should involve a statement from Trimble on the stability of the institutions. Trimble said he was ready to do this if the right terms were on offer in return. He was ready to talk at any time. Sinn Fein knew how to contact him.

Trimble said he was getting word back from reliable sources that Sinn Fein/IRA were thinking in terms only of agreeing on re-engagement and modalities for now, with anything specific being held back a couple of years. All his UUP colleagues would also be hearing this. Donaldson had been relatively quiet recently because of his sense that positive developments were in the offing. But these kind of reports would quickly re-energise him. Bill Jeffrey said what we were hearing was more encouraging. Jonathan Powell added that, in their internal consultations, Sinn Fein/IRA had to go through semantic gymnastics in order to present what was under discussion as being consistent with PIRA theology. Some of that may be informing these reports.

Trimble said he had a Party Executive meeting on 10 February. If what emerged from the on-going discussions was in the right shape, this meeting ought to go okay. In the event of a serious deal, Donaldson would adjust his position fairly quickly. It was instructive that he had not been agitating much in the last few weeks. The choreography of a deal would be important. The press were

talking about demilitarisation involving Newtownhamilton and Magherafelt. Ken Maginnis was pointing out that the closure of Magherafelt would mean there was no army accommodation in the mid-Ulster/South Londonderry area. Rapid movement on demilitarisation without corresponding moves on the other side would leave the UUP badly exposed. The Prime Minister said we were very conscious of this.

Trimble expressed concern about policing. It was vital there were no private understandings with the SDLP or Sinn Fein. The issue of emblems/flags would become explosive if nationalist parties were able to claim they had received assurances. In the longer term, any outcome on emblems/flags which did not parallel arrangements in the rest of the UK would be bad news. The Secretary of State asked about the prospects for the Policing Board reaching a consensus on these matters. Trimble said much would depend on the nature of the Policing Board. With a good composition of independents, consensus would be hard but not impossible. Trimble mentioned that he knew of one applicant who would be eminently suitable to take a leading role within the Board. He would brief us in private. (Campbell added that since the Ombudsman and Complaints Commissioner were both nationalists, the balance could usefully be redressed with the Chairmanship of the Policing Board.)

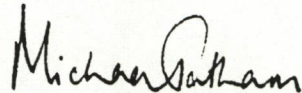
Reverting to the ongoing negotiations, the Prime Minister said we were waiting to see what kind of response Sinn Fein came back with. We were still keen not to raise expectations but, speaking in confidence, in the event of a positive Sinn Fein response there was a possibility of moving quickly to close a deal next week. The Taoiseach was pretty much on board for this. Optimistic Irish media briefing had been unhelpful in one respect but it at least served to put added pressure on Sinn Fein who would now be very conscious that they risked antagonising the Irish if they did not deliver.

Trimble mentioned again his concern that the DUP were in league with hardcore UDA elements in certain constituencies. There were parallels with the way in which Paisley had exploited the UDA grass roots in 1975-6. The Secretary of State said he was acutely aware of the need to keep lines open to the PUP and UDP. He would be seeing both parties in the next few days.

Trimble said it remained extremely important that we kept a tight watch on RIRA. The Secretary of State assured him we were doing everything we could.

Finally, Trimble raised the imbalance between calls for inquiries on nationalist and loyalist cases. It would be good to see decisive action in respect of allegations of Garda collusion with the IRA. He referred to an ex-Garda officer who had co-operated with PIRA and was now running a pub in Drogheda.

Yours ever

A handwritten signature in cursive script that reads "Michael Tatham".

MICHAEL TATHAM

Paul Priestly
NIO

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file



10 DOWNING STREET
LONDON SW1A 2AA

SUBJECT
MASTER

1500 000

From the Prime Minister's Chief of Staff

1 February 2001

Dear Paul,

**PRIME MINISTER'S MEETING WITH THE TAOISEACH:
31 JANUARY 2001**

The Prime Minister had a private meeting with the Taoiseach before yesterday's dinner. Dermot Gallagher and I were present.

NO FURTHER COPIES of this letter should be made without the consent of this office.

The Irish indicated that Sinn Fein were gearing themselves up to returning to the IRA to put forward the deal. They continued however to be very worried about policing. They gave us the attached amended wording on the Review. The Prime Minister indicated that this was probably acceptable but we needed to look at it further. I have subsequently given them an amendment.

The Irish also asked for a private assurance that the Irish Government would be involved in any review of the Patten legislation after a year in operation. This was a key point for Sinn Fein. The Prime Minister said he was happy to give such a private assurance. We would also be happy to convey this assurance to Adams and McGuinness.

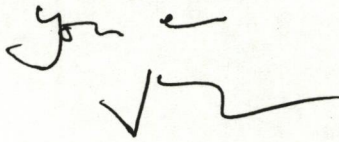
I said we had a real concern that the IRA might be thinking of doing something other than genuinely putting weapons beyond use. It had to be clear that whatever they did, concreting over or whatever else, needed to be acceptable both to Ahtisaari and Ramaphosa and to the IICD. The Irish agreed that it was essential that any plans to put weapons beyond use was acceptable to de Chastelain.

I also raised the issue of timing on policing. As part of an agreement we would need Sinn Fein to indicate they were supportive of policing reform and to nominate to the policing board. We could not wait for their Ard Fheis in

CONFIDENTIAL - PERSONAL

March. The Irish agreed, although it might be necessary for them to appoint temporary people to start with. The Irish also said it was crucial that we were able to reopen the independent appointments to the Policing Board so that representatives of the Nationalist and Republican community could be considered. We said that should be possible.

We agreed that Dermot Gallagher would meet Sinn Fein in Dundalk today. I would see them as soon as possible thereafter. We should aim for talks in Belfast beginning first thing on Monday and completing by Tuesday at the latest.

A handwritten signature in black ink, appearing to read 'Jonathan Powell', with a stylized flourish at the end.

JONATHAN POWELL

Paul Priestly
Northern Ireland Office

(F)

Irish Stability Programme

Issue

The Commission have proposed a draft Recommendation that Ireland's budget plans as set out in the 2000 Stability Programme are inconsistent with recommendations in the 2000 Broad Economic Policy Guidelines (BEPGs).

This is a big issue for the Irish, with wider implications for policy-making in the EU. It is already being picked up by the UK media.

The final decision as to whether to issue a Recommendation falls to ECOFIN on 12 February. The Irish are likely to lobby vociferously for the UK to argue against issuing such a Recommendation. However, important to note that there has been high profile public criticism of the Irish Programme by some other Members States. We broadly share these concerns. But this is not an issue the UK should take a lead on. We need to see how the debate evolves in advance of ECOFIN.

Line to take

- ECOFIN will discuss whether to issue a Recommendation on 12 February. Clearly, we understand that there are arguments both for and against issuing a Recommendation. The key is to ensure that the credibility of the whole process is not damaged. We are currently considering how best to take this forward.

Background

Content of Ireland's Stability Programme

Ireland submitted its 2000 Stability Programme in December last year. The Commission produced an assessment of the Stability Programme in January. The Irish Programme was discussed by the Commission and by Member States at EFC meetings during January.

In terms of the content of the Programme, there was concern that many of the programme's "anti-inflationary" measures will be counter-productive. This is not the first time that there has been concern expressed. The 2000 BEPGs suggested that budgetary policy should aim to *"be ready, already in 2000, to use budgetary policy to ensure economic stability given the extent of over-heating in the economy; gear the budget for 2001 to this objective."*

Council Recommendation and Opinion on Ireland's Stability Programme

The Commission viewed the measures in Ireland's updated Stability Programme as inconsistent with the 2000 BEPGs, and has drafted a Recommendation under Article 99(4) of the Treaty, alongside a Council Opinion.

The final decision falls to ECOFIN (12 February) as to whether to issue a Council Recommendation.

It is important to note that the use of BEPGs related recommendation would be unprecedented and they have the potential to be more prescriptive than a Opinion under the Stability and Growth Pact. But the BEPGs are non-binding on Member States, as are any related Recommendations.

Other Member States' Positions

Member States' positions as to whether to issue a Recommendation are evolving and will continue to evolve in the run-up to the 12 February ECOFIN decision. EMU members to varying degrees have come out in favour of taking strong action against Ireland.

For example, on 31 January, German Finance Minister Hans Eichel publically attacked the Irish government in pretty strong terms for cutting taxes and increasing spending in the face of high inflation. He noted that "*Each individual eurozone member is responsible for its own fiscal policies. But members have to make sure not to pour oil on the fire.*" Asked if he thought further measures should be taken against Ireland, he said, "*The Commission has done what had to be done.*"

But few members have categorically come out in favour of a Recommendation.

Press reactions

Domestically, there has also been press interest, following the Commission's press release announcing its decision to recommend a Recommendation to ECOFIN. Press interest is likely to increase further in February when ECOFIN's decision is agreed.



NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4PN

cc: [initials]
2/10

Michael Tatham Esq
Prime Minister's Office
10 Downing Street
London
SW1A 2AA

f?
1 February 2001

Dear Michael

You recently copied to me a letter from John McDowell, Secretary to the All Party Irish in Britain Parliamentary Group, to Margaret McDonagh regarding their forthcoming conference.

As you may be aware, the Prime Minister specifically referred to the establishment of the All Party Irish in Britain Group during his speech to the Oireachtas in 1998. The current chairman is Kevin McNamara and the Vice chairs are Simon Hughes, Michael Mates and Margaret Moran.

It is likely that the Irish Embassy in London will persuade the Taoiseach to participate in the conference. While the Prime Minister may not be available to open the conference I would suggest it is worth Margaret McDonagh meeting Mr Jones.

Yours ever
Kirsten McFarlane
KIRSTEN MCFARLANE



F



259

SECRETARY OF STATE
FOR
NORTHERN IRELAND

Prime Minister

31 January 2001

DINNER WITH THE TAOISEACH THIS EVENING

Attached is a brief for this evening's meeting with the Taoiseach.

2. Could I add two points of my own.

3. I understand the difficulties, and obviously haven't been privy to your discussions with Adams and McGuinness. But I hope we can pin them down more than they appear to be now to a clear understanding about what the IRA will do. Even on the most optimistic scenario, Trimble will have to manage things in the period between the IRA re-engagement and the point of delivery which will at best be two and a half months later. My strongest early impression is of just how fragile his position is. Without regular injections of confidence from de Chastelain over the February/March period, I fear we could lose him. De Chastelain will only be able to report positively if the IRA put him in a position to do so.

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[APPROVED BY THE SECRETARY OF STATE AND SIGNED IN HIS ABSENCE]

JOHN REID

DINNER WITH THE TAOISEACH: 31 JANUARY

Your aims

- To maintain Irish support for the big deal, and resist any attempt to turn it into a big deal for us and a small one for Sinn Féin.
- To persuade the Taoiseach that, to sustain Trimble over February and March, there need to be some privately agreed milestones – in the form of positive de Chastelain reports – between the point when the IRA re-engage with the IICD and the actual putting of weapons beyond use.
- To agree a gameplan for the end of the week, and resist a definite commitment to break cover publicly by travelling to Belfast until we are clear that the full deal will run.

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Most of the recent focus has been on what we would do for Sinn Féin . It would be as well to use this discussion to check that the Taoiseach shares our understanding of what we expect of the IRA.

and insisting that Ahtisaari and Ramaphosa, rather than the IICD, witness the event. This could, if we are not careful, come across as little more than a further enhancement of the confidence building measure.

you should impress on the Taoiseach:

- that a timeframe must be tied down: without a promise of delivery before the Election, there is no deal and we would have to go back to the drawing board;
- that, for Trimble to carry the day, the de Chastelain dimension is vital; the IRA have to be willing to agree a scheme with the IICD that puts weapons permanently beyond use, and to put de Chastelain in a position to make at least two positive reports in February/March – one confirming constructive engagement and the other reporting agreement on the scheme.

THIS IS NOT THE ORIGINAL
DETAILED AND COMPLETE RECORD
OF THE PUBLIC RECORDS

Item 49 / 2068

Minute dated
31/01/2001

Policing

You will want to check that the Taoiseach is content with the amended words on the 12 month review of the police legislation, which you agreed to offer Adams yesterday evening. You could also try to get the Taoiseach's sense of how quickly Sinn Féin could nominate to the Policing Board. We would expect this to happen as part of the re-launch at the end of this week or early next, but there is a suggestion that they might need to negotiate an Ard Fheis in March before nominating.

You will probably not want to get into a detailed discussion with the Taoiseach about the Mallon concerns on policing. The big picture points to make are:

- We believe we have language in the implementation plan to meet most of the concerns raised by Mallon last week. I am ready to see him tomorrow or Friday to discuss these. If we could be sure that it would land Mallon, we think the Chief Constable might be willing to go along with the objective of closing Gough holding centre by 1 April.
- Inquiries are more difficult. Mallon is pressing for a commitment to bring in a judge of international standing to review the papers in all three cases (Finucane, Hamill, Nelson) if there are no prosecutions after a year. This would constrain the investigations, and create too much of an expectation that inquiries will definitely happen. I remain very wary of this, and would prefer the following formulation:

"The Government accepts that there is a widespread concern about the need to get to the bottom of a number of murder cases so that justice can be done. When any of the current investigations and any subsequent proceedings are completed, it will consider positively and flexibly what further steps, including possible inquiries, are required to ensure that the truth is established."

Trimble

You could make the following points:

- Although Trimble has been playing it low key, the pressure on him will now start to increase. Yesterday's North/South judgement hasn't helped. He will probably meet his

party officers around the weekend, and is working towards a decisive Executive meeting on 10 February.

- Our discussions with him (including John Reid's introductory talk) suggest that he will be willing to withdraw the North/South sanction when the IRA engage positively with the IICD, but will be reluctant to give any unconditional assurances about the future. Our best tactic may be to encourage Trimble and Adams to settle this between them. They seem to have had a reasonably constructive discussion on Monday.
- Important that Trimble should, if possible, share in the private understanding about what the IRA will do.

Next steps

The working assumption is that Sinn Féin will consult the IRA overnight Thursday/Friday and that you and the Taoiseach will travel to Belfast on Friday afternoon for more inclusive talks to seal the deal.

You should bear in mind that Sinn Féin may try to hold back on the IRA's position until you are publicly committed to travel on Friday, knowing that once you are there the pressure will be on us to settle and do so quickly. The Irish may collude in this, and this morning's raising of expectations in the local media was probably Dublin-inspired. You should therefore try to get the Taoiseach to agree that:

- Adams should be asked to get back to both of you on Friday morning before travel plans are finalised;
- the talks, if they happen, should be at Hillsborough, with Sinn Féin, the UUP and the SDLP involved from the outset and a real effort made to bring in the smaller parties towards the end;
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the re-launch should include both the SDLP and Sinn Féin signing up for the new Policing Board.

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You might mention to the Taoiseach that, if the General Election is in May we are likely to take steps to enable the local elections in Northern Ireland planned for 16 May to take place on the same day. (This would avoid the likelihood of a low turn-out if the electorate was asked to vote twice within days, and would probably help the UUP and the SDLP. Trimble has been pushing for it, and John Reid established on Monday that Mallon would be supportive. Trimble's preferred option is postponement, but Mallon is adamantly opposed to that.)

The BIC

There is a BIC meeting scheduled for Monday 5 February in Dublin. If all goes well, it will be a celebratory event. If not, the chances are that there will be the same impasse about Northern Ireland representation as last time. You could check that the Taoiseach agrees that, in that event, postponement would again be the best course.

0144513343



British Embassy
Paris

*10/01
MT*

From the Ambassador
31 January 2001

35, rue du Faubourg St. Honoré
75383 Paris Cedex 08

Telephone: (01) 44 51 32 02
Facsimile: (01) 44 51 34 83

R J Sawers Esq CMG
10 Downing Street
London
SW1A 2AA

PT

*You should thank Chirac for
doing this, when you see him next
week. (We urged him to see DT+JM,
if he could squeeze them in).*

*Let me
write to him*

Dear John,

fr

PT

*To do a lunch
note for sig to day
- Looking forward to
"Calvin"!*

NORTHERN IRELAND: TRIMBLE AND MALLON IN PARIS

1. David Trimble and Seamus Mallon, accompanied by Sir Reg Empey and advisers, are in Paris today. Although the visit is still underway, I thought I would let you know how it was going since things are obviously moving quickly in London.

fr

Action in hand

2. In short, it is going well. The two main events so far have been a lunch for businessmen and a call on President Chirac. At the lunch, organised by the French Employers Federation, MEDEF, over 200 people turned up to hear a slick, punchy presentation on the benefits of investing in Northern Ireland. This was by any standards an excellent response, and the Northern Ireland team were rightly pleased.

(file)

3. They were very pleased, too, with a call on Chirac. Chirac agreed to see them (after a good deal of pressure from us) on a very busy day, just before he left for tonight's dinner with Schroeder in Strasbourg. He promised 15 minutes and gave more than 20. He was welcoming, supportive and fully engaged, asking questions about the political situation, economic prospects, relations with the Republic of Ireland and the role President Clinton had played - crucial, said Mallon. He said that there was a great deal of sympathy and support for Northern Ireland in France, which he shared: he hoped this would be backed up by further French

0144513343



investment - though was surprised to hear from Trimble that France was the largest European investor in Northern Ireland outside the UK.

4. Trimble and Mallon explained the present situation clearly, underlining their conviction that a lasting settlement was achievable and their determination to make it happen. Trimble said that this was their first call together on a continental European Head of State: they were delighted it was Chirac. Mallon said the visit - which was accompanied by good photo opportunities - could have a real impact for good on opinion in Northern Ireland.
5. Both Trimble and Mallon particularly the latter, told me afterwards they had been extremely pleased by the fact, content and tone of the call.
6. Trimble, Mallon and Empey have all done a lot of press work, starting with a photograph outside the Paris Opera at 8am this morning which has appeared in this afternoon's Belfast Telegraph. They are calling shortly on Pierre Moscovici. I am giving them a dinner tonight to meet politicians, editors and businessmen.

Yours man,

Michael

Michael Jay



British Embassy
Paris

From the Ambassador

31 January 2001

- rec'd already (on Matrix)

ha

35, rue du Faubourg St. Honoré
75383 Paris Cedex 08

Telephone: (01) 44 51 32 02

Facsimile: (01) 44 51 34 83

R J Sawers Esq CMG
10 Downing Street
London
SW1A 2AA

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SECRETARY OF STATE
FOR
NORTHERN IRELAND

Handwritten notes:
97-098
259 (circled in red)
SIPT
MP
B.P.

Prime Minister

31 January 2001

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THIS IS A COPY THE ORIGINAL
RETAINED UNDER SECTION 5
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Item 49/2068

Minute dated
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CONFIDENTIAL

FROM: THE PRIVATE SECRETARY

File



NORTHERN IRELAND OFFICE
CASTLE BUILDINGS
BELFAST BT4 3SG

FAXED

Michael Tatham Esq
Private Secretary
10 Downing Street
LONDON
SW1A 2AA

31 January 2001

Dear Michael,

POINTS ARISING FROM THE MEETING WITH THE SDLP ON 23 JANUARY

Your letter of 23 January, recording the Prime Minister and Mr Mandelson's meeting with Messrs Hume, Mallon and McGrady, asked for language to close the remaining gaps on the policing concerns.

We believe that, in the light of the discussion that day, for the name, badge and flags there is no outstanding issue vis-à-vis the SDLP.

On the name, the text in the draft Implementation Plan quotes the words used by Lord Falconer during the passage of the Bill, that had been agreed with the Irish in advance. We believe the SDLP now accept that the Government could not go further and include in the Plan a guarantee to introduce fresh legislation.

In respect of the badge and flags, there are two separate points. We have agreed that we will include in the Implementation Plan the additional words that Peter Mandelson used in his letter to Seamus Mallon of 24 November. The relevant passage would now read:

“The Secretary of State could not conceive of rejecting the Board's proposals if genuine consensus emerges. Otherwise he would not impose an outcome either on the emblem or the flying of flags which would deter recruitment or be objectionable to a substantial part of the community.” (New passage underlined.)



This addition was requested by the SDLP, though it arguably provides some reassurance for Unionists too. It seemed a positive sign that, at the meeting, Seamus Mallon did not demur at the prospect of the Union Flag being flown at a police station if a Head of State were visiting it.

On the Government's default position, should the Board be unable to reach consensus, the SDLP clearly took comfort from what they heard. We would hope, therefore, that nothing beyond the above change in the Implementation Plan will be required on the badge and flags, at this stage.

The other four issues are those in which the Chief Constable rather than the Secretary of State is primarily in the lead – the closure of Gough Holding Centre, Special Branch issues, the Full Time Reserve and the Part Time Reserve. (The SDLP sometimes raise lateral entry too.)

As we understand the Chief Constable's position, he has concluded that, provided it is clear that the SDLP, at least, will nominate the Policing Board, he can go further than the present texts in the first two of these areas.

On Gough, therefore, he could live with the following text:

Timescale: Castlereagh and Strand Road holding centres have already been closed. Gough holding centre will be closed as soon as alternative arrangements can be made for holding all suspects in custody suites based in police stations. A scoping study to plan for alternative arrangements was completed ahead of schedule in November 2000. A detailed plan is being finalised. The objective is to close Gough Holding Centre by April or as soon as practical interim arrangements can be made; moreover, longer-term alternatives facilities will be built, ready for use early in 2002. (New wording underlined.)



On Special Branch, the remaining issues relate to the number of officers, the units in which they are currently working, and where and when they will be redeployed. The Chief Constable has now given us an advanced form of words, again subject to the above caveat. On the amalgamation of Special Branch units into the wider service and reduction in the size of the Branch we believe the following wording would suffice:

The Patten Report identifies 850 officers being attached to Special Branch. By March 2001 the Chief Constable expects to reduce this figure to around 765, a reduction of some 10%. The Chief Constable then aims, by September 2001, to amalgamate into the wider police service those units commonly referred to as support units (Patten recommendation 101). These units include support teams, including training, technical and air support units. This would by that stage have reduced Special Branch by over 40%. (All new language.)

The Chief Constable did in fact offer a slightly fuller text – “these units include: surveillance teams, uniformed support teams, training units, technical support units and air support units. This would by that stage have reduced the size of Special Branch to around some 480 officers, a reduction of over 43%.” We are however concerned about publishing such detail on police capability, and believe it would be preferable not to be so explicit.

On tenure in security postings the Chief Constable’s wording is:

It is intended that the new tenure policy for the service will be finalised by September 2001. This would include a maximum continuous period of the order of 7 years for officers deployed in Special Branch. (New wording underlined.)

Officials had further discussions with the Chief Constable on 24 January about the Full-Time Reserve and have since written to him. He does not feel he can go substantively further at this stage, in advance of discussions with the Police Federation.



The slightly revised text on this area, with which the Chief Constable is content, is:

Accepted. Subject to the security situation, the Full Time Reserve will be phased out. Full Time Reserve officers will be given reasonable notice of the non-renewal of their contracts. They will be eligible for inclusion in the severance scheme.

Timescale: The strength of the Full Time Reserve has already reduced by over 600 and there has been no recruitment for three years – the reduction has in effect begun. The next implementation step will be the non-renewal of contracts. If the prevailing security situation and policing requirements allow, it is intended that the process of non-renewal of contracts would begin when the first batch of new recruits to the Police Service of Northern Ireland complete their training early in 2002. (New wording underlined.)

In relation to recruitment to the Part-Time Reserve, we do not believe that the SDLP would take exception to the current wording. This is itself an advance on the text that they were given on 9 December.

On lateral entry, we have now received on a personal basis, a copy of an Irish document from the spring, setting out their thinking on North-South co-operation as per Patten. But as we still need more to progress lateral entry, we should maintain the pressure on the Irish through the SDLP.

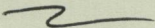
Attachments

I attach two further documents. The first is an updated **grid** of the SDLP concerns, amended to reflect these texts (on a conditional basis).



The second is an updated version of the draft Implementation Plan text for all the paragraphs subject to discussion with either the SDLP or Sinn Fein. It would be prudent to tip off the SDLP to the changes in language (not substance) to reflect Sinn Fein concerns. Please note this text does NOT include the Chief Constable's 'conditional' changes on Gough or Special Branch.

Yours ever,

Paul


P G PRIESTLY

OUTSTANDING ISSUES FOR THE SDLP (NIO UNDERSTANDING AT 31.1.01)

A. PATTEN

| SDLP ISSUE(S) | PATTEN TEXT | CURRENT GOVERNMENT POSITION | POTENTIAL FALLBACK POSITION/COMMENT |
|---|--|---|---|
| <p>Rec 62: Gough Holding Centre.</p> <p>SDLP line is they <u>cannot</u> sit on the Policing Board if Gough is still open.</p> | <p>Rec 62: "The three holding centres at Castlereagh, Gough Barracks and Strand Road should be closed forthwith and all suspects should in future be detained in custody suites based in police stations".</p> | <p>IP* "<u>Accepted</u>. Castlereagh holding centre closed on 31 December 1999 and Strand Road holding centre closed on 1 October 2000. The Government and the Chief Constable have accepted that the holding centre at Gough barracks should close as soon as is practicable.</p> <p><u>Timescale</u>. Castlereagh and Strand Road holding centres have already been closed. The holding centre at Gough barracks will be closed as soon as alternative arrangements can be made for holding all suspects in custody suites based in police stations. A scoping study to plan for alternative arrangements was completed ahead of schedule in November 2000. A detailed plan is being finalised.</p> <p><u>The objective is to close Gough Holding Centre by April or as soon as practical interim arrangements can be made; moreover, longer term alternative facilities will be built, ready for use early in 2002.</u>" (New wording underlined.)</p> | <p>The RUC have offered new, helpful, wording but <u>contingent</u> on the SDLP supporting policing. (The longer the delay in setting up the Board, the less realistic the April deadline becomes.)</p> <p>Rec: Offer new wording, contingently, stressing the difficulties posed for the Chief Constable in achieving this.</p> |
| <p>Rec 98: Bringing Special Branch together with Crime Dept under one ACC; SDLP</p> | <p>Rec 98: "Special Branch and Crime Branch should be brought together under the command of a single</p> | <p>IP* "<u>Accepted</u>. Though implementation must take account of the security situation. The Regulation of Investigatory Powers Act, introduced on 2 October 2000,</p> | <p>Rec: Is effectively what SDLP want. We could remove one reference to the security situation if</p> |

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| <p>demand this should happen by 1 April, with no security proviso.</p> | <p>Assistant Chief Constable.”</p> | <p>increases the accountability of Special Branch – see recommendation 41.</p> <p><u>Timescale.</u> The Chief Constable has announced that this change will, security permitting, take effect from 1 April 2001.”</p> | <p>pressed.</p> |
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| SDLP ISSUE(S) | PATTEN TEXT | CURRENT GOVERNMENT POSITION | POTENTIAL FALLBACK POSITION/COMMENT |
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| <p>Recs 99 & 101: SDLP want in the Implementation Plan:</p> <p>(a) a breakdown of the support units and other groups being redeployed outside Special Branch;</p> <p>(b) the numbers involved;</p> <p>(c) a tenure policy for Special Branch;</p> <p>(d) a timetable for these changes.</p> <p>They would prefer less stress on the security caveat and see Special Branch as resistant of changes.</p> | <p>Recs 99 & 101: "There should be substantial reduction in the number of officers engaged in security work in the new, amalgamated command.</p> <p>The support units of Special Branch should be amalgamated into the wider police service".</p> | <p>IP* "<u>Accepted</u>. These recommendations are accepted by the Government and the Chief Constable, and will be implemented in the light of assessments of the security situation.</p> <p><u>Timescale. The implementation of recommendation 98 is the first step and progress depends on the security situation. The Patten Report identifies 850 officers being attached to Special Branch. By March 2001 the Chief Constable expects to reduce this figure to around 765, a reduction of some 10%. The Chief Constable then aims, by September 2001, to amalgamate into the wider police service those units commonly referred to as support units (Patten Recommendation 101). These units include support teams such as training, technical and air support units. This would by that stage have reduced Special Branch by over 40%. (New wording underlined.)"</u></p> <p>Note: Rec 98 is amalgamation of SB and CID under one ACC.</p> | <p>The RUC have provided new more forward text, but its inclusion in the Plan is <u>contingent</u> on SDLP supporting policing.</p> <p>Rec: Offer new text, contingently.</p> <p>(If pressed the Prime Minister could say the units include surveillance teams and uniformed support teams, but saying this in a public document could jeopardise the police capability.)</p> |

| SDLP ISSUE(S) | PATTEN TEXT | CURRENT GOVERNMENT POSITION | POTENTIAL FALLBACK POSITION/COMMENT |
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| <p>Rec 103: Full Time Reserve</p> <p>SDLP want:</p> <p>(a) an assurance of phasing out from early 2002;</p> <p>(b) a timetable for the run-down.</p> | <p>Rec 103: "The future police service should not include a Full Time Reserve".</p> | <p>IP* <u>Accepted</u>. Subject to the security situation, the Full Time Reserve will be phased out. Full Time Reserve officers will be given reasonable notice of the non-renewal of their contracts. They will be eligible for inclusion in the severance scheme.</p> <p><u>Timescale</u>. The strength of the Full Time Reserve has already reduced by over 600 and there has been no recruitment for three years – <u>the reduction has in effect begun</u>. The next implementation step will be the non-renewal of contracts. If the prevailing security situation and policing requirements allow, it is intended that the process of non-renewal of contracts would begin when the first batch of new recruits to the Police Service of Northern Ireland complete their training early in 2002." (New wording underlined.)</p> | <p>(i) The issues are the Chief Constable's manpower shortage and the response of the Police Federation to this text. The Government is in discussions with the Chief Constable and the Police Federation to examine options. (While reservists are legally "office holders" rather than employees, there are still expectation issues to address.)</p> <p>(ii) It appears the SDLP are beginning to understand the Chief Constable's difficulties.</p> <p>(iii) The Chief Constable does not want to move further on the wording.</p> <p>Rec: To say we have gone as far as we can – the Chief Constable has manpower concerns and we have not settled issues with the Federation.</p> |

| SDLP ISSUE(S) | PATTEN TEXT | CURRENT GOVERNMENT POSITION | POTENTIAL FALLBACK POSITION/COMMENT |
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| <p>Rec 104: Part Time Reserve</p> <p>SDLP want:</p> <p>(a) Part Time Reserve trainees to be recruited at the same time as the Regulars;</p> <p>(b) confidence that they will be recruited from under-represented (ie Nationalist) areas.</p> <p>See Government and RUC as having conflicting positions.</p> | <p>Rec 104: "There should be an enlarged Part Time Reserve of up to 2,500 officers, the additional recruits to come from both areas in which there are currently very few reservists or none at all".</p> | <p>IP* "<u>Accepted</u>. Section 46 of the Police Act allows the Chief Constable to recruit to the Part Time Reserve on a District command basis by enabling requirements based on locality to be included in recruitment to the Part Time Reserve. <u>The aim is that recruitment will be targeted on areas where there are currently few Reservists, or none at all, as Patten proposed.</u> However recruitment will be on merit and as Patten said "We emphatically do not suggest that people with serious criminal or terrorist backgrounds should be considered for the police service." (New wording underlined.)</p> <p><u>Timescale.</u> Legislative provision has been included in the Police Act at sections 37, 40 and 46. Regulations to be made under the Act will include specific provision for the Part Time Reserve. The aim is to start the process as soon as practicable, so that the first trainees would enter no later than the end of 2001, after the first exercise to recruit regular members to the new service. The aim would be to bring the Part Time Reserve up to 2,500 within three years of start-up – but this will obviously require community support. Their training needs will be addressed as part of the training and education strategy – see recommendation 129."</p> | <p>(i) There is little, if any, gap between us and the SDLP. The text reflects a firm plan to have the first trainees join by the end of 2001 so that after training they start policing with the new Regulars.</p> <p>(ii) We have also been more positive in the wording by saying that recruitment will be targeted on areas where there are few reservists or none at all.</p> <p>Rec: Say that we are on all-fours on need to progress part-time recruitment, and we will target recruitment as far as possible on local areas, but the SDLP need to recognise the enormity of 2 recruitment campaigns (regulars and part-time running side by side). The Prime Minister can also say the Part Time Reserve will be included in the advertising.</p> |

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| <p><u>Rec 127: Lateral entry</u></p> <p>The SDLP want early progress with:</p> <p>the inter-Governmental agreement;</p> <p>arrangements for Garda applications;</p> <p>protocols for liaison officers and longer term secondments.</p> | <p>Recs 127 & 128: "The Recruitment Agency should seek to identify Northern Ireland Catholic officers in other police services, including the Garda Siochana, contact them and encourage them – particularly those in more senior ranks – to apply for position in the Northern Ireland Police.</p> <p>Lateral entry of experienced officers from other police services, and secondments or recruitment from non-police organisations should be actively encouraged".</p> | <p>IP* "<u>Accepted</u>. The Police Act requires the Board, in respect of the senior police officers appointed by it, and the Chief Constable, in respect of other ranks, to encourage applications for appointment to the new police service from candidates from other police forces. In doing so both the Board and the Chief Constable must have regard to the progress which has been made towards making the police service representative of the community in Northern Ireland. This would facilitate, for example, serving Garda officers or officers in other UK forces in applying for posts in the Police Service of Northern Ireland. As the Patten Report makes clear "selection must be on the basis of merit" and in open competition with any internal candidates. External candidates will, therefore, need to be suitably qualified and this will require detailed reciprocal arrangements with other forces which recognise rank and training equivalence. This entails changes to existing regulations and the negotiation of suitable reciprocal arrangements.</p> <p>Statutory provision is already in place to enable officers in the Police Service of Northern Ireland to be seconded to other forces or organisations and for officers in other UK forces to be seconded to the Police Service of Northern Ireland. Secondment of police officers from outside the UK requires agreements – see recommendations 157-165.</p> | <p>(i) Recs 157 to 164 also relate to personnel exchanges with the Garda.</p> <p>(ii) The SDLP appreciated that HMG was waiting for a memorandum from the Irish side.</p> <p>Rec: Welcome the pressure they are putting on the Irish, as are we.</p> |
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| | | <p>Statutory provision is not required to facilitate civilian recruitment or secondment to the police support staff but the Government would encourage the Board and the Chief Constable to seek suitable candidates from a diversity of backgrounds and experience.</p> | |
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| SDLP ISSUE(S) | PATTEN TEXT | CURRENT GOVERNMENT POSITION | POTENTIAL FALLBACK POSITION/COMMENT |
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| (Contd) | | <p><u>Timescale</u>. Legislative provision has been included in the Police Act, at section 45. Agreements and regulations recognising rank and qualification equivalents will be needed to facilitate "lateral entry" to the new police service (see recommendations 157-165). These will be taken forward as soon as possible."</p> | |
| <p>Rec 150: Name SDLP want a "commitment" by HMG to introduce legislation if its stated policy is overturned in the courts.</p> | <p>Rec 150: "While the Royal Ulster Constabulary should not be disbanded, it should henceforth be named the Northern Ireland Police Service".</p> | <p>IP* "<u>Accepted</u>. The Government is well aware of the deep concern over the issue of changing the name. Its intention has been to ensure that the RUC is evidently incorporated into the new service in its founding legislation. The purpose of the reference to the RUC in section 1(1) of the Police Act is to demonstrate that the RUC is not being disbanded, as the Patten Report made clear should not happen.</p> <p>The Government has made it clear, however, that the new name, the Police Service of Northern Ireland, will be used for all operational and working purposes, including whenever and in whatever circumstances the police interface with the public.</p> <p>The Government is aware that concern has been expressed that the legislation could possibly result in the name not being used in the manner outlined above. It will, as with all aspects of the legislation, keep this</p> | <p>(i) The current text reflects Lord Falconer's remarks in the Lords debate.</p> <p>(ii) We believe the SDLP accept this now, given the link to a review.</p> <p>Rec: Not to raise the issue.</p> |

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| | | <p>under review. It will also expect the Oversight Commissioner to include the issue in his regular reports and will be willing to return to it if necessary.</p> <p><u>Timescale.</u> Legislative provision has been included in the Police Act, at section 1. The new name will be introduced on 1 September 2001. At that point, new recruits will be joining the Police Service of Northern Ireland.”</p> | |
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| SDLP ISSUE(S) | PATTEN TEXT | CURRENT GOVERNMENT POSITION | POTENTIAL FALLBACK POSITION/COMMENT |
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| <p>Recs 151-153: Badge, Emblem and Flags</p> <p>(i) SDLP have pressed for an assurance that if the Board could not reach consensus, the Government would default to Patten.</p> <p>(ii) They are <u>now</u> seeking to have the words used in the Secretary of State's letter to Seamus Mallon of 24 November.</p> | <p>Recs 151, 152 & 153: "The Northern Ireland Police Service should adopt a new badge and symbol which are entirely free from any association with either the British or Irish state.</p> <p>The Union flag should no longer be flown from police buildings.</p> <p>On those occasions on which it is appropriate to fly a flag on police buildings, the flag flown should be that of the Northern Ireland Police Service and it, too, should be free from associations with the British or Irish states".</p> | <p>IP* <u>Accepted, subject to consultation</u>. A new badge will be introduced. The Policing Board will be consulted on the design of the badge. The Act provides the Secretary of State with a power to regulate the design of the badge and its use and to regulate the flying of all flags from police buildings. A new police service flag (based on the new badge) will be introduced and will fly from all police buildings, as specified by the Chief Constable. The Policing Board will be consulted on the new arrangements.</p> <p>The Government is fully aware of the sensitivity of this issue. That is why the Secretary of State has made clear that he wants to obtain a genuine cross-community consensus if he possibly can.</p> <p>During the passage of the legislation, Government Ministers stressed that they would be looking to the Policing Board to provide views on this matter. The Secretary of State could not conceive of rejecting the Board's proposals if genuine consensus emerges. Otherwise he would not impose an outcome either on the emblem or the flying of flags which would <u>deter recruitment or be objectionable to a substantial part of the community</u> (new wording underlined).</p> | <p>(i) Government has agreed to add the wording the SDLP want – see underlined text (it arguably provides some reassurance for Unionists too).</p> <p>Rec: Emphasise that we have moved to meet the SDLP request.</p> |



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| | | <p><u>Timescale.</u> Legislative provision has been included in the Police Act, at section 54. The new badge and the new policy on the flying of flags will be introduced at the same time as the new name. The Government has also said that it wants to resolve this issue by April so that when the campaign is launched advertising for new recruits they will know what the position is."</p> | |
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| SDLP ISSUE(S) | PATTEN TEXT | CURRENT GOVERNMENT POSITION | POTENTIAL FALLBACK POSITION/COMMENT |
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| (Contd) | | Secretary of State said at Northern Ireland Questions on 20 December "The Government's bottom line is that nothing should be done to deter the fresh recruitment that we want in the Police Service of Northern Ireland. That was Patten's bottom line; it remains mine too". | |

IMPLEMENTATION PLAN - PAPER Z2

This paper does not contain the latest text on 62 (Gough), 99 and 101 (Special Branch) and 102 (Special Branch).

RECOMMENDATION 2**NEW POLICE OATH**

Partly accepted. **The Act sets out the importance of the new oath for both serving and new police officers.** A new police oath, **as suggested** by Patten, will be taken by new recruits to the police service. Existing officers have already been attested as constables and cannot be required to take the new oath. However, the new Code of Ethics for the police service will incorporate the same values and a similar commitment to upholding and respecting human rights as is contained in the new oath (see recommendation 3). Section 52(2) of the Police Act specifically recognises this by requiring the Chief Constable and the Board to have regard to the terms of the oath in drawing up the Code of Ethics. In addition, the Chief Constable is obliged by section 38(2) of the Police Act to bring the terms of the new oath to the attention of serving officers and ensure that they understand it and understand the need to carry out their duties in accordance with it.

The actual wording of the new oath is contained in section 38 of the Police Act.

Timescale: Legislative provision has been included in the Police Act, at section 38. The new oath will be taken by entrants and brought to the attention of existing officers from September 2001 onwards.

RECOMMENDATION 3**CODE OF ETHICS**

Accepted. The Chief Constable will be required to draft the Code of Ethics by **which all police officers must be guided.** It is to be issued or revised by the Policing Board, after consulting the Human Rights Commission, the Police Ombudsman, the Secretary of State, the Police Association and the Equality Commission. It would be open to those bodies to draw on best practice elsewhere in formulating their own recommendations. The Code will be subject to the approval of, and will be issued by, the Policing Board. The Code of Ethics will emphasise the priority to be given to human rights.

Under the Police Act, the Chief Constable shall take such steps as he considers necessary to ensure that all police officers have read and understood the Code, and that a record is made and kept of the steps taken in relation to each officer. The Board is required to keep these steps under review. The Secretary of State is obliged, as far as practicable, to reflect the Code of Ethics in police discipline regulations (section 52 of the Police Act).

The Police Act enables the Secretary of State to issue guidance - as the Home Secretary has done for England and Wales - on the use by members of the police service of equipment designed for use in maintaining or restoring public order (see recommendation 74). Codes on covert law enforcement techniques are dealt with under recommendation 39.

Timescale: Legislative provision has been included in the Police Act, at section 52. Work has begun by the Chief Constable on preparing a draft Code of Ethics, with the aim of presenting it to the Policing Board in Spring 2001. The precise date of its introduction is for the Policing Board to determine. The Secretary of State will amend existing regulations, following the Board's adoption of the Code of Ethics.

RECOMMENDATION 24 OPERATIONAL RESPONSIBILITY

Accepted. Section 33 of the Police Act, **which deals with the Chief Constable's operational responsibility**, provides that the police shall be under the direction and control of the Chief Constable. It is a fundamental principle that the police are impartial and free from political control. This principle was set out in the Good Friday Agreement.

The corollary of this is that the Government accepts that the Policing Board needs to have adequate powers to hold the Chief Constable and the police service to account for the performance of their functions - and that such accountability should extend to explaining operational decisions. The Act provides greatly enhanced powers for the Policing Board to require reports from the Chief Constable and to initiate inquiries into matters connected with policing (sections 59 and 60).

Timescale: Legislative provision has been included in the Police Act.

RECOMMENDATIONS 25 & 26 POWERS TO REQUIRE REPORTS AND INITIATE INQUIRIES

Accepted. The Government accepts that the Policing Board needs these powers to enable it to hold the Chief Constable and the police service to account. The Act sets out these unique powers and the safeguards on their use.

The Policing Board will be able to request the Police Ombudsman, HMIC, the Audit Office or, with the agreement of the Secretary of State, any other person to conduct an inquiry into the police service on the Board's behalf.

The initial provisions in the legislation were amended during the passage of the Bill to take account of representations made to Government. The Government has said that it will consider very carefully any request from the Policing Board for additional in-year funding for an inquiry. It should be noted that the Secretary of State is not obliged to overrule the Policing Board if the Chief Constable refers the Board's decision to him - he will consider each case very carefully on its merits.

Moreover, where the Policing Board considers an inquiry should be held, by reason of the gravity of the matter or exceptional circumstances, the Secretary of State would not envisage overruling the Board without discussion with it. He would also give his reasons to the Board.

The Government will issuing a best practice code setting out how the Secretary of State would approach proposals from the Policing Board for inquiries (under section 60 of the Act). The Government has not yet prepared the code in detail, but would envisage it covering areas such as:

- **arrangements for requests for additional funding for inquiries;**
- **arrangements for the Board to give reasons why it considers something should be the subject of an inquiry;**
- **the manner in which the Secretary of State might seek further information or give his reasons for refusal;**
- **consideration, with the Board, of options short of an inquiry if the Secretary of State is inclined to refuse a Board request;**

- **consultation of others with an interest, before reaching a judgement;**
- **the possibility of the Board making further representations.**

Timescale: Legislative provision has been included in the Police Act, at sections 59 and 60.

RECOMMENDATION 27 CREATION OF DISTRICT POLICING PARTNERSHIP BOARDS

Accepted. These new bodies will be called '*District Policing Partnerships (DPPs)*'.

The Government regards the District Policing Partnerships as a fundamental component of the new beginning and as a vital element of the accountability arrangements envisaged by Patten. The Good Friday Agreement terms of reference for Patten sought "clearly established arrangements enabling local people and their political representatives to articulate views, and concerns about policing and to establish ... policing priorities and influence policing policies ..." subject to safeguards.

The District Policing Partnerships will serve as important forums for consultation between the community and the police on policing objectives, priorities and concerns at District level. Patten referred, para 6.29, to DPPs having an advisory, explanatory and consultative role and the Act provides for this. Under the legislation, they will provide views to district commanders on policing matters, and monitor police performance in carrying out policing plans in the district. They will also be responsible for making arrangements for obtaining the views of the public about matters concerning the policing of the District, and the co-operation of the public with the police in preventing crime. The success of the DPPs will be crucially dependent on the willingness of representatives of both the unionist and nationalist communities to serve on them and support their work.

The appointment arrangements for the DPPs follow those recommended by Patten. The Secretary of State will issue a Code of Practice on appointments after consultation with the District Councils, the Policing Board and the Equality Commission.

Timescale: Legislative provision has been included in Part III and Schedule 3 of the Police Act. A Code of Practice will be issued by June/July 2001; it will be based on that issued by the Commissioner for Public Appointments. The pace of establishment of DPPs will be determined in part by the input from the Policing Board and the district councils. Schedule 3 disqualifies from independent membership persons who have been convicted in Northern Ireland or elsewhere of any **offence** and have had passed on them sentences of imprisonment. While of the view that the time is not yet right, the Government would hope to see a time when sensitivities recede and certain convictions could be relegated in the selection procedures for DPPs.

RECOMMENDATION 28 ARRANGEMENTS FOR BELFAST

Accepted. The legislation provides for the district council for Belfast to establish a sub-group (also called a sub-committee in the Patten report) of its DPP for each police district in Belfast. The Chief Constable has stated that it is his intention that there shall be 4 police districts in Belfast. If the Chief Constable were at some stage in the future to propose changing that arrangement he would not envisage doing so without first speaking to the Policing Board and any district councils that were affected.

Timescale: Legislative provision requiring the district council for Belfast to establish a sub-group of its DPP for each police district has been included in the Police Act, at sections 20-21. The function of each sub-group shall be to provide views to the **District Commanders and the Belfast DPP** on any matter concerning the policing of that police district.

RECOMMENDATION 38 ROLE OF THE POLICE OMBUDSMAN

Accepted. The Government has enacted legislation creating the office of Police Ombudsman and **has ensured** that the office is adequately staffed and resourced. The Ombudsman has powers to initiate an investigation even if no specific complaint has been received, but where the Ombudsman believes that a criminal or disciplinary offence may have been committed by police officers under section 55 of the Police (NI) Act 1998. The Ombudsman is responsible for compiling data on trends and patterns in complaints, and is required to do so under section 64 of the Police Act. A sophisticated computer system has been installed to enable her to do this. Such information will be reported to the Chief Constable and the Policing Board for any necessary action (see recommendation 13).

The Act provides for the Ombudsman to report on police policies and practices which are perceived to give rise to difficulties, where the Ombudsman identifies these as a result of complaints investigations, even though the conduct of officers may not itself be culpable, by sending a report to the Chief Constable and the Policing Board for any necessary action. Moreover, under section 63, the Ombudsman may carry out research into any matter which may be the subject of such a report, and has a research team to do this. The Ombudsman will also be given such information by the Chief Constable and the Policing Board as may be required for the purposes of, or in connection with, the exercise of any of the Ombudsman's functions (section 66).

The legislation provides, at section 65, for regulations to set out the circumstances in which the Ombudsman may deal with complaints arising before her office was established. The intention is that, under these regulations, she will be able to investigate a case:

- (a) **if it is not substantially the same as one previously investigated and she believes there may have been a criminal or disciplinary offence and she considers it grave or exceptional; or**
- (b) **if there is new evidence (even if the case had been considered before) and she believes there may have been a criminal or disciplinary offence and she considers it is grave or exceptional (unless it had already been the subject of disciplinary or criminal proceedings).**

Timescale: Legislative provision has been included in the Police Act, in addition to the existing provisions in the 1998 Police Act. The Police Ombudsman's Office became fully operational on 6 November 2000. **The regulations under section 65 will be made as soon as consultation with a range of interested parties has been completed.**

RECOMMENDATION 44 COMMUNITY POLICING AS A CORE FUNCTION

Accepted. The Government and Chief Constable accept the importance of community policing **and that the Police Service of Northern Ireland should be at the leading edge of developments in community policing. Policing with the community will be a core function of the police service and its officers.** Section 32(5) of the Police Act provides that police officers should, so far as practicable, carry out their functions in co-operation with, and with the aim of securing the support of the local community. It will be for the Chief Constable to make community partnership policing operational.

The Policing Board's responsibility in section 3(3)(d) for making arrangements for promoting the co-operation of the public with the police in preventing crime will give the Board an important role in helping to make community partnership policing a reality. The DPPs will also have an important role to play. They must obtain the views of the public about policing issues in their district and the co-operation of the public with the police, and shall act as a general forum for discussion and consultation on policing (section 16).

Timescale : Legislative provision has been included in the Police Act.

RECOMMENDATION 62 HOLDING CENTRES

Accepted. Castlereagh holding centre closed on 31 December 1999 and Strand Road Holding Centre closed on 1 October 2000. The Government and the Chief Constable have accepted that Gough Barracks should close as soon as is practicable.

Timescale: Castlereagh and Strand Road holding centres have already been closed. Gough holding centre will be closed as soon as alternative arrangements can be made for holding all suspects in custody suites based in police stations. A scoping study to plan for alternative arrangements was completed ahead of schedule in November 2000. A detailed plan will be completed by January 2001. **The objective is to provide interim alternative facilities by Autumn 2001, at which point Gough would close.**

RECOMMENDATIONS 69 & 70**PUBLIC ORDER EQUIPMENT**

Accepted. The Government launched a research programme in July 2000. The research will also consider the deployment of equipment within an overall public order equipment strategy. Terms of reference for the project, the first phase of which will be completed by end February 2001, have been made public. The steering group reports directly to the NIO Minister of State, Mr Ingram. **The Policing Board is among the bodies to be consulted before the Secretary of State issues guidance on the use of equipment for maintaining or restoring public order.**

Timescale: Phase 1 of the Research programme to be completed by February 2001. **A summary of the literature survey together with a framework document will be published by the end of February.** Phase II of the programme will involve an evaluation of the literature review and the preparation of a business case outlining the research proposals to be taken forward as part of Phase III. **This area will be subject to scrutiny by the Oversight Commissioner.**

RECOMMENDATION 83**TENURE POLICY ON POLICE POSTINGS**

Accepted. The Chief Constable will, **in consultation with the Policing Board and taking account of the advice of Her Majesty's Inspector of Constabulary**, introduce a new tenure policy for the police service, as part of an effective career management policy for all officers. The new tenure policy will set objectives for length of postings for different police disciplines – see also recommendation 102.

Timescale: Tenure policy to be introduced by September 2001.

RECOMMENDATIONS 99 & 101**SPECIAL BRANCH**

Accepted. These recommendations are accepted by the Government and the Chief Constable, and will be implemented in the light of assessments of the security situation.

Timescale: The implementation of recommendation 98 is the first step. Progress with these recommendations depends on the security situation. The Chief Constable has said that, subject to this caveat, the support units could be amalgamated into the wider police service as early as 1 April 2001.

RECOMMENDATION 102 POLICE POSTINGS IN SECURITY WORK

Accepted. The question of the length of time which police officers - including those engaged in security work - normally spend in each posting will be addressed as part of the new tenure policy for the police service which is being developed by the Chief Constable who will consult the Policing Board. The new tenure policy will set objectives for length of postings for different police disciplines (see recommendation 83).

Timescale: **Tenure policy to be introduced by September 2001.**

RECOMMENDATION 103 PHASING OUT OF FULL TIME RESERVE

Accepted. Subject to the security situation, the Full Time Reserve will be phased out. Full Time Reserve officers will be given reasonable notice of the non-renewal of their contracts. They will be eligible for inclusion in the severance scheme.

Timescale: The strength of the Full Time Reserve has already reduced by over 600 and there has been no recruitment for three years – **the reduction has in effect begun**. The next implementation step will be the non-renewal of contracts. If the prevailing security situation and policing requirements allow, it is intended that the process of non-renewal of contracts would begin when the first batch of new recruits to the Police Service of Northern Ireland complete their training early in 2002.

RECOMMENDATIONS 118 & 119**FUNCTIONS OF NEW RECRUITMENT AGENCY**

Accepted. The need to advertise widely and to target advertising at particular groups who are under-represented in the police **has been** included in the contractual arrangements for the Recruitment Agency. **The advertising, which is in train, will make clear that applications from across the community are sought.**

Timescale: This requirement was included in the specification for the recruitment agency. It is the intention that the successful contractor should begin advertising **very shortly.**

RECOMMENDATION 126 REGISTRATION OF NOTIFIABLE MEMBERSHIPS

Accepted. The Police Act requires all police officers to inform the Chief Constable of "notifiable memberships". A notifiable membership is membership of an organisation which might reasonably be regarded as affecting an officer's ability to discharge his duties effectively and impartially. The Chief Constable **will** issue guidance to assist officers in deciding whether they have notifiable membership and must consult the Board, the Secretary of State and the Northern Ireland Human Rights Commission before doing so. Guidance must be published. Notifiable memberships must be held by the Chief Constable and the Ombudsman **will have full access to this information.**

Timescale: Legislative provision has been included in the Police Act, at section 51.

RECOMMENDATIONS 151,152 & 153**BADGE AND FLAGS**

Accepted, subject to consultation. A new badge will be introduced. The Policing Board will be consulted on the design of the badge. The Act provides the Secretary of State with a power to regulate the design of the badge and its use and to regulate the flying of all flags from police buildings. A new police service flag (based on the new badge) will be introduced and will fly from all police buildings, as specified by the Chief Constable. The Policing Board will be consulted on the new arrangements.

The Government is fully aware of the sensitivity of this issue. That is why the Secretary of State has made clear that he wants to obtain a genuine cross-community consensus if he possibly can.

During the passage of the legislation, Government Ministers stressed that they would be looking to the Policing Board to provide views on this matter. The Secretary of State could not conceive of rejecting the Board's proposals if genuine consensus emerges. Otherwise he would not impose an outcome either on the emblem or the flying of flags which would deter recruitment **or be objectionable to a substantial part of the community.**

Timescale: Legislative provision has been included in the Police Act, at section 54. The new badge and the new policy on the flying of flags will be introduced at the same time as the new name. The Government has also said that it wants to resolve this issue by April so that when the campaign is launched advertising for new recruits they will know what the position is.

RECOMMENDATIONS 173, 174 & 175**FUNCTIONS OF COMMISSIONER**

Accepted. These issues are dealt with in the terms of appointment of the Oversight Commissioner. The Commissioner will conduct progress review meetings with Ministers and NIO officials, the Chief Constable, the Police Authority, and in due course the Policing Board, at least three times a year and will provide a report to the Secretary of State after each review. This Implementation Plan will provide the baseline against which the Oversight Commissioner will monitor progress. The Oversight Commissioner's periodic reports on progress will be laid before Parliament and published.

His terms of reference also require the Commissioner to meet the Ombudsman and other relevant organisations including the political parties and community leaders to discuss progress with the implementation of the required changes.

The Oversight Commissioner has been appointed for an initial term of three years at which point the continuing need for the office will be reviewed by the Secretary of State.

Section 67 of the Police Act makes clear that the Oversight Commissioner's general function is to oversee the implementation of changes in the policing of Northern Ireland (including, in particular, those resulting from the Act), described in his terms of reference.

Timescale: The Government's aim is that the Oversight Commissioner should provide a first report early in 2001. **He has already circulated a full report setting out his methodology for carrying out his task.** Thereafter the Commissioner is expected to conduct formal progress reviews and make reports every 4 months or so.

The Oversight Commissioner's Chief of Staff, Mr Al Hutchinson, formerly of the Royal Canadian Mounted Police, **took** up his appointment on 15 January 2001.

RESTRICTED



MINISTRY OF DEFENCE
WHITEHALL LONDON SW1A 2HB

Telephone 020 721 82111/2/3

SECRETARY OF STATE

MO 19/3K

31st January 2001

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JS
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Dear Michael,

ULSTER TELEVISION: POSSIBLE INJUNCTION

I wrote to you last night about the programme that Ulster Television were going to broadcast covering various allegations of collusion between the Army and loyalist terrorists in the late 1980s.

In the event, an injunction was not needed. But Counsel did have to put our case to a High Court Judge before UTV could be persuaded to allow MOD officials to preview the programme. Having seen it, they were satisfied that the programme in fact contained no material that could put lives at risk or damage national security. The injunction was not therefore pursued further. (Those who previewed the video last night report that it seemed poorly and hastily edited which could indicate that elements had been cut out beforehand.)

Defensive lines have been worked up in case there are allegations of heavy-handedness. These emphasise that our concern was that the broadcast could have put lives at risk and that UTV had been given every opportunity to co-operate with the Department. I understand that UTV have said today that they intend to run a number of similar stories over the coming months. Whilst they will comply with DA Notice procedures, they do not intend to offer previews to the MOD since they consider this to be unwarranted censorship of responsible programme makers. We are considering our response to this, but it is likely that specific concerns will need to be addressed on a case by case basis.

I am copying this letter to Kirsten McFarlane (NIO), and Richard Abel (Cabinet Office).

Your sincere

David

(D P WILLIAMS)
Private Secretary

Michael Tatham Esq
10 Downing Street

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Recycled Paper

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LEGAL SECRETARY
020-7271 2401

The Rt Hon Dr John Reid MP,
Secretary of State for Northern Ireland,
11 Millbank,
London,
SW1P 4PN.

JPo
ce JS
MT
AC
GS
THE LEGAL SECRETARIAT TO THE LAW OFFICERS
ATTORNEY GENERAL'S CHAMBERS
9 BUCKINGHAM GATE
LONDON SW1E 6JP

File

31st January 2001

Dear Secretary of State,

TERRORISTS ON THE RUN – LIAM AVERILL

I write in the temporary absence of the Attorney General and at his request.

The Director of Public Prosecutions for Northern Ireland has concluded his consideration of a police investigation file relating to the escape of Liam Averill from HM Prison Maze on 10th December 1997. Averill appears as name number 11 on the Sinn Fein list.

The Director has concluded that while the evidence is sufficient to afford a reasonable prospect of conviction for an offence of escape, the public interest does not require Averill to be prosecuted. The Director has issued a direction to the Chief Constable accordingly.

Apart from the unexpired portion of his sentence, Averill is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter.

I enclose an updated copy of the schedule of Sinn Fein names.

I copy this letter to Jonathan Powell.

Yours sincerely,

David Brummell

DAVID BRUMMELL

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ORIGINAL SINN FEIN LIST – UPDATE 31.01.01

The numbering is as used on the original list.

1. John James McClafferty

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 18th August 2000 refers.

2. Patrick McVeigh

A pre-trial case from England. A review of the evidence has been completed and the prosecution discontinued. My letter of 14th June 2000 to Jonathan Powell refers.

3. Robert Campbell

A post-conviction case from Northern Ireland. Campbell has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Campbell is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th November 2000 refers.

4. Paul Patrick Magee

A post-conviction case from Northern Ireland. Magee has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Magee is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th November 2000 refers.

5. Angelo Fusco

A post-conviction case from Northern Ireland. Fusco has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Fusco is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th November 2000 refers.

6. Nesson Quinlivan

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 13th July refers. There are currently live extradition proceedings in relation to the unexpired sentence before the Irish Courts.

7. Pearse McAuley

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. McAuley is currently in custody in Ireland. His extradition from Ireland will be sought following release. My letter to Jonathan Powell of 13th July refers.

8. Andrew Martin

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 13th July refers. There are currently live extradition proceedings in relation to the unexpired sentence before the Irish Courts.

9. Anthony Duncan

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 13th July refers. There are currently live extradition proceedings in relation to the unexpired sentence before the Irish Courts.

10. Dermot McNally

A post-conviction case from Northern Ireland. McNally is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, McNally is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

11. Liam Gerard Averill

A post-conviction case from Northern Ireland. Averill is a Maze escapee from 1997. The Director of Public Prosecutions for Northern Ireland has completed his

consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Averill is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. My letter of 31st January to John Reid refers.

12. Seamus Campbell

A post-conviction case from Northern Ireland. Campbell is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Campbell is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

13. Seamus Clarke

A post-conviction case from Northern Ireland. Clarke is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Clarke is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

14. Tony Kelly

A post-conviction case from Northern Ireland. Kelly is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Kelly is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

15. Rita O'Hare

A pre-trial case from Northern Ireland. The position is as set out in my letter to the Prime Minister of 23rd October.

16. Eibhlin Glenholmes

A pre-trial case from England. A review of the evidence has been completed and the prosecution discontinued. My letter of 14th June 2000 to Jonathan Powell refers.

17. Owen Carron

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

18. Seamus Drumm

Originally untraced, now recently identified as James Joseph Drumm. A pre-trial case from Northern Ireland. There is no outstanding direction for prosecution in Northern Ireland. Drumm is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 30th November 2000 refers.

19. Kevin McGuigan

Originally untraced, now recently identified. A pre-trial case from Northern Ireland. A review is being conducted and further inquiries will be necessary.

20. Michael Rogan

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

21. John Joseph Fusco

A review has been carried out and a direction for no prosecution issued. My letter to Jonathan Powell of 5th July refers.

22. Edward Joseph Rooney

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

23. Richard Stephen O'Callaghan

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of

conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

24. Michael Mulvenna

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

25. Marion Coyle

Originally untraced. A letter from Mr Adams was unhelpful in this regard as it dealt only with offences committed in Ireland. The Northern Ireland Office has, through Special Branch, found mention of her on the Police National Computer as wanted for questioning in relation to a conspiracy to cause explosions in 1976 and fingerprints found in the Southampton bomb factory in 1974. Inquires of the Director of Public Prosecutions for England and Wales confirm that his office holds no file in relation to her. The Northern Ireland Office may wish to make further inquiries of Special Branch.

26. Gerard Fryers

A post-conviction case from Northern Ireland. Fryers is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Fryers is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

27. Gerry Sloan

Identified as Anthony Gerard Sloan. Sloan has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. My letter to Peter Mandelson of 8th November 2000 refers.

28. Dermot Finucane

A post-conviction case from Northern Ireland. Finucane is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Finucane is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any

other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

29. James Clarke

A post-conviction case from Northern Ireland. Clarke is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Clarke is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

30. Terence Kirby

A post-conviction case from Northern Ireland. Kirby is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Kirby is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

31. Paul Brennan

A post-conviction case from Northern Ireland. Brennan is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Brennan is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

32. Kevin Barry Artt

A post-conviction case from Northern Ireland. Artt is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Artt is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

33. Daniel Joseph Keenan

A post-conviction case from Northern Ireland. Keenan escaped from Magilligan prison in 1975. The RUC are investigating the matter. The Director of Public Prosecutions for Northern Ireland will then consider the evidential position and public interest factors. The unexpired portion of his sentence remains outstanding.

34. Malachy McCann

A post-conviction case from Northern Ireland. McCann escaped from Magilligan prison in 1975. The RUC has completed its inquiries. The Director of Public Prosecutions for Northern Ireland is considering the evidential position and public interest factors. The unexpired portion of his sentence remains outstanding.

35. Paddy McIntyre

A post-conviction case from Northern Ireland. McIntyre is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, McIntyre is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

36 Anthony McAllister

A post-conviction case from Northern Ireland. McAllister is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, McAllister is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

37 Gerard Michael Sloan

A post-conviction case from Northern Ireland. Sloan has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Sloan is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to John Reid of 26th January 2001 refers.

37. Edward Francis Campbell

A post-conviction case from Northern Ireland. The RUC has not been able to trace an escape file. The Director of Public Prosecutions for Northern Ireland is considering the position in relation to escape and escape related offences.

38. Gerard William Patrick McCrory

A post conviction case from Northern Ireland. McCrory failed to return to custody after a period of compassionate leave. Offences relating to his failure to return are currently being considered by the Director of Public Prosecutions for Northern Ireland.

39. Hugh Clarke

A post conviction case from Northern Ireland. The RUC has located an escape file. The Director of Public Prosecutions for Northern Ireland is considering the position in relation to escape and escape related offences.

40. James Martin Monaghan

The RUC has located an escape file. The Director of Public Prosecutions for Northern Ireland is considering the position in relation to escape and escape related offences.

41. Rose Dugdale

The Director has had a search carried out and a file found in the name of Bridget Rose Dugdale. The file relates to an aerial bombing attack on Strabane RUC station on 24th January 1974. The file notes that Ms Dugdale had been convicted and sentenced in the Republic of Ireland upon charges arising out of the same incident. The file is accordingly marked that there should be no direction to prosecute Ms Dugdale in this jurisdiction for any offence arising from that incident. This is the only file held by the Director of Public Prosecutions for Northern Ireland. My letter of 30th January to John Reid refers.

31st January 2001

CONFIDENTIAL - PERSONAL



10 DOWNING STREET
LONDON SW1A 2AA

SUBJECT
MASTER

File

PROB ON

From the Private Secretary

31 January 2001

Dear Paul

DINNER WITH TAOISEACH

The Prime Minister hosted a dinner for the Taoiseach and a sizeable Irish delegation (the Foreign Minister, Deputy Foreign Minister, Dermot Gallagher, Tim Dalton, Martin Mansergh, Daithi O'Ceallaigh and Ted Barrington) this evening. Your Secretary of State, Jonathan Powell, Bill Jeffrey and I were present on our side.

The most significant discussion took place in restricted format (Prime Minister, Taoiseach, Jonathan Powell, Dermot Gallagher) outside the dinner (the first course of which took place without these four present). However, the following points of interest emerged from the dinner.

The Secretary of State and Brian Cowen had a warm semi-formal introductory exchange. In his remarks, Brian Cowen emphasised the importance of the two governments working closely together. This was the key to achieving progress. We were on the brink of securing Sinn Fein adherence to new policing arrangements – probably the biggest step towards normality since the start of the recent conflict. It was vital to seize the opportunity and for British and Irish officials to liaise and share information intensively and at the earliest possible stages. The British side should apply the lessons from Patten implementation to the forthcoming Criminal Justice Review proposals by allowing the Irish the opportunity to provide input (“within parameters”) at an early stage. Liz O'Donnell said that the Irish could provide added value by anticipating and helping to avert nationalist neuralgias. The Secretary of State said there were obvious proprieties in relation to the affairs of each sovereign government. But he certainly recognised the value of close consultation and early exchanges of views.

Commenting on his initial impressions, the Secretary of State said it was important that the people of Northern Ireland, in particular the unionist community, were reminded of the huge gains achieved in the last few years: guns largely silent, a functioning Executive (to which Sinn Fein were committed), changes to the Irish

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Constitution. Despite all this, there was still a widespread perception on the unionist side that they were repeatedly having to give ground. Decommissioning could play a huge part in reversing this psychology. For all that it was largely a question of symbolism, decommissioning would have an enormous impact on unionist perceptions. That was why it was essential that there was no wooliness at all in the timescale in which weapons had to be put beyond use.

Brian Cowen agreed and said that there was real scope to exploit a confluence of interests between the different parties as they approached UK elections. Attitudinal changes were needed within each tradition. Nationalists needed to embrace the overall transformational philosophy of the GFA rather than pursuing an incremental negotiating approach on each individual aspect. Unionists had to alter the mindset that saw the process in terms of a steady loss of institutional hegemony and recognise instead the gains that would accrue from their becoming an accommodating tradition.

Following the Prime Minister and Taoiseach's belated arrival, the discussion turned to handling of the next week. The Taoiseach said Gallagher would be seeing Sinn Fein tomorrow. Sinn Fein had spoken of having to consult at three levels: their negotiating team, the party and the army. It was clear that the army would have to sanction the proposed timescale. He had made it plain to Adams that there was no give on the proposed timescale for putting weapons beyond use.

The Prime Minister said he would see Mallon tomorrow and aim to bring him round on policing. That would mean bolting him to a form of words on inquiries, repeating the positive message on flags/emblems and bridging the gap on outstanding technical issues. Dermot Gallagher said it would also be important to make quick progress with the fix identified for addressing concerns over the composition of independent Policing Board members. The Secretary of State said we could usefully remind Mallon of the dangers of a maximalist position on inquiries. It could lead to a messy scenario in which a lot of mud started to fly after many Catholics had joined the force.

The Secretary of State emphasised the importance of drawing the smaller parties into a successful package. We needed to get the big picture right with the main players; but also recognise the important role the small parties had to play in delivering conflict resolution on the ground. The Taoiseach agreed. With hindsight it was clear the May agreement had emerged in a manner which had caused bitterness amongst many of the parties. This time round all the pro-agreement parties needed to have a stake in (and be able to claim political credit for) an agreement. The Taoiseach and Prime Minister agreed that the Secretary of State and Brian Cowen should work together in the next few days to line up the smaller

parties behind a possible successful outcome. The Prime Minister said we should be ready to move quickly once we had a clear reply from Sinn Fein. That probably meant aiming to engage and close on a package at the start of next week. But we should not move to closure without an unambiguous response from Sinn Fein.

UUP

The Taoiseach said if we secured a deal it was essential that Trimble seized the moment and sold it hard as a major gain. The Prime Minister said the new Secretary of State's formidable campaigning experience would enable him to provide good advice to Trimble in this respect. The Secretary of State said his early hunch was that Trimble needed to concentrate on two things: seizing the psychological initiative; and energising his party structures. Bill Jeffrey pointed out that many moderate unionists were turned off by the prospect of having to choose between two anti-agreement candidates. Trimble had to get the message out to moderate unionism to focus on the cause, not (necessarily) the candidate. Brian Cowen said for the last three year's Trimble's presentational approach had been one of damage limitation pitched at anti-agreement elements within the UUP. He now needed to go on the offensive with the message that his engagement had secured real gains.

As the meal ended, the Taoiseach said the Irish side were extremely conscious of - and grateful for - the extraordinary amount of time and energy invested by the Prime Minister on Northern Ireland over the last three weeks.

I am copying this letter to Sir Ivor Roberts (Dublin).

*Yours ever
Michael*

MICHAEL TATHAM

Paul Priestly
NIO

The Rt Hon the Lord Williams of Mostyn QC



9 BUCKINGHAM GATE
LONDON SW1E 6JP

020-7271 2460

The Rt Hon Dr John Reid MP,
Secretary of State for Northern Ireland,
Northern Ireland Office,
11 Millbank,
London,
SW1P 4PN.

30th January 2001

Dear John,

TERORISTS ON THE RUN

By contact at official level through this office, the Director of Public Prosecutions for Northern Ireland was asked by the Northern Ireland Office whether his Department held any file in relation to Dr Rose Dugdale.

The Director has had a search carried out and a file found in the name of Bridget Rose Dugdale. The file relates to an aerial bombing attack on Strabane RUC station on 24th January 1974. The file notes that Ms Dugdale had been convicted and sentenced in the Republic of Ireland upon charges arising out of the same incident. The file is accordingly marked that there should be no direction to prosecute Ms Dugdale in this jurisdiction for any offence arising from that incident. This is the only file held by the Director of Public Prosecutions for Northern Ireland.

I should make it clear that no other check has been made in relation to Ms Dugdale, having been asked specifically only to determine whether any file relating to her was held by the Director.

I have added Ms Dugdale as number 42 on the Sinn Fein list and amended the entry accordingly. I enclose a copy of the updated schedule.

*Yours ever,
John*

CONFIDENTIAL



1) Mr
2) Mr

F

Mr. Jonathan J
Powell.

With the Compliments of

*The Legal Secretariat to the Law Officers
Attorney General's Chambers
9 Buckingham Gate
London SW1E 6JP*

Tel: 0171-

Fax: 0171-

ORIGINAL SINN FEIN LIST – UPDATE 30.01.01

The numbering is as used on the original list.

1. John James McClafferty

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 18th August 2000 refers.

2. Patrick McVeigh

A pre-trial case from England. A review of the evidence has been completed and the prosecution discontinued. My letter of 14th June 2000 to Jonathan Powell refers.

3. Robert Campbell

A post-conviction case from Northern Ireland. Campbell has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Campbell is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th November 2000 refers.

4. Paul Patrick Magee

A post-conviction case from Northern Ireland. Magee has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Magee is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th November 2000 refers.

5. Angelo Fusco

A post-conviction case from Northern Ireland. Fusco has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Fusco is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th November 2000 refers.

6. Nesson Quinlivan

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 13th July refers. There are currently live extradition proceedings in relation to the unexpired sentence before the Irish Courts.

7. Pearse McAuley

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. McAuley is currently in custody in Ireland. His extradition from Ireland will be sought following release. My letter to Jonathan Powell of 13th July refers.

8. Andrew Martin

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 13th July refers. There are currently live extradition proceedings in relation to the unexpired sentence before the Irish Courts.

9. Anthony Duncan

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 13th July refers. There are currently live extradition proceedings in relation to the unexpired sentence before the Irish Courts.

10. Dermot McNally

A post-conviction case from Northern Ireland. McNally is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, McNally is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

11. Liam Gerard Averill

A post-conviction case from Northern Ireland. Averill is a Maze escapee from 1997. The Director of Public Prosecutions for Northern Ireland is currently considering the

evidential position and public interest factors. The unexpired portion of his sentence remains outstanding.

12. Seamus Campbell

A post-conviction case from Northern Ireland. Campbell is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Campbell is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

13. Seamus Clarke

A post-conviction case from Northern Ireland. Clarke is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Clarke is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

14. Tony Kelly

A post-conviction case from Northern Ireland. Kelly is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Kelly is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

15. Rita O'Hare

A pre-trial case from Northern Ireland. The position is as set out in my letter to the Prime Minister of 23rd October.

16. Eibhlin Glenholmes

A pre-trial case from England. A review of the evidence has been completed and the prosecution discontinued. My letter of 14th June 2000 to Jonathan Powell refers.

17. Owen Carron

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

18. Seamus Drumm

Originally untraced, now recently identified as James Joseph Drumm. A pre-trial case from Northern Ireland. There is no outstanding direction for prosecution in Northern Ireland. Drumm is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 30th November 2000 refers.

19. Kevin McGuigan

Originally untraced, now recently identified. A pre-trial case from Northern Ireland. A review is being conducted and further inquiries will be necessary.

20. Michael Rogan

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

21. John Joseph Fusco

A review has been carried out and a direction for no prosecution issued. My letter to Jonathan Powell of 5th July refers.

22. Edward Joseph Rooney

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

23. Richard Stephen O'Callaghan

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

24. Michael Mulvenna

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

25. Marion Coyle

Originally untraced. A letter from Mr Adams was unhelpful in this regard as it dealt only with offences committed in Ireland. The Northern Ireland Office has, through Special Branch, found mention of her on the Police National Computer as wanted for questioning in relation to a conspiracy to cause explosions in 1976 and fingerprints found in the Southampton bomb factory in 1974. Inquires of the Director of Public Prosecutions for England and Wales confirm that his office holds no file in relation to her. The Northern Ireland Office may wish to make further inquiries of Special Branch.

26. Gerard Fryers

A post-conviction case from Northern Ireland. Fryers is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Fryers is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

27. Gerry Sloan

Identified as Anthony Gerard Sloan. Sloan has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. My letter to Peter Mandelson of 8th November 2000 refers.

28. Dermot Finucane

A post-conviction case from Northern Ireland. Finucane is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Finucane is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

29. **James Clarke**

A post-conviction case from Northern Ireland. Clarke is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Clarke is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

30. **Terence Kirby**

A post-conviction case from Northern Ireland. Kirby is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Kirby is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

31. **Paul Brennan**

A post-conviction case from Northern Ireland. Brennan is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Brennan is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

32. **Kevin Barry Artt**

A post-conviction case from Northern Ireland. Artt is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Artt is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

33. **Daniel Joseph Keenan**

A post-conviction case from Northern Ireland. Keenan escaped from Magilligan prison in 1975. The RUC are investigating the matter. The Director of Public

Prosecutions for Northern Ireland will then consider the evidential position and public interest factors. The unexpired portion of his sentence remains outstanding.

34. Malachy McCann

A post-conviction case from Northern Ireland. McCann escaped from Magilligan prison in 1975. The RUC has completed its inquiries. The Director of Public Prosecutions for Northern Ireland is considering the evidential position and public interest factors. The unexpired portion of his sentence remains outstanding.

35. Paddy McIntyre

A post-conviction case from Northern Ireland. McIntyre is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, McIntyre is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

36. Anthony McAllister

A post-conviction case from Northern Ireland. McAllister is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, McAllister is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

37. Gerard Michael Sloan.

A post-conviction case from Northern Ireland. Sloan has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Sloan is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to John Reid of 26th January 2001 refers.

38. Edward Francis Campbell

A post-conviction case from Northern Ireland. The RUC has not been able to trace an escape file. The Director of Public Prosecutions for Northern Ireland is considering the position in relation to escape and escape related offences.

39. Gerard William Patrick McCrory

A post conviction case from Northern Ireland. McCrory failed to return to custody after a period of compassionate leave. Offences relating to his failure to return are currently being considered by the Director of Public Prosecutions for Northern Ireland.

40. Hugh Clarke

A post conviction case from Northern Ireland. The RUC has located an escape file. The Director of Public Prosecutions for Northern Ireland is considering the position in relation to escape and escape related offences.

41. James Martin Monaghan

The RUC has located an escape file. The Director of Public Prosecutions for Northern Ireland is considering the position in relation to escape and escape related offences.

42. Rose Dugdale

The Director has had a search carried out and a file found in the name of Bridget Rose Dugdale. The file relates to an aerial bombing attack on Strabane RUC station on 24th January 1974. The file notes that Ms Dugdale had been convicted and sentenced in the Republic of Ireland upon charges arising out of the same incident. The file is accordingly marked that that there should be no direction to prosecute Ms Dugdale in this jurisdiction for any offence arising from that incident. This is the only file held by the Director of Public Prosecutions for Northern Ireland.

30th January 2001

CONFIDENTIAL

cc ~~FA/PS~~
FA/PS
AC/Press

FROM: BILL JEFFREY
Political Director
30 January 2001
JC:692



cc PS/Mr Ingram (E&L)
PS/Mr Howarth (E&L)
Mr Pilling
Mr Watkins
Mr Fittall
Ms O'Mara
Mr Kelly
Mr Maccabe
Ms Bharucha
Mr Masefield
Mr Olszewski
Mr Powell, No 10
Sir Ivor Roberts, Dublin

PS/Secretary of State (B&L)

POLICING: CONVERSATION WITH SEAMUS MALLON

I called on Seamus Mallon, at his invitation, this morning.

2 He said that he was keen to get back to the Prime Minister on policing following their discussion last week. He had also been thinking about the outstanding question of inquiries, and had a suggestion to put to us. How did I now think things stood?

3. I said that I thought there were three groups of issues: the symbolic ones, those relating to implementation in such areas as the closure of Gough, the special branch and full-time reserve, and the inquiries. On the first, despite Peter Mandelson's subsequent departure, I hoped he regarded the assurances he had been given at the Downing Street meeting as satisfactory. (Mallon interjected that he had heard them also from the Prime Minister). On the implementation issues, the Prime Minister had given him a pretty full account of current thinking, and he

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had had his own contacts with the Chief Constable. There had been some further discussion between the NIO and the Chief Constable on which I was not completely sighted. The third issue, inquiries, struck me as potentially the most difficult, and I would be interested to know what he had in mind.

4. Mallon handed me the attached note, which describes an approach under which – if after a year no criminal prosecutions had been initiated or were in real prospect – the papers would be made available to a senior judge whose task it would be to review the material and advise publicly on whether any further inquiry was needed. Although I did not say so to Mallon, I recognised this as an idea that Irish officials had been running about a week or more ago. I said that we would certainly look at it. On the face of it, it had the disadvantage of bringing together three cases which had almost nothing to do with each other. It would also be difficult for the Government to constrain independent investigations by appearing to put a deadline on them. Mallon said he could see the force of the first point, but he was looking for some way of drawing a line under the cases. He was prepared to accept that inquiries could not be set up now with the other investigations going on. If the Ombudsman or Colin Port actually produced a result, he would be the last to complain. But he wanted greater certainty about how the issues would be dealt with if there was no result. Pushing this off more than a year would be too long.

5. Since Mallon was on the point of departing for France, we agreed that any substantive discussion would need to await his return on Thursday. I said that by then we should be clearer about what could be said about the implementation issues in the implementation plan. I was not aware of the Secretary of State's whereabouts, but I could explore the possibility of a meeting late on Thursday afternoon or on Friday. Mallon said that "without intending any slight to anyone else" he would

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expect to meet the Prime Minister to follow up their earlier discussion. He would be in a weak position if he did not get back to him personally.

6. On timing, I said that it was still very hard to judge how the next few days would go, but it was conceivable that the discussions with Sinn Fein (on which the Irish had recently been in the lead) would lead to the Prime Minister's being involved again publicly towards the end of the week. We would know more after tomorrow evening's discussion with the Taoiseach. Either way, I would register with Jonathan Powell Mallon's interest in an early meeting with the Prime Minister.

Comment

7. The Irish suggestion which Mallon has now put to us is covered in the letter on inquiries which has just gone to No 10 (Sarah Todd to Michael Tatham yesterday). The conclusion reached there, that we should not accede to it, is one I would support. For the moment, I would therefore advise going no further than the form of words recommended in the letter, which is a warmer expression than before of the Government's willingness to consider inquiries once the current investigations and any subsequent proceedings are completed. But William Fittall and I will reflect on this ahead of any meeting with Mallon. I should be grateful if Jonathan Powell could take this as notice that Mallon is asking for a meeting, which - depending on how things go - could either be part of a bigger event or a free-standing meeting before the weekend.

(Signed)

BILL JEFFREY
11 Millbank ☎ 6447 (Castle Buildings ☎ Ext.28142)

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**Inquiries into the cases of Patrick Finucane, Robert Hamill and
Rosemary Nelson**

Patrick Finucane was murdered in 1989, Robert Hamill in 1997 and Rosemary Nelson in 1999.

The Government accepts that these three cases are a source of public concern, both on their own merits and in terms of confidence in the administration of justice in Northern Ireland. It believes that the issues of concern in these cases must be satisfactorily addressed in a manner which will command public confidence.

The Government has decided that if, at the end of one year no criminal prosecutions have been initiated or are in real prospect, the police investigation files and all other relevant documentation will be made available to a senior judge of international standing whose task will be to review the material in all its aspects, report publicly on his findings and, in particular, publicly advise as to whether any further inquiry – and what form of inquiry – is needed to ensure public confidence in the way in which these cases have been handled.

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✓ DR
cc: mt
B
AC

FROM: PS/Secretary of State (B)
30 January 2001

cc: See Distribution List

Bill Jeffrey - O

**SECRETARY OF STATE'S INTRODUCTORY MEETING WITH THE UDP,
29 JANUARY**

Summary

The UDP express concern about the apparent diminishing majority of Unionists now in favour of the Good Friday Agreement, and urge that all parties to the Agreement are included in the process of taking it forward.

2. The Secretary of State met Gary McMichael, Davy Mahood and Robert Girvan of the UDP in Castle Buildings yesterday afternoon.
3. The Secretary of State opened by saying he wanted to move the process forward; he had offered all the NI parties a meeting today so that he could hear their views. Already he had learned a lot and he had plans to speak to others and to gather views from across the board at all levels in the community. There had been media speculation of an imminent breakthrough with Sinn Fein, but the Secretary of State underlined that this was pure speculation and there was still some way to go. Some of the parties he had seen earlier had said they felt distanced/excluded from what was going on; he will be doing his best to remedy that.
4. Gary McMichael welcomed the Secretary of State to Northern Ireland and thanked him for meeting the UDP delegation.



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5. He went on to say his Party was in a curious position; it had a role to play but was finding it difficult to play out that role since it had no seat in the Assembly. It concerned him that it appeared there was a diminishing majority of Unionists now in favour of the Good Friday Agreement. If that position becomes demonstrable (through the ballot box), he predicts very dangerous times ahead. Already a fracturing is taking place; there is a growing belief that support for the Good Friday Agreement is a minority position amongst Unionists, and that alone is encouraging people to jump ship. His Party wanted to see progress but was concerned about the price that might have to be paid. They wanted to see Nationalists reengage with the IICD, to agree a sequence or engage in an act of decommissioning; they wanted the SDLP to sign up to the Policing Board. But what would be the price of such a deal? If things are mismanaged at this stage, we may win the battle but lose the war. He was concerned too that deals were done "behind closed doors" – May 2000 was a case in point; his Party had been excluded.

6. The Secretary of State asked McMichael whether he felt it was an intentional posture on the part of Sinn Fein to always want to deal with the Governments rather than with the other NI parties.

7. McMichael replied that historically that was how Sinn Fein had approached things. The pressure point on demilitarisation and decommissioning lay with the Government; he felt Sinn Fein did not see the answer being arrived at through negotiation and compromise between the parties. For his part, McMichael was trying very hard to tie certain elements of Loyalism firmly back into the process.

8. At the Secretary of State's invitation, he went on to describe the current position – the UDP's remit with the UDA is to exert influence where it can, but he is finding that the Party's advice is being sought increasingly less. The centre of gravity has shifted. However, in December 1999, the Party had encouraged the UDA to follow the Provisional IRA's suit and nominate people to work with the IICD.



INVESTOR IN PEOPLE

The JDA was now the only group which was still working with the IICD. Therefore if there was a deal now done involving PIRA and the IICD, it would put Loyalism in a very difficult position. The expectation would be that Loyalists would toe the line. He urged that if it becomes clear that an agreement is emerging, all those with an interest should have an opportunity to contribute, as everyone must be drawn further into the process.

9. The Secretary of State acknowledged McMichael's point about consulting and including all the parties involved. He said discussions were ongoing on normalisation, various elements of policing and implementing the Police Act, and on decommissioning. There were also other issues like David Trimble's refusal to nominate to the NSMC and demands by some that there should be inquiries into the cases of Hamill, Finucane, Nelson and Wright. He had heard a number of recurring themes throughout the day and he had heard arguments for and against involving all 10 parties. In an ideal world, he would like to be in a position to deal out all the pieces and have everyone engaged but there were problems of timing and leaks, and the requirement on behalf of some of the parties to factor in 'others'.

Signed

SARAH TODD
Private Secretary
☎ 28111



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cc: PS/Secretary of State (B&L) - O
PS/Mr Ingram (B&L) - O
PS/Mr Howarth (B&L) - O
PS/Mr Pilling (B&L) - O
Mr Watkins - O
Mr Alston - O
Mr Fittall - O
Mr Kelly - O
Miss O'Mara - O
Mr Maccabe - O
Miss Bharucha - O
Mr Crawford - O
Mr Masefield - O
Mrs Madden - O
Mr Olszewski - O
Sir Ivor Roberts, HMA Dublin - O
Mr Powell, No.10 - Fax



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JONATHAN POWELL

From: Bill Jeffrey
Date: 30 January 2001

cc Secretary of State for
Northern Ireland

PRIME MINISTER'S MEETING WITH SINN FEIN

You mentioned to me that, at this evening's meeting with Gerry Adams and Martin McGuinness, the Prime Minister had agreed to offer a warmer form of words on our readiness to legislate following the review.

At the moment, the text of the public statement on policing, after a lot of stuff about the conduct of the review by the Oversight Commissioner and the Policing Board, includes the following sentence:

"In the light of these reports, the Government will consider with an open mind whether changes in the legislation are required".

I would suggest substituting for this the following:

"The Government acknowledges that concerns have been expressed on all sides about aspects of the legislation. The review after twelve months will provide an opportunity to address, in the light of practical experience, whether these concerns are well founded. The Government will be ready to consider amending legislation if it concludes that they are"

I attach particular importance to the words "on all sides". If we give the impression that we are only going to be responsive to Sinn Fein, or even wider nationalist concerns, the situation will become unmanageable with Unionists.

Anne Stenson

pp **BILL JEFFREY**

01232521118

Top-MT
cc JB
JS
AC
GS

**PRINCIPAL PRIVATE SECRETARY
FIRST MINISTER'S OFFICE
PARLIAMENT BUILDINGS
STORMONT
BELFAST BT4 3XX**

TEL: 02890-521730

FAX: 02890-521118

To: Michael Tatham **Fax:** 0207-²³⁹⁹⁰⁴⁴~~9304433~~

From: D A Lavery **Date:** 30/01/01

Re: Application by Bairbre de Brun and Martin McGuinness for Judicial Review **Pages (incl cover):** 29

- Urgent
- For Review
- Please Comment
- Please

Reply

Notes:

Judgment on Judicial Review

Judgment: approved by the Court for handing down
(subject to editorial corrections)

Ref: KERF3332

Delivered:

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (CROWN SIDE)

IN THE MATTER OF AN APPLICATION BY BAIREBRE DE BRUN AND
MARTIN McGUINNESS FOR JUDICIAL REVIEW

KERR I

Introduction

By these proceedings, Bairbre de Brun and Martin McGuinness, Ministers of the Executive Committee of the Northern Ireland Assembly, seek judicial review of the decision of David Trimble, the First Minister, not to nominate them for meetings of the North-South Ministerial Council.

Background

The Agreement reached in the multi-party negotiations in April 1998 (known as the Belfast Agreement) provided for the establishment of a North-South Ministerial Council "to bring together those with executive responsibilities in Northern Ireland and the Irish Government, to develop consultation, co-operation and action within the island of Ireland - including through implementation on an all-island and cross-border basis - on matters of mutual interest within the competence of the Administrations, North and South".

By virtue of section 52(1) of the Northern Ireland Act 1998 the First Minister and the deputy First Minister are required to make nominations to the North-South Ministerial Council. Currently, the Rt Hon David Trimble MP is the First Minister. Seamus Mallon MP is the deputy First Minister. Bairbre de Brun is the Minister for Health, Social Services and Public Safety and Martin McGuinness is the Minister for Education. Both Ms de Brun and Mr McGuinness are members of the political party, Sinn Fein.

On 11 September 2000 Mrs Anne Birch of the Executive Committee Secretariat wrote to the Private Secretaries of the First Minister and the deputy First Minister, notifying them of a series of sectoral meetings of the North-South Ministerial Council. She asked for nominations of Ministers for these meetings. Nominations for all the meetings were agreed between the First Minister and the deputy First Minister and on 25 September 2000 Mrs Birch was informed of that and asked to furnish formal nomination papers in due course; these are required for the purposes of section 52(5) of the 1998 Act which obliges the First Minister and the deputy First Minister to inform the Assembly and the Executive Committee of the date of the North-South Council meeting, the agenda and the identity of those nominated.

Ms de Brun was among those whose nomination had been agreed. She was due to attend a sectoral meeting of the Council on 3 November 2000. On 24 October 2000 Mrs Birch sent nomination papers for this meeting to the offices of the First Minister and the deputy First Minister. Mr Mallon signed the nomination paper but Mr Trimble declined to sign it.

Mr McGuinness was nominated by the deputy First Minister to attend a meeting of the Council on 24 November 2000. Again the First Minister refused to nominate Mr McGuinness. On 2 November 2000 Mr Trimble's Private Secretary wrote to Mrs Birch explaining his position. She said: -

"Mr Trimble has asked me to point out that he remains ready to make valid nominations to NSMC sectoral meetings although he declines, for the moment, to nominate Mr McGuinness and Ms de Brun".

The reason that Mr Trimble refused to nominate Mr McGuinness and Ms de Brun was explained in affidavits filed on his behalf in these proceedings. Therein it is stated that the First Minister was of the view that "such an approach will be likely to persuade Sinn Fein to use any influence it may have to secure decommissioning of paramilitary arms in accordance with the Belfast Agreement".

The judicial review application

On behalf of Ms de Brun, Mr Treacy QC argued that the refusal of the First Minister to nominate her for the sectoral meeting of the Council constituted a breach of the mandatory duty imposed on him by section 52(1) of the 1998 Act. It was also submitted that the decision of the First Minister had been taken for a purpose which was collateral to the permitted purposes of section 52 and was unlawful on that account. In particular, Mr Treacy argued, the decision not to nominate Ms de Brun was taken to fulfil a resolution of the Ulster Unionist Council made on 28 October 2000 that Sinn Fein Ministers should not be nominated to the North-South Ministerial

Council "in view of the failure of the IRA to re-engage with the Independent International Commission on Decommissioning". The decision of the First Minister "to implement the policy of the Ulster Unionist Council" was based on a consideration which was wholly irrelevant to the duty that he was required to perform under section 52 (1) of the Act, Mr Treacy argued.

Mr Treacy also referred to section 16 (4) (a) of the 1998 Act which provides that the First Minister and the deputy First Minister "shall not take up office until each of them has affirmed the terms of the pledge of office". The pledge of office contains a number of undertakings, the following of which, Mr Treacy submitted, had been breached by Mr Trimble by his refusal to nominate the Sinn Fein Ministers: -

"(a) to discharge in good faith all the duties of office;

...

(c) to serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote equality and prevent discrimination;

...

(g) to comply with the Ministerial Code of Conduct"

The Ministerial Code of Conduct here referred to is that which is set out in Schedule 4 to the 1998 Act. Mr Treacy also drew attention to the Ministerial Code that the Executive had agreed and which dealt with the mechanism for the appointment of Ministers. He claimed that Mr Trimble had also failed to comply with Clause 5.1 of that Code. This provides that the First Minister and the deputy First Minister "will normally nominate each Minister or junior

Minister with executive responsibility in the areas to be considered at the [sectoral] meeting". Mr Treacy argued that this provision created a substantive legitimate expectation that the applicants would be nominated for the relevant sectoral meetings.

Finally, Mr Treacy contended that the decision not to nominate Sinn Fein ministers was in breach of section 24(1)(c) of the 1998 Act which provides that a Minister has no power to do any act which discriminates against a person or class of person on the ground of religious belief or political opinion.

For Mr McGuinness, Mr Michael Lavery QC argued that the office of First Minister and deputy First Minister existed independently of the holders of those positions. The requirement that they act jointly confirmed the "corporate or quasi-corporate" nature of the office. If either the First Minister or the deputy First Minister refused to participate in any of their joint responsibilities, he must be taken to have ceded his power to discharge those functions to the other.

For the First Minister Mr Morgan QC drew attention to the various provisions of the 1998 Act which required the First Minister and the deputy First Minister to act jointly. He pointed out that the Act made no provision for the resolution of disputes between the First Minister and the Deputy First Minister as to the discharge of those functions. The omission of such a provision was deliberate, he suggested. It must have been intended that, in the absence of a mechanism to resolve such disputes, the joint powers and obligations arising under the Act could not be exercised where there was no

agreement. This approach reflected the intention of Parliament that disputes about the exercise of powers and the discharge of duties under the Act were to be resolved by political dialogue, Mr Morgan argued. Furthermore the structure of the Act built in a series of checks and balances that were designed to promote political agreement on contentious issues such as these, he suggested. He submitted that, in cases of dispute, the duty imposed by section 52 was to be fulfilled by recourse to these political tools rather than by judicial intervention.

In any event, Mr Morgan claimed, the requirement under section 52 was that the First Minister and the deputy First Minister should jointly make nominations to the North-South Ministerial Council to ensure such cross community participation in the Council as is required by the Belfast Agreement. The First Minister has been and remains prepared to nominate a minister who would fulfil this requirement, Mr Morgan said. The Act did not require that a particular minister be nominated. Mr Trimble was not in default of his obligations under the Act, therefore. On the same basis, Mr Morgan suggested, the first Minister was not in breach of the Ministerial Code contained in Schedule 4. He also submitted that the Ministerial Code agreed by the Executive required no more of Mr Trimble than that he have regard to it in deciding which Minister to nominate. There was no evidence, he said, that Mr Trimble had not taken this into account.

Finally, it was submitted for the First Minister that the claim of discrimination on the ground of political opinion was misconceived. He had

been prepared to nominate Sinn Fein ministers in the past. His stated intention in refusing to nominate them on this occasion was in order to persuade them to honour their obligations under the Belfast Agreement. This did not discriminate against them on the grounds of political opinion.

For the Deputy First Minister, Mr Smith QC submitted that the First Minister's reason for refusing to nominate the applicants lay outside the scope of any legitimate discretion conferred on him by section 52 (1). The extent of the discretion available to the First Minister was that he take action in order to fulfil the objectives of section 52. It was not open to the First Minister to decide to use his powers under that provision to further a political aim which was quite extraneous to that provided for in section 52.

Mr Smith also referred to section 52 (2) of the 1998 Act. This provides that it is a ministerial responsibility of the nominated Minister to "participate in the Council concerned in such meetings or activities as are specified in the nomination". Section 52 (9) requires that "participate" be construed in relation to the North-South Ministerial Council, in accordance with paragraphs 5 and 6 of Strand Two of the Belfast Agreement. Paragraph 3 (ii) of Strand Two provides for participation in sectoral meetings by the appropriate Minister. These provisions contemplate, Mr Smith suggested, that the Ministers with responsibility for the areas to be considered by the Council should be nominated.

The Belfast Agreement

Strand Two of the Belfast Agreement dealt with the North-South Ministerial Council. Paragraph 2 of Strand Two provided that the First Minister, the deputy First Minister "and any relevant Ministers" should represent Northern Ireland. It did not otherwise specify how the Ministers should be chosen but it did provide that if a holder of "a relevant post" refused to participate normally in the Council, the First Minister and the deputy First Minister should be able to make alternative arrangements.

Paragraph 3 (ii) of Strand Two dealt with sectoral meetings of the Council. It provided that "the appropriate Minister" should represent each side. Paragraph 5 provided that the Council should exchange information on matters of mutual interest, to attempt to reach agreement on the adoption of common policies and take decisions on policies for implementation in both jurisdictions. Paragraph 6 required each side to be in a position to take decisions in the Council within the defined authority of those attending while remaining accountable to their elected bodies. In my view, these provisions clearly contemplated that those Ministers who had responsibility for the matters to be discussed at the sectoral meetings would normally be nominated.

Paragraph 13 of Strand Two provided: -

"It is understood that the North-South Ministerial Council and the Northern Ireland Assembly are mutually interdependent and that one cannot successfully function without the other."

It was contended for the applicants that this paragraph highlighted the significance of the duty imposed on the First Minister by section 52. Mr

Treacy suggested that, by refusing to nominate the Ministers, Mr Trimble undermined the very existence of the Assembly itself.

Section 7 of the Agreement dealt with Decommissioning of Weapons.

Paragraph 3 of this section provided: -

"All participants ... reaffirm their commitment to the total disarmament of all paramilitary organisations. They also confirm their intention to continue to work constructively and in good faith with the Independent Commission, and to use any influence they may have, to achieve the decommissioning of all paramilitary arms within two years following endorsements in referendums North and South of the agreement and in the context of the implementation of the overall settlement".

The referendums endorsed the Agreement. The participants are therefore committed to using their influence to bring about the decommissioning of all paramilitary weapons.

The legislative framework

Section 52 (1) (a) of the 1998 Act provides: -

"The First Minister and the deputy First Minister acting jointly shall make such nomination of Ministers and junior Ministers (including where appropriate alternative nominations) as they consider necessary to ensure-

(a) such cross-community participation in the North-South Ministerial Council as is required by the Belfast Agreement"

Strand Two of the Belfast Agreement does not itself contain any explicit requirement for cross community participation in the Council and one must therefore look elsewhere to ascertain what is meant by the expression. Strand One (which deals with Democratic Institutions in Northern Ireland) provided

in paragraph 5 that there would be safeguards to ensure that all sections of the community could participate and work together in the operation of institutions of government. Paragraph 6 required that there should be a register of designation of members of the Assembly for the purposes of measuring cross-community support in Assembly votes. The designation of identity was to be nationalist, unionist or other. For the First Minister, Mr Morgan argued that, in effect, the cross-community dimension intended by section 52 (1) (a) was representation of the unionist and nationalist communities. No contrary submission was made and, although the provisions of Strand One cited above do not deal directly with the North-South Ministerial Council, I have concluded that this is what was intended. I am reinforced in that view by the provisions of paragraph 30 of Strand One.

It provided: -

"Arrangements to represent the Assembly as a whole, at Summit level and in dealings with other institutions ... will be such as to ensure cross-community involvement"

It is to be noted that the nomination of Ministers under section 52 (1) must be made by the First Minister and the deputy First Minister "acting jointly". Mr Lavery suggested that where either the First Minister or the deputy First Minister refused to nominate, the other could exercise the power. I do not accept that argument. The terms of the provision are explicit; the First Minister and the deputy First Minister must act jointly. Quite apart from this, the entire ethos of the 1998 Act is that there should be agreement on a cross community basis. This would be substantially compromised if either

the First Minister or the deputy First Minister could act alone and without the agreement of the other. I am satisfied that both must agree on the appointment of a Minister for that appointment to be effective.

Section 52 (2) provides: -

"It shall be a Ministerial responsibility of a Minister or junior Minister nominated under subsection (1)(a) or (b) to participate in the Council concerned in such meetings or activities as are specified in the nomination."

This provision reflects the recognition in the Belfast Agreement of the importance of the Council as an integral part of the constitutional changes brought about by the Agreement and the Council's position as a component of the government of Northern Ireland, interdependent with the Assembly. As we shall see below, the duty to participate has a particular connotation in relation to the business of the Council.

Section 52 (4) provides: -

"A Minister may in writing authorise a Minister or junior Minister who has been nominated under subsection (1) (a) or (b) to enter into agreements or arrangements in respect of matters for which he is responsible."

In my opinion, paragraphs 5 and 6 of Strand Two of the Agreement contemplated the participation in sectoral meetings of the Minister with responsibility for the matters under discussion at those meetings and that the Minister should have authority to reach agreement on those matters. It appears to me that this subsection operates on the same assumption. In general the Minister with responsibility for the matters to be discussed should

attend the relevant sectoral meeting. Where that is not feasible, he should provide the necessary authorisation to his substitute.

Section 52 (6) requires a Minister who has participated in a meeting of the Council to make a report to the Executive Committee and the Assembly as soon as reasonably practicable after the meeting. This provision reinforces the view that the Minister who will normally attend the meeting should be the Minister with responsibility for the matters to be discussed.

Section 52 (9) (a) provides: -

"In this section "participate" shall be construed-

- (a) in relation to the North-South Ministerial Council, in accordance with paragraphs 5 and 6 of Strand Two of the Belfast Agreement"

As already observed, paragraph 5 provided that the Council should exchange information, attempt to reach agreement on the adoption of common policies and take decisions on policies while paragraph 6 required each side to be in a position to take decisions in the Council. Again, therefore, this subsection is indicative of the intention of the legislature that those with Ministerial responsibility for the matters to be discussed should normally attend sectoral meetings.

The Ministerial Codes

The statutory Code

The Code contained in Schedule 4 to the Act is in the following terms: -

"CODE OF CONDUCT

Ministers must at all times:

observe the highest standards of propriety and regularity involving impartiality, integrity and objectivity in relationship to the stewardship of public funds;

be accountable to users of services, the community and, through the Assembly, for the activities within their responsibilities, their stewardship of public funds and the extent to which key performance targets and objectives have been met;

ensure all reasonable requests for information from the Assembly, users of services and individual citizens are complied with; and that Departments and their staff conduct their dealings with the public in an open and responsible way;

follow the seven principles of public life as set out by the Committee on Standards in Public Life;

comply with this code and with the rules relating to the use of public funds;

operate in a way conducive to promoting good community relations and equality of treatment;

not use information gained in the course of their service for personal gain, nor seek to use the opportunity of public service to promote their private interests;

ensure they comply with any rules on the acceptance of gifts and hospitality that might be offered;

declare any personal or business interests which may conflict with their responsibilities. The Assembly will retain a Register of Interests. Individuals must ensure that any direct or indirect pecuniary interests which members of the public might reasonably think could influence their judgment are listed in the Register of Interests."

In my opinion, none of the undertakings contained in the Code of Conduct is engaged in the present case. Mr Treacy argued that the decision did not "operate in a way conducive to promoting good community relations and equality of treatment" but this is a matter of political judgment which, I am satisfied, lies well outside the area of justiciability.

The Code agreed by the Executive

After the Executive was formed the Assembly approved a Ministerial Code. Paragraph 5.1 provides: -

"In accordance with section 52 (1) of the Northern Ireland Act 1998 (the Act), the First Minister and the deputy First Minister acting jointly must make such nominations of Ministers and junior Ministers (including alternative nominations where appropriate) as they consider necessary to ensure such cross-community participation in the North-South Ministerial Council and the British-Irish Council as is required by the Belfast Agreement. For each meeting, the First Minister and the deputy first Minister will normally nominate each Minister or junior Minister with executive responsibility in the areas to be considered at the meeting. If such a Minister is not nominated, an alternative nomination will be made. The First Minister and the deputy First Minister will also nominate such other Ministers or junior Ministers as they consider necessary to ensure such cross-community participation as is required by the Belfast Agreement."

The applicants argued that this part of the Code imposed an obligation on the First Minister to nominate them for the particular sectoral meetings that involved discussion of matters for which they had executive responsibility. Alternatively, it was suggested that the applicants had a substantive legitimate expectation that they would be appointed.

I do not accept either proposition. As to the first, the words of the paragraph are plain. The Minister with executive responsibility is normally to be nominated. It is clear that there may be a departure from the norm. There is nothing in the paragraph which compels the First Minister and the deputy First Minister to appoint the Minister with executive responsibility for the areas to be considered on every occasion. On the contrary it is clearly recognised that exceptions to this normal position may occur. Both the First Minister and the deputy First Minister disputed the claim that the applicants enjoyed a substantive legitimate expectation that they would be appointed. Both argued that the terms of paragraph 5.1 did no more than require the First Minister to take it into account before deciding whether to make the appointment. I accept this submission. In *R v North and East Devon Health Authority ex parte Coughlan* [1999] QB Lord Woolf MR, discussing the various types of legitimate expectation that might arise from a previously given promise or established practice, said: -

"There are at least three possible outcomes: (a) The court may decide that the public authority is only required to bear in mind its previous policy or other representation giving it the weight it thinks right, but no more before deciding to change course. Here the court is confined to reviewing the decision on *Wednesbury* grounds. This has been held to be the effect of changes of policy in cases involving the early release of prisoners (see *In re Findlay* [1985] AC 318; *R v Secretary of State for the Home Department ex parte Hargreaves* [1997] 1 WLR 906. (b) On the other hand the court may decide that the promise or practice induces a legitimate expectation of, for example, being consulted before a particular decision is taken. Here it is uncontentionous that the court will require *the opportunity for consultation* to be given unless there is

an overriding reason to resile from it (see *Attorney General of Hong Kong v Ng Yuen Shiu* [1983] 2 AC 629) in which case the court will judge the adequacy of the reason advanced for the change of policy, taking into account what fairness requires. (c) Where the court considers that a lawful promise or practice has induced a legitimate expectation of a *benefit which is substantive*, not simply procedural, authority now establishes that here too the court will in a proper case decide whether to frustrate the expectation is so unfair that to take a new and different course will amount to an abuse of power."

In order to decide into which, if any, of these categories a particular case falls, the circumstances in which the promise was made or the practice came into existence must be carefully examined. If the undertaking was given that a certain course would *normally* be followed, clearly it could not be asserted that such a course *must* be taken in order that those who expected that it would be should not be disappointed. The most that could be demanded of the decision-maker in those circumstances is that he should have regard to what was stated to be the normal course and to have some reason for departing from it. There is nothing in the present case to indicate that the First Minister did not have regard to the undertaking contained in the Code and he has explained why he decided not to nominate the applicants. I am satisfied that no substantive legitimate expectation arises here, therefore.

The duty under section 52 (1)

Drawing attention to what they have described as the mandatory nature of the obligation arising under section 52 (1) of the 1998 Act, the

applicants have argued that the First Minister was under a duty to nominate them to attend the sectoral meetings of the North-South Council. They suggested that they were the only Ministers who were equipped to deal with the matters to be discussed at the relevant sectoral meetings. I accept the argument of Mr Morgan, however, that section 52 (1) does not impose on either the First Minister or the deputy First Minister the duty to nominate a particular individual.

The duty which arises under the sub-section has two aspects. The First Minister and the deputy First Minister must act jointly. This clearly implies that they should conscientiously seek to agree on nominations for the Council. Secondly, they must make nominations so as to ensure cross-community participation in the Council as required by the Belfast Agreement. Although Strand Two of the Agreement clearly contemplated - and other subsections of section 52 indicated the intention of the legislature - that the Ministers with executive responsibility for the matters to be discussed at sectoral meetings should *normally* be nominated to attend those meetings, nothing in section 52 (1) requires of the First Minister and the deputy First Minister that they appoint such Ministers on every occasion. Provided the Ministers they nominate satisfy the requirement of cross-community representation and provided they have sought conscientiously to agree on the nomination, the First Minister and the deputy First Minister enjoy a discretion as to whom they should nominate. That discretion should be exercised in a manner that is

consonant with the purpose of section 52, however. I shall consider this further below.

The discretion

The effect of the applicants' argument was that, where the Minister with executive responsibility for the area to be discussed at a sectoral meeting satisfied the requirement of cross community representation, the First Minister and the deputy First Minister had no real discretion as to whom to nominate. In those circumstances, the applicants claimed, the nominee must be the Minister who can contribute most effectively to the business to be discussed at the meeting.

The First Minister's claim was that he enjoyed a wide discretion as to whom to nominate. While he was obliged to observe the requirement that the nominees be representative of the community as a whole, he was otherwise unfettered as to who should be chosen. In particular, he could decide not to nominate a person whom he considered to be the most suitable for the position in order to induce that person or the party to which he belonged to take a different political path from that which it had embarked upon. It was suggested that the scope of the discretion available under section 52 must be considered in light of the overall purpose of the legislation. In this context Mr Morgan referred to the Preamble to the Act which is in the following terms: -

"An Act to make new provision for the government of Northern Ireland for the purpose of implementing the agreement reached at multi-party talks on Northern Ireland set out in Command Paper 3883."

Mr Morgan suggested that, taking into account the overall purpose of the Act as disclosed by the Preamble, section 52 invested the First Minister with discretion to discharge the duty to nominate in a way that would promote the full implementation of all aspects of the Agreement, including the decommissioning of weapons. It could not be the case, he claimed, that the First Minister would be obliged to nominate someone who he knew to be actively working against the implementation of the Agreement, just because that person was the Minister with executive responsibility for the matters to be discussed at a North-South Council meeting.

In my opinion, the discretion available to the nominating Ministers falls somewhere between the two positions postulated by the applicants on the one hand and the First Minister on the other. The nature of a discretion that arises under statute must be determined primarily by the statutory provision itself. The principal purpose of the nominating duty under section 52 (1) is to achieve cross-community representation. But it is clear that even where a purpose is clearly specified, the person who is charged with the task of achieving the statutory purpose may undertake tasks which are "reasonably incidental" to the fulfilment of that purpose – see De Smith Woolf and Jowell, Judicial Review of Administrative Action, Fifth Edition paragraph 6-066.

I accept that the First Minister could not be required to nominate someone whom he regarded as unsuitable in the sense that that person was working against the implementation of the Agreement. Indeed, it appears to

me that it would be open to the First Minister to conclude that a potential nominee was unsuitable for nomination because he had not made appropriate efforts to implement the Agreement.

I do not consider, however, that it would be open to the First Minister to refuse to nominate a Minister who was in every way suitable to attend the sectoral meeting simply because he wished to induce that Minister - or the political party to which he belonged - to act in a particular way. The First Minister's primary duty under the section is to nominate Ministers who will fulfil the necessary requirement of cross-community participation. In my opinion, he must also have regard to the need to nominate a Minister who will be able to participate in a meaningful way in the business of the Council. It is not open to the first Minister, in my opinion, to disregard the clear intention of Parliament that the Ministers nominated to attend sectoral meetings should be in a position to contribute to the work of the Council. Provided he has regard to this, however, and seeks to observe the obligation to nominate Ministers on a cross-community basis, he enjoys a discretion as to whom to nominate.

That discretion would allow the First Minister to decide not to nominate a particular Minister if he considered that that Minister was seeking to undermine the Agreement. Such a decision, taken in a political context should be immune from judicial review. The subjective nature of the decision and the political considerations which inform it place it firmly in the category of soft-edged review where it is inappropriate for the courts to intervene - see

Re Williamson's Application [2000] NI 294. In those circumstances, however, the First Minister would be exercising his discretion in assessing the suitability of the prospective nominee to contribute to the work of the North-South Ministerial Council. Given the interdependence of the Council and the Assembly within the terms of the Belfast Agreement, the conclusion that a Minister who was undermining the Agreement was not suitable to represent the Assembly on the Council would be beyond challenge, not only because of its rationality but also because it would have been taken to fulfil the objectives of section 52. By contrast, a decision not to nominate in order to bring pressure on a political opponent does not involve any assessment of his suitability for the nomination nor does it seek to fulfil the purpose of section 52.

Collateral purpose

Two purposes for the action taken by the First Minister were identified by the applicants. Both purposes were said to be collateral or extraneous to the permitted purposes of section 52 (1). The deputy First Minister agreed that the second of these had operated to influence the First Minister's decision. The first was suggested by the applicants alone, that purpose was, the applicants claimed, to give effect to the resolution of the Ulster Unionist Council of 28 October 2000. The applicants submitted that this was not a permitted purpose.

It is clear, however, from the newspaper reports produced in evidence by the applicants that Mr Trimble, in refusing to nominate Sinn Fein

Ministers, was not giving effect to a resolution of the Ulster Unionist Council. On the contrary, that Council had endorsed proposals made to it by Mr Trimble. On 26 October he had written to members of the Council informing them that he would outline a "response" to the Council designed "to increase pressure progressively on republicans and nationalists". That response took the form of a refusal to nominate Sinn Fein members. Mr Trimble was not giving effect to the Ulster Unionist Council's resolution, therefore. Rather, he was carrying forward his own policy which had, incidentally, been approved by the Ulster Unionist Council. I do not consider, therefore, that the First Minister can be said to have acted as he did in order to give effect to a resolution of the Ulster Unionist Council.

The applicants and the deputy First Minister claimed that Mr Trimble had refused to nominate the Sinn Fein Ministers because the IRA had failed to decommission their weapons. They claimed, therefore, that the refusal to nominate was motivated by a political purpose that fell outside the scope of section 52 (1).

As I have already observed, the First Minister, in affidavits filed on his behalf, has disclosed that he has determined "for the time being" not to nominate members of Sinn Fein for the sectoral meetings because he was "of the view that such an approach will be likely to persuade Sinn Fein to use any influence it may have to secure decommissioning of paramilitary arms in accordance with the Belfast Agreement".

The First Minister has not claimed that the applicants are unsuited to be appointed to attend the sectoral meetings. He has not disputed that their appointment (together with other Ministers) would achieve the cross-community participation in the North-South Ministerial Council required by section 52 (1). The sole reason advanced by him for refusing to nominate the applicants is that he believed that this would persuade Sinn Fein to exert influence to secure the decommissioning of paramilitary arms. The issue which arises therefore is whether the First Minister may use his powers under section 52 (1) to seek to achieve this aim.

Self evidently, a decision not to nominate in order to bring pressure on a political opponent does not purport to achieve the objective of section 52. Mr Morgan did not claim that it did. He accepted that the purpose of the refusal to nominate was to exert pressure on Sinn Fein. Since this was to induce them to influence the IRA to decommission their weapons, it was warranted, he argued. This was because the Act was passed in order to give effect to the Agreement and decommissioning was an element of the Agreement.

This line of argument implicitly acknowledges that the reason for the refusal to nominate had nothing to do with the purpose of section 52. The reasons for the refusal to nominate are wholly extraneous to that section.

I do not accept that a decision taken under section 52 in order to promote an objective of the Agreement that is wholly unrelated to the purpose of that section can be upheld. It is true that a discretion exercised by

a Minister as a consequence of a power conferred or a duty imposed by statute must be used "to promote the policy and objects of the Act" - Lord Reid in *Padfield v Minister of Agriculture*. [1968] AC 997, 1030B. In the present case, however, the implementation of the Agreement has a number of aspects and no single theme emerges either from the Agreement or the Act itself. Indeed, in order to promote the objective espoused by Mr Trimble, (decommissioning of weapons) he has adopted a strategy that will at least inhibit - if not frustrate - another objective (effective North-South Council meetings). I have concluded, therefore, that the decision of the First Minister to refuse to nominate Ms de Brun and Mr McGuinness is for a purpose that is collateral to the purpose of section 52 and that it cannot be rescued by recourse to a separate objective of the Agreement that Mr Trimble hopes to secure. It is well settled that a decision taken for a collateral purpose will be amenable to judicial review - see, for instance, *In Re Cook's Application* [1986] NI 242. The refusal of the First Minister to nominate Ms de Brun and Mr McGuinness must therefore be declared unlawful.

Section 24 (1) (c)

The applicants' claim that the refusal of the First Minister to nominate them amounts to discrimination under section 24 (1) (c) of the Act can be dealt with shortly. I had occasion to deal with the question of discrimination on the ground of political opinion in *Re Treacy and Macdonald's Application* [2000] NI 330, where I said: -

"In the field of discrimination, a different approach must be taken to the question of political opinion from

that which is appropriate to deal with the immutable conditions of life such as race or gender. If it were otherwise, an unscrupulous person, claiming to be the victim of discrimination on the ground of political opinion, could adjust his professed belief in order to accuse the decision maker of inequality of treatment. In *James v Eastleigh* it was held that the test to be applied in gender based discrimination was whether the complainant would have been treated differently but for his sex. Significantly, however, the authors of *Harvey on Industrial Relations*, in commenting on the *James* case, point out that it is wrong to assume that where the 'but for' test is satisfied, unlawful discrimination has been established (L/10 [41.02]). The applicant must show that the action was taken on the ground of sex. Thus, Mr James had to show that he obtained less favourable treatment because of his sex. He was able to do so readily because his pensionable age was greater than that of his wife - 65 as opposed to 60. The Borough Council knew that if they fixed the age for free admission at 'pensionable age' men were bound to be disadvantaged since they reached that stage later than women. The position is not so simple when one is dealing with political belief.

Any decision with political implications is virtually certain to be opposed by some members of the community and welcomed by others. Simply because such a decision is opposed does not mean that it discriminates against those individuals who are against it. It is impossible to cater for every brand of political opinion by anything other than the most bland political decisions."

The fact that the First Minister took a decision that deprived the applicants of the opportunity to attend sectoral meetings does not, of itself, establish that he discriminated against them. As has been pointed out on behalf of the First Minister, he has been prepared to nominate Sinn Fein Ministers in the past. He has said - and there is no reason to doubt this - that his motivation in refusing to nominate the applicants is based on his hope that this will have

the effect of persuading Sinn Fein to exert pressure on IRA to decommission its weapons. That stance does not betoken less favourable treatment of Sinn Fein on account of their political views; it represents an attempt to persuade them to follow a particular course.

Conclusions

I have concluded that the First Minister may not use his powers under section 52 of the 1998 Act to exert pressure on Sinn Fein in the manner that he has sought to do, since that is extraneous to the purpose of the section. I will therefore make a declaration that his refusal to nominate the applicants on the grounds stated by him is unlawful. In consequence, the First Minister will be required to perform his obligation under section 52. As I have already said, he must conscientiously seek to agree with the deputy First Minister nominations for the sectoral meetings which will meet the cross-community requirements of the section. It does not follow that he must nominate the applicants. He may exercise his discretion in the manner that I have set out above. He must have regard to the intention of the legislature and the provisions of the Agreement to the effect that, normally, the Minister with executive responsibility for the matters to be discussed at the meeting of the North-South Ministerial Council should be nominated but he is not bound to conclude that the applicants are the only possible nominees. In deciding upon the Ministers to be nominated, he must be guided by the requirements of the section and must focus upon the suitability of the candidate(s) rather than on any political objective (other than the fulfilment of the purpose of section 52) that he may wish to achieve. Subject

to these constraints, he is at liberty to nominate Ministers who meet the requirements of section 52 and who are suitable to carry out the functions that are required of them in the Council.

IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (CROWN SIDE)

IN THE MATTER OF AN APPLICATION BY BAIRBRE DE BRUN AND

MARTIN McGUINNESS FOR JUDICIAL REVIEW

JUDGMENT

OF

KERR J

CONFIDENTIAL AND PERSONAL

FROM: BILL JEFFREY
Political Director
30 January 2001
JC:691(B)

cc Mr Pilling
Mr Watkins
Mr Alston
Mr Fittall
Mr Powell, No 10

PS/Secretary of State (B&L)

**PRIME MINISTER'S MEETING WITH GERRY ADAMS AND MARTIN
McGUINNESS THIS EVENING**

Following the Secretary of State's conversation with Jonathan Powell yesterday evening, I have spoken to Jonathan himself and to Dermot Gallagher.

2. Gallagher gave me a slightly fuller account of his discussion with Adams yesterday, which went as follows. Policing was still the big issue. At the meeting on Friday, Sinn Fein had come up with one of their usual six or eight page responses to our response to their points on Patten. The Irish had urged them to boil it down to three or four points they could put to the Prime Minister with some chance of success. Yesterday Adams had said he was not prepared to do that. Instead he wanted some certainty that, if the review identified problems in implementation, it would definitely lead to legislation - a kind of "semi-automaticity" in Gallagher's words. This might be the subject of a private assurance. Adams was also looking for some way of tying in the Irish Government. Gallagher wondered if the matter could be discussed in the informal implementation group, which the PM has already agreed should monitor follow-up on such issues as normalisation and decommissioning. This

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would essentially be a meeting of officials of the two Governments, with Sinn Fein attending as appropriate.

3. Gallagher had told Adams that in his opinion the PM might be able to give some assurance of the kind he was looking for, but only if Sinn Fein were offering a timeframe for putting weapons beyond use. Adams had said that such a timeframe might be "next to impossible", but if the view of the two Governments was that it was necessary, he would go to the IRA on that basis.

4. I agreed with Gallagher that everything now depended on a timeframe. Provided it was understood that he could not anticipate the outcome of a review which hadn't even started and that the decisions were ultimately for him, I thought the PM might be able to give Adams some reassurance. I did not rule out the topic featuring in meetings of the implementation group when the time came.

5. The next steps now are:

- the Prime Minister to meet Adams and McGuinness at 6pm this evening;
- tomorrow evening's dinner with the Taoiseach;
- a further meeting between Adams and officials on Thursday morning, after which Adams will meet the Taoiseach;
- subject to all that, Adams and McGuinness to consult the IRA overnight Thursday/Friday.

6. I attach a brief for the PM's discussions this evening. I have sent it on a personal basis to Jonathan Powell, but would be grateful to know if the Secretary of State is content. I think the PM will want to give Adams

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● some encouragement on legislation. The trick will be to do so without creating a de facto commitment, which is no doubt what Adams is trying to engineer.

(Signed)

BILL JEFFREY
11 Millbank ☎ 6447 (Castle Buildings ☎ Ext.28142)

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**MEETING WITH GERRY ADAMS AND MARTIN McGUINNESS: 6PM
TODAY**

Dermot Gallagher met Adams yesterday. The deal still seems to be on, although Adams was doubtful about whether he could get a timeframe from the IRA. His main outstanding concerns are about policing.

2. At their previous meeting on Friday, the Irish had encouraged Adams to boil down his pages of comments in response to our earlier paper on policing, and come to you with three or four key points. Yesterday he said he was unwilling to do that, and would prefer to get from you a degree of certainty that, if there were problems in implementation, the review would definitely lead to legislation. He also wants to tie the Irish Government in in some way, Gallagher told Adams that this might be possible, but only if Sinn Fein were offering a timeframe for putting weapons beyond use.

3. Clearly you can't commit now to the specifics of amending legislation, but - provided you make it clear that the decision is ultimately yours - you could give Adams a reasonably encouraging signal. You should bear in mind that he will want to amplify whatever you say, and present it to his own people as another commitment.

4. You could say something like:

- Of course, I can't anticipate the outcome of the review, but I can assure you that if it throws up convincing evidence that things are not working as intended because of some defect in the Act, I will bring forward amending legislation.

- In deciding on the content of such legislation, I would consult the Taoiseach. I'm also content for the issue to be

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discussed privately in the implementation group when we get to that point.

5. It would be as well to avoid any commitment to legislate on specific issues, such as making people with criminal records eligible to be independent members of DPPs. You have already told Adams that this can be addressed in the review, but it would be highly controversial with unionists and would almost certainly not pass the Lords.

6. If tonight is the moment when the deal is effectively done, there are two points on which you should try to pin down Adams and McGuinness:

- the putting of some weapons beyond use by Easter, and certainly by the General Election, is essential. It's a voluntary act, but if it can be done, it would be madness not to do it at a point when it would boost the fortunes of the pro-Agreement parties. Without it there is no deal;

- there needs to be an understanding that in the period between the moment of IRA reengagement with de Chastelain and the putting of weapons beyond use the IICD will be able to report positively on developments. (The point here is that Trimble's period of maximum vulnerability will be next month, when all that will have happened publicly is that the IRA will have re-engaged. You should push for a private understanding that de Chastelain will be able to make two positive reports in February/March, one immediately after re-engagement and one reporting that modalities have been agreed.)

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From: THE PRIVATE SECRETARY



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NORTHERN IRELAND OFFICE
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Jonathan Powell Esq
10 Downing Street
London, SW1A 2AA

30 January 2001

Dear Jonathan,

BRIEFING FOR TONIGHT'S MEETING WITH ADAMS AND McGUINNESS

I attach a briefing note, approved by the Secretary of State, for use by the Prime Minister in the meeting with Adams and McGuinness tonight.

pp Joanne Burton

P G PRIESTLY
PS/Secretary of State
☎ (B) 28110
(L) 6462



INVESTOR IN PEOPLE



MEETING WITH GERRY ADAMS AND MARTIN McGUINNESS: 6PM TODAY

Dermot Gallagher met Adams yesterday. The deal still seems to be on, although Adams was doubtful about whether he could get a timeframe from the IRA. His main outstanding concerns are about policing. (This was also evident in his meeting with the Secretary of State yesterday.)

2. At their previous meeting on Friday, the Irish had encouraged Adams to boil down his pages of comments in response to our earlier paper on policing, and come to you with three or four key points. Yesterday in his meeting with the Irish he said he was unwilling to do that, and would prefer to get from you a degree of certainty that, if there were problems in implementation, the review would definitely lead to legislation. He also wants to tie the Irish Government in in some way, Gallagher told Adams that this might be possible, but only if Sinn Fein were offering a timeframe for putting weapons beyond use. Adams balked at this, saying that such a tight timetable might be 'next to impossible', but if the view of the two Governments was that it was necessary, he would go to the IRA on that basis.

3. Clearly you can't commit now to the specifics of amending legislation, but - provided you make it clear that the decision is ultimately yours - you could give Adams a reasonably encouraging signal. You should bear in mind that he will want to amplify whatever you say, and present it to his own people as another commitment.

4. You could say something like:

Of course, I can't anticipate the outcome of the review, but I can assure you that if it throws up convincing evidence that things are not working as intended because of some defect in the Act, I will bring forward amending legislation.



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- **In deciding on the content of such legislation, I would consult the Taoiseach. I'm also content for the issue to be discussed privately in the implementation group when we get to that point.**

5. It would be as well to avoid any commitment to legislate on specific issues, such as making people with criminal records eligible to be independent members of DPPs. You have already told Adams that this can be addressed in the review, but it would be highly controversial with unionists and would almost certainly not pass the Lords.

6. If tonight is the moment when the deal is effectively done, there are two points on which you should try to pin down Adams and McGuinness:

- **the putting of some weapons beyond use by Easter, and certainly by the General Election, is essential. It's a voluntary act, but if it can be done, it would be madness not to do it at a point when it would boost the fortunes of the pro-Agreement parties. Without it there is no deal;**
- **there needs to be an understanding that in the period between the moment of IRA reengagement with de Chastelain and the putting of weapons beyond use the IICD will be able to report positively on developments. (The point here is that Trimble's period of maximum vulnerability will be next month, when all that will have happened publicly is that the IRA will have re-engaged. You should push for a private understanding that de Chastelain will be able to make two positive reports in February/March, one immediately after re-engagement and one reporting that modalities have been agreed.)**



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JP
✓
cc: MT
JS.
Pres

From: PS/Secretary of State (B)
30 January 2001

cc: See Copy Distribution List

Mr Jeffrey - O

**SECRETARY OF STATE'S INTRODUCTORY MEETING WITH THE DUP, 29
JANUARY**

Summary: The DUP warn that the Government's policy of pursuing the implementation of the Good Friday Agreement is destined to come unstuck as the Agreement does not command the support of the majority of Unionists.

Detail

2. The Secretary of State met Dr Ian Paisley, Peter Robinson, Ian Paisley Jnr and Nigel Dodds of the DUP in Castle Buildings yesterday morning. William Fittall, Robert Crawford, Richard Olszewski and you were also present.

3. After some introductory banter during which Dr Paisley made an aside about his Party's exclusion, the Secretary of State opened the discussion by saying he wanted to hear everyone's views about the current political situation. That included those who at this stage were against the nature of the Agreement; he would not be excluding any party. Dr Paisley jumped in immediately saying the DUP had (earlier) been excluded; he had been waiting since November for a substantive meeting with the Prime Minister. Indeed, when the Prime Minister was last in Northern Ireland, he held substantive meetings with the pro-Agreement parties only; and while he did meet with a delegation of the DUP, he gave no viewpoint on the position they put to him. Dr Paisley went on to say that the majority of Unionist people are opposed to the Good Friday Agreement. Recent by-elections had shown this to be the case and the forthcoming General Election will confirm it. In the circumstances, it was disastrous for the Government to proceed along the course upon which it has

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embarked. Dr Paisley predicted that the Unionist electorate will become even more disaffected when they learn the details of the 'deal' which is apparently on the cards; he further predicted the DUP will win UU seats when the electorate is put to the test.

4. In support of Dr Paisley, Peter Robinson said the Good Friday Agreement had been based on the principle that it required the support of the 'majority of the majority' and the 'majority of the minority' communities.

5. The Secretary of State agreed that the results of by-elections and the European elections not be ignored; equally, the Referendum of 1998 could also not be ignored. Political signals should certainly be noted but by-elections are not a reliable indicator of how people might vote in different circumstances or against a different agenda. He went on to say that that the Government genuinely believed that the Good Friday Agreement was the only game in town.

6. Changing tack momentarily, Dr Paisley referred to dissident activities, saying there was a direct link, certainly at grass roots level, between Sinn Fein/IRA and RIRA. He added, referring to the 1995 Clinton visit when behind the scenes the IRA had been planning the Canary Wharf bomb, that Sinn Fein/IRA had shown themselves capable of pursuing parallel strategies and turning violence off and on. He made a point of emphasising that his Party, unlike some of the pro-Agreement parties, could not be connected with the activities of dissidents.

7. Peter Robinson intervened to bring the discussion back to Unionist opinion of the Good Friday Agreement. The delegation as a whole returned to the charge, pointing out that while a majority of MLAs might be in favour of the Good Friday Agreement, if David Trimble (for example) were to "fall under a bus" the Executive would cease to function. It would collapse because it would fail to elect a successor who would command majority Unionist support. They pressed the Secretary of State to accept their view that things had changed so significantly since the

Referendum that a different approach was now required on the part of Government.

8. The Secretary of State acknowledged that there was a view within the Unionist community that a price had been paid for the considerable improvement in the security situation since the Good Friday Agreement (and the enormous benefits that ensued from that), but that did not void the Referendum. It was necessary, certainly, to take cognisance of emerging views, but that did not mean that the course of action which the Government firmly believed still to be right should be abandoned. This was the first opportunity that had existed in very many years to secure peace and the Government was steadily working through the process.

9. The delegation made clear they had concluded that the Secretary of State would not listen to any democratic opposition to the Agreement reached two and a half years ago. The Secretary of State repeated that the Good Friday Agreement is the only viable option available, despite all the difficulties. It must be implemented in all its aspects, but he had no illusions about how difficult that will be.

10. Ian Paisley Jnr asked whether the Government had placed the setting up of the Policing Board on ice because of Nationalist objections – he added that the DUP had been prepared to go along with the nominations process.

11. The Secretary of State said no-one had a veto on the subject, but naturally the Government wished to find a way forward that was acceptable to both traditions and this was the case in respect of a number of issues arising out of the policing reforms. Sensitivities had to be catered for in the implementation of the reforms. The Government was talking to the parties on a range of inter-related issues. In response to a direct question by Ian Paisley Jnr, the Secretary of State said he could not give any commitment that the Policing Board would be up and running by April; equally, he was not saying that the matter would be deferred until after the election. He added that the aim, not least for the police themselves, was to create a police service that was acceptable to both traditions. But first it was necessary to deal with some of the political problems that have created the situation of the past

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30 or so years and led to people taking up arms. There was now a firm basis for resolving these problems; it relied on mutual respect.

12. As the meeting drew to a close, the delegation made a plea for no further normalisation while the threat from dissidents remained. Any suggestion that towers for example should be removed would be deeply resented and (the Government should note) would turn people further against the Good Friday Agreement. They went on to say that if the Government was contemplating an inquiry into the Hamill case (which they said would be a waste of money), they should consider doing the same in the case of Billy Wright who, after all, was murdered while in the custody and care of the Secretary of State in HMP Maze. Finally, the delegation asked for the Secretary of State's support for the Ballycastle/Campbelltown ferry which the Under Secretary of State for Scotland would be discussing with MLAs towards the end of next week.

13. In response to the DUP's point on normalisation, the Secretary of State said he would not be taking any steps that would put security at risk; he would certainly provide some words of support in respect of the Ballycastle/Campbell ferry project **[Mr Crawford to action please]**.

14. The delegation left in good humour, apparently satisfied with the audience they had been given.

Sarah Todd

SARAH TODD
Private Secretary
☎ 28111

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cc: PS/Secretary of State (B&L) - O
PS/Mr Ingram (B&L) - O
PS/Mr Howarth (B&L) - O
PS/Mr Pilling (B&L) - O
Mr Watkins - O
Mr Alston - O
Mr Fittall - O
Mr Kelly - O
Miss O'Mara - O
Miss Bharucha - O
Mr Crawford - O
Mr Masefield - O
Mrs Madden - O
Mr Olszewski - O
Sir Ivor Roberts - O
Mr Powell, No 10 - O

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FROM: PS/Secretary of State (B)
30 January 2001

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cc: See Distribution List

Bill Jeffrey - O

**SECRETARY OF STATE'S INTRODUCTORY MEETING WITH THE PUP,
29 JANUARY**

Summary

The PUP make the case for local Government elections to be postponed and for all pro-Agreement parties to be involved in taking forward the process of implementing the Agreement.

Detail

2. The Secretary of State met David Ervine, Billy Hutchinson, Hugh Smyth, William "Plum" Smyth and Winston "Winkie" Rea of the PUP at Castle Buildings yesterday afternoon. You, Robert Crawford and Richard Olszewski were also present.
3. Responding to opening remarks by David Ervine that the PUP represented working class people, the Secretary of State said he accepted that events in Northern Ireland had led working class people to pursue their social demands by assuming a mantle of orange or green. Ervine agreed that that tradition had to be broken in order that cross-community issues like employment, health etc might be addressed properly; indeed the process of removing such barriers had already begun.
4. The Secretary of State opened the main discussion by saying he wanted today to take the views of all the parties, pro- and anti-agreement. He planned also to



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talk to community groups and others involved in "politics" at every level. He added that his personal profile as Secretary of State was less important than moving forward the process of implementing the Good Friday Agreement.

5. On behalf of the PUP, Hugh Smyth formally welcomed the Secretary of State. He went on to say that the PUP had gone further than any other Unionist party in its defence of the Good Friday Agreement. But it was now very close to the edge of the cliff and the Government must be careful not to push it any closer. He said the same was true of David Trimble. He urged the Secretary of State to consider the likely consequences of holding Northern Ireland local Government elections at or around the same time as the General Election. If the General Election is fixed for 3 or 10 May, that will almost certainly guarantee a low poll on 16 May, the date set in legislation for the local Government elections. Further, because the PR system will apply in the case of local elections, there is every possibility of confusion within the electorate. Any such confusion stands to be compounded by the fact that representatives of some of the smaller Unionist parties may well wish to urge voters to support other Unionist candidates in the General Election. From the PUP's point of view, the local Government elections should be postponed for a further 2 years; they added that this could tie in nicely with the Assembly's plan for a review of local Government arrangements. The worst possible outcome would be for both elections to be held on the same date.

6. Smyth, supported by Ervine, painted a worst case scenario in which an opportunist DUP would take the majority of Unionist seats. That would require a major rethink with respect to the GFA. It was important therefore to send out a clear and urgent message that the Union was secure and Unionists had not been sold out.

7. Referring to weekend media coverage of a possible breakthrough/deal with Sinn Fein, David Ervine urged the Secretary of State to intervene between the NI



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parties and No.10. If such a deal was on the cards, it was important to involve all the parties, otherwise people like the PUP's Billy Hutchinson, who had been appointed by the UVF as interlocutor, would be left in a very difficult position.

8. The Secretary of State said that from where he stood no breakthrough was imminent and there were still some way to go. He had done what he could to dampen the media hype. His instinct was that things should indeed be shared where that was possible and he would do what he could to encourage that. However, there were difficulties of timing, and also of leaks, and there was the problem that some of the players had to carry "others" along. There was a balance to be struck between being mindful of sensitivities and establishing common ownership.

9. David Ervine urged the Secretary of State not to trust David Trimble on timing. He added that Trimble had many qualities and had taken risks but he was an academic more than a hard core politician – he invariably mistimed things. Politics was like comedy – timing was crucial.

10. As the meeting drew to a close, Billy Hutchinson echoed some of the points Ervine and Smyth had put forward. He said he had written to the Secretary of State amplifying his views. He said the PUP supported the Good Friday Agreement and would continue to do so; his concern was to ensure that all parties to the Agreement should now be involved in taking the process forward. Finally, David Ervine made an appeal to the Secretary of State to look at the matter of the delay in the award of compensation for the PUP's offices which had been bombed during last year's loyalist feud [**Mr Crawford to advise please**].

Signed

SARAH TODD
Private Secretary
☎ 28111



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cc: PS/Secretary of State (B&L) - O
PS/Mr Ingram (B&L) - O
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Mr Watkins - O
Mr Alston - O
Mr Fittall - O
Mr Kelly - O
Miss O'Mara - O
Miss Bharucha - O
Mr Crawford - O
Mr Masefield - O
Mrs Madden - O
Mr Maccabe - O
Mr Olszewski - O
Sir Ivor Roberts, HMA Dublin - O
Mr Powell, No.10 - e



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PRIME MINISTER

✓ P
John Reid tells me it is possible
to have primary legislation for STV with
about the date of the election. On the
basis that suggests to postpone the date
with the business changes.
✓ R

Top - JPo
cc JS
MT
AC

1) Michael
2) F.G.

Spoke to M10
to see how to
ask this one

NORTHERN IRELAND: FORTHCOMING DISTRICT COUNCIL ELECTIONS

We need to decide urgently what to do about the district council elections scheduled here for Wednesday 16 May. Trimble wants them postponed, fearing melt down among his pro-Agreement supporters. But, Mallon is fiercely opposed to postponement on principle and Trimble recognises that without some cross party support here we could not bring such a contentious proposal before Parliament. His alternative proposal is to synchronise the elections with the general election if it is in May. Hume and Mallon told me yesterday that they had no problem with this. Even so the issue is not straightforward given the requirement for primary Westminster legislation and the necessary uncertainty over the general election date. Also it seems clear that at least two of the minor parties in a position to influence loyalist paramilitaries are vehemently opposed. We need to decide now how to play this.

✓ R

Detail

If we go for
May, can't we
just introduce Bill at
a quite late date
Mallon
request?

The next four yearly district council elections are on Wednesday 16 May. They use the STV system. The provision in the Representation of the People Act allowing local elections and a general election to be held on the same day in Great Britain does not extend to Northern Ireland. Thus, in May 1997 Northern Ireland voters had to go to the polls twice within 3 weeks.

Trimble would prefer district council elections to be postponed altogether, under cover of the review of public administration and local government which the Executive is about to establish. This view is shared by a number of minor pro-Agreement parties. There is a widespread view that, with devolution now in place,



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26 district councils are too many. However, Mallon has consistently opposed such a move. He has dragged his feet over establishing the review in order to deny Trimble the pretext for postponement. I have spoken to Mallon who firmly believes that, on principle, the elections must proceed.

There is some precedent from local government changes elsewhere in the UK for postponing elections and extending the mandate of councillors, but only once firm decisions have been taken on the new structures. The difficulty here is that the review has not even started. Postponing the elections by, say, 2 years would be extremely difficult to defend, and even then there is no guarantee that the new arrangements would have been agreed within the Executive and implemented in time.

So, Trimble's mind has turned to an alternative. A low turnout is likely to work against the forces of moderation so, if the general election is in May, Trimble and his party would like district council elections moved to that date. He confirmed this to me yesterday. The DUP have picked up whispers of this and already registered their opposition. Hume and Mallon told me yesterday that they would have no problem with the change. The Sinn Fein view is unknown. They will probably be against. Similarly, at least two of the smaller parties, both of them in a position to influence loyalist paramilitaries are strongly opposed. My predecessor indicated to Trimble that the proposal had problems: although we could change the election date by order it would require a short Westminster Bill to allow a combined poll in Northern Ireland. But he said that we would look at it seriously if he and Mallon came forward this month with an agreed proposal.

Meanwhile, the Chief Electoral Officer has now advised that the option of bringing the elections forward from 16 May will, for practical reasons, disappear unless there is an immediate decision. In any event he considers "the idea of running the general election and the local council elections on the same day using different systems [ie first past the post and STV] to be very high risk" and accordingly advises against such a course.





The need for primary legislation makes this difficult, given the necessary uncertainty over when the general election will be. Introducing legislation now to bring the Northern Ireland and English local election dates in line with each other for 3 May is presentationally very unknown and would be of no political benefit if the general election were called for another date. But leaving the matter until the general election is called would involve having to rush the legislation through in the final days of the Parliament. Crucially, it would be too late by then to take out nearly a fortnight of the timetable unless we had told the Chief Electoral Officer and the parties publicly to plan for this possible contingency.

You may conclude, therefore, that this is all too difficult for what may, in the event, be quite a marginal advantage. In that case we ought to kill the idea off now. Indeed, Trimble may be underestimating the mileage which the DUP would exploit from accusations of gerrymandering.

That said, bolstering the pro-Agreement forces within unionism remains a key strategic objective. The SDLP's support removes one key obstacle to the proposal. The Conservatives will go along with it given that Trimble wants it. The liberals are unlikely to be difficult unless the Alliance comes out strongly against it, which, from initial soundings, seems unlikely. It might also play well with Trimble/UUP in the context of the wider deal. If you are attracted to it we would need to decide urgently how to play it into the current negotiations over the wider deal. It might help Trimble with managing his party over other less welcome aspects if we were willing to make some announcement at the same time as launching the overall package.

What we might say is that the council elections will definitely occur in May and, for now, the date remains 16 May; but in the event of a general election being called for May the Government would, at the end of the Parliament and, subject to further consultation with the Northern Ireland parties, provide for both elections to be held on that day. To take the extreme case, it would be manifestly undesirable to have



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the local elections on Wednesday 16th if the general elections were called for Thursday 17th. We would, thereby, be putting the parties and the chief electoral officer on warning that they needed to prepare for a range of contingencies. To pave the way the change of date itself could be done by order under existing legislation subject to affirmative resolution) we would take through a short Bill to amend the Representation of the People so that combined polls could be held in Northern Ireland as is already the case in Great Britain. This would, I think, better be done over the coming weeks, unless the business managers had a strong preference for rushing a Bill through in the final days of the Parliament.

Clearly even a conditional commitment now of this kind, with or without a paving Bill, would require your consent and that of the business managers. How do you want to play this?

A copy of this minute goes to Jack Straw, Margaret Beckett and to Sir Richard Wilson.

JOHN REID
30 January 2001



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PM
fo 29 ✓
U2

Top - JLo
cc JS
MT
AC

PRIME MINISTER

NORTHERN IRELAND - INITIAL DISCUSSIONS WITH PARTIES

I spent yesterday having bilaterals with 9 of the 10 parties represented in the Northern Ireland Assembly (McCartney pulled out) plus the UDP. Here are a few first impressions. I suspect they largely bear out what you picked up yourself in your series of meetings at Hillsborough 10 days ago but, with the passage of time - and upbeat stories in this weekends press about the prospects for a deal - both expectations and anxieties seemed to have increased. We face a very difficult couple of weeks.

The key points to emerge were:

- a plea from the loyalists and other smaller pro-Agreement parties that they should be brought in early enough to shape and sell any deal;
- strong unionist resistance to conceding inquiries only to meet nationalist grievances;
- another warning from Mallon of how difficult an early positive decision on policing was for the SDLP. Adams stressed the need for a firm commitment to legislate again;
- UUP insistence that there was very little time left before they had to resolve how to fight the forthcoming elections;
- confidence among the anti-Agreement unionists that they are on a roll.





Gerry Adams came in with Pat Doherty and three others. He stayed on for a short private discussion afterwards. He was pretty non-committal but the general tone was downbeat. Loyalist violence was not making the arms issue any easier for republicans. Sinn Fein had taken a strategic decision to work with Trimble and moderate unionism but his actions over the North/South Ministerial Council were unacceptable. Nor were we living up to our promises etc etc. Interestingly, though it may only have been an implied threat, he said that Sinn Fein had not got its "head around what happens if the situation doesn't get sorted out or if some other event comes along."

The SDLP were similarly exercised by the latest spate of loyalist sectarian attacks which they saw as deliberately designed to provoke republican retaliation. The main discussion was on policing, where Mallon stuck to a hard line. The SDLP was still not seeing the movement that it needed. The UUP had had three years negotiating over policing so it was too much to expect the SDLP to sign up within three months of the legislation when much of the devil was in the detail of the implementation plan. Hume and McGrady spoke somewhat more encouragingly but all were agreed that there were still a few issues which needed clarifying and following through from last Tuesday's discussion at No 10 before they would take a decision.

More generally they stressed the importance of any wider deal having cross-party endorsement. The UUP and some of the smaller parties made the same point subsequently. For the SDLP I think this is code for their wanting as much of the limelight as Sinn Fein. For the UUP it is more a question of no surprises about secret deals which subsequently embarrass them.

The most positive point from the SDLP was on the timing of the forthcoming district council elections. I am minuting you separately on this today.

Paisley and Robinson were keen to persuade me that the forthcoming elections should be viewed as a referendum on the Good Friday Agreement. They had





absolutely no doubt that the majority of Unionists would back anti-Agreement candidates. They were confident that we wouldn't get even "a cigarette end from the IRA" and delivered a stern warning about not removing any installations in South Armagh given the threat from the Republican dissidents, who, they were sure, were receiving help from the Provisionals. They also urged me to get on and trigger appointments to the new Policing Board, whether or not the SDLP and Sinn Fein were willing to sign up.

Trimble, Taylor, Foster and Empey were friendly but apprehensive. They had already jumped twice -- last November and in May -- only to be let down by the Republicans. If Sinn Fein simply hunkered down on the weapons issue and the SDLP on policing there would be irresistible pressure within the UUP to take no more risks. If they entered an election campaign in the present situation they would simply be taken to the cleaners. So there had to be decisive progress before the next meeting of the party executive at the end of next week. The absence of Trimble and Mallon on a visit to France and Germany from tomorrow until Friday was logged as a complication though Trimble might be prepared to return early if necessary.

Trimble was interesting on why he thought the Provisionals were dragging their feet over decommissioning. He said that some in Sinn Fein, though not necessarily the leadership, wanted to smash moderate unionism because the more intransigent unionism became the more the chance that the British Government would abandon the consent principle. But the key reason for the present impasse was the Provisionals' determination to reduce the strain on their own grass roots in the run up to the elections.

The UUP team marked my card very firmly on the question of inquiries into Finucane, Hamill and Nelson. Ordinary unionists were fed up with all the one sidedness. What about an enquiry into the alleged collusion by a Garda officer which had led to the deaths of a dozen people including Lord Justice Gibson? What about an enquiry into the murder of Billy Wright in the Maze prison? I think





there is a serious point here about how much unionism is prepared to wear. Either we need to resist nationalist pressure for further enquiries or we shall need to find a way of injecting some sense of balance.

With the delegations and in separate media interviews I was at pains to dampen down speculation about an early breakthrough – the Belfast Telegraph headline “countdown on for peace deal” is just what we don’t want. I shall send you separately a steering brief for tomorrow evening’s discussions with the Taoiseach.



JOHN REID
30 JANUARY 2001





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PRIME MINISTER

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Paisley and Robinson were keen to persuade me that the forthcoming elections should be viewed as a referendum on the Good Friday Agreement. They had





absolutely no doubt that the majority of Unionists would back anti-Agreement candidates. They were confident that we wouldn't get even "a cigarette end from the IRA" and delivered a stern warning about not removing any installations in South Armagh given the threat from the Republican dissidents, who, they were sure, were receiving help from the Provisionals. They also urged me to get on and trigger appointments to the new Policing Board, whether or not the SDLP and Sinn Fein were willing to sign up.

Trimble, Taylor, Foster and Empey were friendly but apprehensive. They had already jumped twice – last November and in May – only to be let down by the Republicans. If Sinn Fein simply hunkered down on the weapons issue and the SDLP on policing there would be irresistible pressure within the UUP to take no more risks. If they entered an election campaign in the present situation they would simply be taken to the cleaners. So there had to be decisive progress before the next meeting of the party executive at the end of next week. The absence of Trimble and Mallon on a visit to France and Germany from tomorrow until Friday was logged as a complication though Trimble might be prepared to return early if necessary.

Trimble was interesting on why he thought the Provisionals were dragging their feet over decommissioning. He said that some in Sinn Fein, though not necessarily the leadership, wanted to smash moderate unionism because the more intransigent unionism became the more the chance that the British Government would abandon the consent principle. But the key reason for the present impasse was the Provisionals' determination to reduce the strain on their own grass roots in the run up to the elections.

The UUP team marked my card very firmly on the question of inquiries into Finucane, Hamill and Nelson. Ordinary unionists were fed up with all the one sidedness. What about an enquiry into the alleged collusion by a Garda officer which had led to the deaths of a dozen people including Lord Justice Gibson? What about an enquiry into the murder of Billy Wright in the Maze prison? I think





there is a serious point here about how much unionism is prepared to wear. Either we need to resist nationalist pressure for further enquiries or we shall need to find a way of injecting some sense of balance.

With the delegations and in separate media interviews I was at pains to dampen down speculation about an early breakthrough – the Belfast Telegraph headline “countdown on for peace deal” is just what we don’t want. I shall send you separately a steering brief for tomorrow evening’s discussions with the Taoiseach.

A stylized handwritten signature in black ink, consisting of a large 'R' and a smaller 'J'.

JOHN REID
30 JANUARY 2001

A single, thick, diagonal handwritten stroke in black ink.



01712733965

CONFIDENTIAL



The Rt Hon Dr John Reid MP
Northern Ireland Office
11 Millbank
London SW1

QUEEN ANNE'S GATE LONDON SW1H 9AT

file 2 *cc* *JSR*
JPO
DN
MT
PV

30 JAN 2001

Dear John,

'ON THE RUNS': PRE-CONVICTION CASES

I am grateful for sight of your predecessor's letter of 14 December to Gareth Williams, about the proposal of the Irish Government that the British Government should not pursue extradition requests against fugitives who went on the run prior to conviction and sentencing. I have also seen Gareth's letter of 19 December which sets out his provisional views on this matter. I have to say I find his arguments persuasive. But these are not my only concerns.

My role in considering incoming requests for extradition is a quasi-judicial one and I am required to act wholly in accordance with the statutory duties imposed on me. In particular, you will recall how important it was for me to be able to demonstrate this when dealing with the extradition request for Senator Pinochet. The fact that the cases currently under examination involve outgoing rather than incoming requests makes a difference in that we are operating in accordance with treaty obligations rather than under the Extradition Act 1989. But the distinction might not count for much if the Government is charged with unwarranted interference.

These concerns are particularly pertinent in view of the fact that extradition between the UK and Ireland is handled on a predominantly police to police basis, with minimal involvement of the executive. My role in such cases is limited to the delivery of warrants under Section 72 of the Criminal Justice Act 1967 for persons unlawfully at large, essentially because of my responsibility for prisons. (The Attorney General is responsible in England and Wales for making other extradition requests to Ireland.) While I realise that the Irish will not object to such interference, I would be concerned about this proposal leading to a read-across to the handling of other extradition business, including in the courts.

There is an additional consideration in the light of the fact that the cases now under consideration concern unconvicted fugitives. It must be the case that any decision on whether or not to withdraw the extradition request must rest on a prior consideration of the merits of the prosecution case. Whether such a consideration would turn on sufficiency of evidence, or public interest, is a matter for the prosecuting authorities ~~and~~ to determine. For that reason I have some difficulty with the 4th paragraph of Peter Mandelson's letter, in which he argues that he (in England and Wales, I) could decide not to uphold outgoing extradition requests we had made.

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In my view, that decision must be predicated on a decision by the prosecuting authorities as to the merits of the prosecution in each case.

Gareth Williams has already come down strongly in favour of a legislative amnesty as a way of dealing with the issue. This is because he considers that the withdrawal of the extradition requests would simply muddy the waters, leaving the question of the possibility of future prosecutions unclear, which would in any case be vulnerable to abuse of process arguments prior to trial.

I agree with this argument, although whether you were to handle the issue by means of legislative amnesty, as Gareth suggests (which I know you consider to be an unattractive prospect in political terms) or through an administrative scheme, as was proposed in post-conviction cases, perhaps needs further thought. Either way, there would be the added advantage of avoiding the difficulty of political interference in the extradition process: were a decision made not to prosecute in a case, the extradition request would then automatically fall to be withdrawn.

There may, of course, be clear benefits to the peace process in Northern Ireland which outweigh any concerns Gareth or I may have about the decision not to proceed with extradition proceedings in cases such as those of Quinlivan and McAuley - which you have correctly identified as being particularly notorious. Whilst I accept that we may have to make unpalatable compromises in the interests of securing peace and stability in Northern Ireland, I think that it is important that we should be confident about the gains received in return for such compromises or concessions.

Yours ever,

Jack

JACK STRAW

CONFIDENTIAL

The Rt Hon the Lord Williams of Mostyn QC



020-7271 2460

The Rt Hon Dr John Reid MP,
Secretary of State for Northern Ireland,
Northern Ireland Office,
11 Millbank,
London,
SW1P 4PN.

(Handwritten initials 'JR' circled)

9 BUCKINGHAM GATE
LONDON SW1E 6JP

(Handwritten notes: 'JPO', 'cc: JS.', 'mt' with a checkmark)

(Handwritten notes: 'M. del', 'Can you check with the NIO on this I do check to double cross SF' with a checkmark)

29th January 2001

(Handwritten: 'Dear John,')

SINN FEIN LIST

On 8th November 2000, I wrote to Peter Mandelson concerning decisions taken by the Director of Public Prosecutions for Northern Ireland in relation to the prosecution of four names from the Sinn Fein list. One of the names was Anthony Gerard Sloan. The letter was one of a series that deals with decisions taken by the Director on a case by case basis. In that letter, and I enclose a copy for your convenience, I stated that in relation to all four men,

“there is no outstanding direction for prosecution in Northern Ireland. Apart from the unexpired portion of their sentences, they are not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom in relation to any of them.”

This statement was made after a thorough check by the Director and the RUC.

In relation to Sloan, information has now come to my attention that, should he return to the jurisdiction, he is now liable to be questioned by the police concerning his possible involvement in a criminal offence. I understand Joe Pilling has been informed as to the circumstances.

I think it worth taking this opportunity to emphasise that the remarks concerning Sloan and others have followed a standard pattern and refer to the position of each individual as it was known at the time the letter was written. Whilst the checks have been thorough, the remarks do not amount to an amnesty. If other offences are discovered, or new

The Rt Hon the Lord Williams of Mostyn QC



Evidence is found that links individuals with offences, or fresh offences are committed, then the individual concerned will face arrest or questioning in the usual way.

I am copying this letter to Jonathan Powell.

*Yours sincerely,
Gareth*

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From: PS/Secretary of State
29 January 2001

cc: See Copy Distribution List

Jeffrey - O

✓ JP
cc: JS
MT
AC
CS

INTRODUCTORY MEETING WITH THE SDLP, 29 JANUARY

Summary: SDLP concern about their exclusion from negotiations. Argue for a comprehensive deal to which all parties are signed up. Seamus Mallon makes clear that we should not regard the policing issue as closed.

Detail

2. The Secretary of State met a delegation from the SDLP in Castle Buildings this morning. The delegation comprised John Hume, Seamus Mallon, Eddie McGrady, Sean Farren and Eamonn O'Neill. Bill Jeffrey, William Fittall and Richard Olszewski were also present.
3. After introductions, during which he promised to take a workmanlike approach, the Secretary of State said he would like to hear from the SDLP about their views of the current situation. John Hume said the party was concerned about an increase in sectarian attacks in counties Antrim and Londonderry. This seemed to be a deliberate campaign by the UDA aimed at producing a reaction from the IRA. Sean Farren said there was great concern about these attacks in areas where Catholics were in a minority - including Bushmills, Larne and Coleraine. The SDLP realised the difficulties, but there had been no significant numbers of arrests. Such attacks also caused a difficulty in the nationalist perception of HMG's handling of the decommissioning issue. Nationalists saw pressure being put on the IRA but not on loyalists, who were continuing to use arms. This made nationalists uneasy about the Government's approach. The Secretary of State said he was conscious of the problem of ongoing sectarian attacks and asked for advice on the extent of the problem and security force efforts to tackle it [**Advice please: Mrs Madden**].
4. John Hume said that decommissioning and policing were the main issues which were holding up progress. The SDLP wanted to see a police service which could command the support of all in Northern Ireland and which all would feel comfortable in joining. He acknowledged that there had been significant movement on the policing issue, but added that there were a number of issues which the SDLP wanted to see dealt with. On decommissioning, John Hume said he had put it to Gerry Adams that de Chastelain should be afforded the same access to IRA arms dumps as Ramaphosa and Ahtisaari. This would

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demonstrate how arms were being put beyond use and would constitute a major move forward by republicans.

5. The Secretary of State asked about nationalist attitudes towards the peace process and whether the situation in Northern Ireland had improved for them. John Hume said the atmosphere had been transformed and there was strong support in the nationalist community for the Agreement. He acknowledged that Sinn Fein had internal management problems because of the risk of splits and the activities of dissidents. Seamus Mallon added that there were those within the republican movement who would always see violence as an option. They were unlikely to be convinced by anyone. The threat from dissidents had often been used as a political tactic by Sinn Fein to apply pressure as a means of achieving concessions. Another problem was that HMG had made concessions to keep the UUP on board. The SDLP had been squeezed between the two. They had often been excluded from negotiations and their role and standing as a party had been diminished as a result. This had manifested itself most clearly in the way HMG had dealt with Patten. Unionists had been able to pre-empt the position on Patten's recommendations on the name and symbols of the Police Service. The SDLP had tabled over 160 amendments in an effort to bring the Bill back to Patten. The SDLP had explained repeatedly what was necessary to get Patten right. There had been some movement, but not enough to enable the party to move.

6. Seamus Mallon said the easy approach for the SDLP would have been to make nominations to the Policing Board on a conditional basis. However, such an approach would not have been credible within the nationalist community. The policing issue had been the Achilles heel of the nationalist community. Unless the issue was resolved, the Good Friday Agreement would be incomplete. Nationalist acceptance of future policing arrangements was the ultimate manifestation of the principle of consent. Assumptions had been made about the SDLP's position and the party had had a very difficult time. But they were not prepared to come on board on a basis where they could not be sure of achieving the changes that were needed. Where they do so, the cracks would appear sooner or later. The party needed to be able to tell the nationalist community that the issue had been got right. On that basis, they would call on nationalists to support and join the new police service.

7. Eddie McGrady pointed out that the party had had a detailed conversation about Patten with the Prime Minister. They had set out a means of coming to a satisfactory

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resolution of the outstanding difficulties. The SDLP felt they had been given an indication by the Prime Minister that progress could be made. They would therefore like to hear the Government's response. The SDLP were also interested in decommissioning, normalisation and the institutions. The party needed to be involved in negotiations on all of these issues.

8. In response, the Secretary of State said he wanted to see an inclusive approach - including with groups in the wider community outside the political parties. On policing, we were still considering the points which had been made by the SDLP. We could not promise to deliver on all of the issues, but were looking at what might be possible.

9. Seamus Mallon was critical of the ability of some parties to 'beat a path' to No 10. This made the SDLP feel ignored and caused them to ask whether they were being short-changed in dealing primarily with the Secretary of State. The Secretary of State said he would endeavour to ensure that the SDLP were kept in the loop. Returning to his theme, Seamus Mallon said the weakness in the whole process to date had been that HMG sought to deal with the issues and separate parties into 'little boxes'. There needed to be a comprehensive package which tied in all of the parties. This would help to avoid the 'war of spin' which inevitably opened up after every deal. You said that the point had been taken this time that any deal needed to involve all the parties.

10. The Secretary of State sounded out the SDLP on the issue of postponement and/or synchronisation of the local government elections. The SDLP were opposed to postponement of the elections, but made clear that they had no difficulty with synchronisation. Eddie McGrady raised the issue of using PR for Westminster elections. The SDLP believed this could significantly help David Trimble and would not readily accept the Secretary of State's argument that it could not be achieved before the General Election.

11. On his way out of the meeting, Seamus Mallon made clear that he wanted a further meeting on policing to hear the Government's response to the issues raised by the SDLP. He warned that we should not regard the policing issue as closed.

Paul Priestly

P G PRIESTLY

PS/Secretary of State

☎ (B) 28110

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29 Jan 01

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SEO (Policy)

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MT

INDICATIVE TIMINGS FOR DEMOLITIONS

ISSUE

1. A request has been made for indicative demolition times for the 4 sites.

RECOMMENDATION

2. That the minister notes the time taken to complete the tasks.

BACKGROUND

3. Ongoing discussions with SF have mentioned Newtownhamilton (NTH) Super Sangar (S/S), Magherafelt (MFT) Army base, R11 and R13 as potential sites that could be removed as part of the ongoing peace process.
4. Theoretical planning suggests a troop of REs at each site, aided by contractors, where appropriate, could complete the work as follows:

| Site | Planning Time (weeks) | Stores (tonnes) | Helicopter Lifts | Minimum Demolition Time (weeks) | Total Time (weeks) | Remarks |
|---------|--|-----------------|-------------------------|----------------------------------|--------------------|--|
| NTH S/S | Done | | | 2 | 2 | |
| MFT | 14 (6 weeks preparation of tender documents and 8 week tender period) | | | 36 | 50 | Military could begin some dismantling immediately. Military withdrawal complete after 20 weeks. Majority of work by civilian contractors. Assumes no contamination. Reinstatement time included. |
| R11 | 3 | 300 | 18 Ch 25 Lx 30 Pu | 9 (tower down within 2 weeks) | 12 | Reinstatement time (4 weeks) not included. Assumes no contamination. |
| R13 | 3 | 302.5 | 25 Ch 22 Lx 32 Pu | 9 (tower down within 2 weeks) | 12 | Reinstatement time (4 weeks) not included. Assumes no contamination. |

5. Detailed on-site inspections could change these timings, but not markedly.
6. The removal of stores from R11 and R13 is dependent upon helicopter under slung loads (USL) for which an engineer RV needs to be identified. R16 has been used for planning purposes. Poor weather could delay completion.

7. Removal of R11 and R13 will require movement of some minor accommodation infrastructure to R12 and R13A.
8. After R11 and R13 have been removed, environmental restitution will be necessary, which could take up to 4 weeks, depending on the weather.

TIMING

9. Immediate.

F G MOSS
Lt Col
SO1 Policy
Lisburn 63162
e mail: HQNI-CIVSEC-SO1(Policy)

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From: PS/Secretary of State
29 January 2001

✓ J.P.
cc: J.S.
M.T.
P.S.

cc: See Copy Distribution List

Mr Jeffrey - O

INTRODUCTORY MEETING WITH THE UUP, 29 JANUARY

Summary: UUP support synchronisation of local government elections with General Election. Fear that Sinn Fein will not move before General Election. Demand for close consultation on the details of any deal. Demand for inquiries into IRA atrocities to counterbalance nationalist demand for inquiries.

Detail

2. The Secretary of State met a delegation from the UUP in Castle Buildings this afternoon. The delegation comprised: David Trimble, John Taylor, Sir Reg Empey and Sam Foster, who were supported by David Campbell and David Kerr. William Fittall, Kate Udy, Richard Olszewski and you were also present.
3. After introductions, the Secretary of State said he would be interested to hear the UUP's views about the current situation. David Trimble said he had met Adams and McGuinness earlier in the afternoon. He was concerned that Sinn Fein and the SDLP might decide against moving on decommissioning and policing in advance of the General Election. This would leave the UUP carrying the strain while others retreated. In these circumstances, the UUP would feel compelled to take action to preserve their position.
4. David Trimble said that on policing he had told Adams and McGuinness that the logic of their strategy was that they should come on board. They had apparently accepted this, but left the timing open. McGuinness had also asked what David Trimble had had in mind when he referred in the Frost programme at the weekend to a review of the operation of policing arrangements in due course.

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You asked whether Sinn Fein had sought a guarantee about the future stability of the devolved institutions. David Trimble said this had not been raised. However, he had discussed the outcome of the judicial review on his sanction against Sinn Fein participation at the NSMC. The two parties had agreed that any judgment would cause problems for one side or the other and that both were likely to appeal in the event that the judgment went against them.

5. The Secretary of State asked about the UUP's views on postponement/synchronisation of the local government elections. He pointed out that the SDLP had said they had no difficulty with the idea of synchronisation, but were opposed to postponement. David Trimble said we should explore both options as a matter of urgency. Reg Empey said that asking people to vote twice in quick succession would be tantamount to 'suicide'. John Taylor said that if practicable, we should go for synchronisation. The UUP would achieve a very low turnout in any local government election which took place soon after the General Election.

6. Sir Reg Empey said that within the SDLP there was considerable support for the idea of postponement. Synchronisation would undoubtedly improve the turnout for the UUP, but the party would not rule out postponement. Postponement could also be justified because of the impending review of public administration.

7. On synchronisation, the Secretary of State said he would not want to make any announcement in advance of a comprehensive deal on all the issues. We also needed to avoid boxing in the Prime Minister on the date of the General Election. The advice he had received was that such a move would require primary legislation. David Trimble commented that the Opposition would be unlikely to cause a problem if he supported the move. HMG should proceed to take powers to synchronise the elections, but should not for the moment give up on the idea of postponement.

8. The Secretary of State said he believed Adams' strategic aim was to move the republican movement into democratic politics, while retaining the aim of a united

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Ireland. He understood their tactics in negotiations, but also understood the difficulties of Adams' position. He believed that Adams was under no illusions that needed to come up with significant movement on decommissioning as part of any deal. David Trimble reiterated his concern that Sinn Fein would not move in advance of the General Election. Republicans saw this as a way of damaging the UUP. They were also concerned about the republican dissidents and refusing to move on decommissioning would reduce the strain on the republican base. The disadvantage for Sinn Fein was that they could also see the Assembly and Executive collapsing before the General Election if they refused to move. Sam Foster added that the UUP were under significant pressure. The UUP and HMG were always expected to jump first as part of any deal. David Trimble added that Sinn Fein had let him down every time he had jumped first.

9. Sir Reg Empey said a theme had emerged in Sinn Fein rhetoric about securing or underpinning the devolved administration. Sinn Fein were clearly anxious to get rid of the "Unionist veto" and HMG's ability to suspend the institutions. But the UUP would be concerned about any agreement by HMG to amend the legislation to prevent suspension. In response, you said that Sinn Fein were seeking confidence that if the IRA did the deal, the UUP would not impose sanctions at some point in the future. David Trimble commented that he wished he had thought of the NSMC sanction at an earlier stage. He had 'at last found a way of hurting Sinn Fein which he could return to'.

10. David Trimble said he was concerned about continuing IRA involvement in violence. This was likely to precipitate a crisis at some point. John Taylor noted rather ominously that the UUP could not enter a general election campaign on the current basis. Unless progress was achieved, the UUP would have to further toughen its position. Sir Reg Empey noted that de Chastelain and the Irish could be played into the situation as a means of putting pressure on Sinn Fein to begin decommissioning. De Chastelain could indicate to all of the paramilitary organisations a date by which decommissioning would need to have started if it were to be achieved by the June deadline. David Trimble went further: de Chastelain should draw attention to the date by which decommissioning would

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need to have started some time in advance. If republicans were simply spinning out the process, this offered a way of creating pressure. The Secretary of State said he would welcome advice on these issues. **[Advice please: Mr Fittall/Miss O'Mara].**

11. David Trimble took the opportunity to put down a number of markers. On normalisation and policing the UUP could see the demands being made by Sinn Fein and the SDLP. They needed to know the details of any deal and there should be no "secret clauses". The Secretary of State said he intended to find a basis to tie all of the pro-Agreement parties into any deal. David Trimble said we needed to leave time for the UUP to look at any issues which could cause problems for the party.

12. David Trimble noted that nationalist demands for inquiries on Finucane, Hamill and Nelson were causing great difficulty for the UUP at grassroots level. The problem was that these demands were one-sided. There were many atrocities on the unionist side which were arguably more deserving of inquiries. For example, the allegations of Garda involvement in the murders of Chief Supt Breen, Supt Buchanan and Lord Justice Gibson. He had pressed the Irish Government for an inquiry into these murders but had made no progress. The Secretary of State said he would welcome advice on this issue. **[Advice please: Mr Watkins].** David Trimble said the murder of Billy Wright, the Omagh atrocity and the Enniskillen bombing were other examples. If we wanted to achieve balance, then these atrocities ought to be inquired into. The idea of a Truth and Reconciliation Commission had been discussed in the political negotiations. The UUP had taken the view that this was not sensible since it simply re-opened old wounds. However, the party was now worse off because of the demand from nationalists for inquiries. This was being used to "pick at scabs" and maintain a sense of victimhood.

13. Sir Reg Empey said the obvious way to resolve the policing issue was to devolve responsibility to the Assembly. This would give the SDLP responsibility for the issues about which they were complaining to the Secretary of State. David Trimble agreed.

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14. David Trimble alleged that Sir Quentin Thomas was working for the NIO and being consulted on certain issues. You refuted the specific allegation that Sir Quentin was currently working for the Office. David Trimble said Sir Quentin was 'an evil influence' and 'one of the undead' who had had to be "got rid of" before the UUP could do a deal.

Paul Priestly

P G PRIESTLY

PS/Secretary of State

☎ (B) 28110

(L) 6462

cc: PS/Secretary of State (B&L) - O
PS/Mr Ingram (B&L) - O
PS/Mr Howarth (B&L) - O
PS/Mr Pilling (B&L) - O
Mr Watkins - O
Mr Alston - O
Mr Fittall - O
Mr Kelly - O
Mr Maccabe - O
Miss O'Mara - O
Miss Bharucha - O
Mr Crawford - O
Mr Masefield - O
Mrs Madden - O
Sir Ivor Roberts - O
Mr Powell, No 10

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From: PS/Secretary of State
29 January 2001

✓ JP

cc: JS
NT
AC
GS

cc: See Copy Distribution List

Mr Jeffrey - O

INTRODUCTORY MEETING WITH SINN FEIN, 29 JANUARY

Summary: Sinn Fein argue that HMG has primary responsibility for moving the political process forward. They press for movement on the usual issues -- especially 'demilitarisation' and policing.

Detail

2. The Secretary of State met a delegation from Sinn Fein in Castle Buildings this morning. The delegation comprised Gerry Adams, Pat Doherty, Conor Murphy, Angus O'Snoddy, and Michelle Gildernew. William Fittall, Richard Olszewski and you were also present.

3. After introductions, the Secretary of State explained that he wanted to hear from Sinn Fein about the current political situation. On the issue of the McBride family, he explained that representations had been made to him as Armed Forces Minister by the families of Guardsmen Fisher and Wright. He had felt that he could not abandon the families. Gerry Adams asked whether the Secretary of State would be prepared to meet the McBride family. The Secretary of State confirmed that he would.

4. Gerry Adams said Sinn Fein was committed to making the process work. But responsibility lay with HMG to sort out the current problems. Sinn Fein saw the Good Friday Agreement as a transitional arrangement -- a means to an end -- in terms of bringing an end to partition and British involvement. They believed the 'Blair' government was different from previous administrations in not being

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encumbered with ideological baggage. But HMG had been less than sure-footed in dealing with a number of the issues – including demilitarisation, policing and the devolved institutions. We needed to instruct the First Minister to nominate Sinn Fein Ministers to the NSMC. He feared that the outcome of the judicial review could lead to a ratcheting up of UUP sanctions against Sinn Fein.

5. Gerry Adams acknowledged that the issue of IRA weapons needed to be dealt with. But the decommissioning issue had been “used and abused” by HMG. There was now a worrying sense of detachment within the IRA. Problems were also being caused by the ongoing campaign of sectarian attacks by loyalists. The issue of republican dissidents was also being used by HMG as a delaying tactic. Such dissidents could not be tackled by a military approach, but only by the broader republican community. Finally, Gerry Adams noted that we should be giving thought to the way forward against the possibility that we were unable to resolve the current difficulties in the process.

6. Gerry Adams introduced his colleagues and invited them to raise issues with the Secretary of State. Conor Murphy referred to the problem of the ‘military occupation’ of South Armagh. There had been no scaling down of military activity; if anything, it had been stepped up. This had created a “well of resentment” in the nationalist community in South Armagh and feelings that HMG was acting in bad faith. For example, an incident had occurred at a checkpoint last week involving the Parachute Regiment when a soldier had threatened a civilian and the RUC had had to be called to deal with the situation. Incidents like these made it very difficult for Sinn Fein to sell the Good Friday Agreement. The Secretary of State agreed that the only solution to these problems was through politics. But HMG had no choice but to protect people from the threat from dissident republicans.

7. Conor Murphy argued that the presence of such heavy security actually reinforced the arguments of dissident republicans: they could claim the British were opposed to change. Michelle Gildernew reinforced these arguments from her experience in Fermanagh and South Tyrone. She outlined another incident involving the Parachute Regiment at the weekend in Aughnacloy where a 17-year-

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old had been threatened. She argued that there had been a remilitarisation of the whole border area - involving an increase in checkpoints and helicopter activity. This sent the wrong signal to the nationalist community. Politics were not seen to be working. In these circumstances, it became very difficult for Sinn Fein to convince the republican base. Pat Doherty said the same thing was happening in the area he represented. Yet there was no response from the security forces to the ongoing campaign of attacks against Catholics by the UDA in the north of the Province.

8. The Secretary of State said these issues could not be solved in isolation: normalisation, decommissioning and policing had to be dealt with as a package. The issues needed to be resolved in a way that carried a majority of the community. He assumed that Sinn Fein accepted that it was in their interests for David Trimble to remain as leader of the UUP.

9. Gerry Adams said that Sinn Fein had taken a strategic decision some time ago that nationalist interests would be best served by sustaining David Trimble in office. But it was important that HMG's policy should focus on the majority support which existed for the Good Friday Agreement. This represented a new dispensation for which there was support across traditional political boundaries. HMG needed to act as a guarantor of the Agreement. As such, it needed to uphold the rights of all citizens, regardless of the hostility of some to the British presence. On the question of the behaviour of troops on the ground, even on a benign view, soldiers were behaving in accordance with their training. They were psychologically and physically 'tooled up' and would behave towards the civilian population in border areas as if they were in 'bandit country'. If HMG waited for an overall package to deal with these issues, the Sinn Fein leadership would be undermined. HMG had to move to defend and protect the rights of all people in Northern Ireland.

10. Angus O'Snoddy referred to the culture of secrecy about alleged misbehaviour by the security forces. There had been a long history of 'cover ups'. He hoped HMG would work with the Irish Government to investigate the Monaghan/Dublin bombings where there were real suspicions of collusion between "British

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intelligence and loyalism". The Stevens' inquiry into the murder of Pat Finucane also needed to be speedily resolved. Justice needed to be seen to be done in such cases. Without this people would lose faith in the Good Friday Agreement. Gerry Adams pointed out that he had lobbied successive Secretaries of State about the need for inquiries into the Finucane, Hamill and Nelson murders, as well as the Irish Government about an inquiry into the Monaghan/Dublin bombings.

11. The Secretary of State said he was aware of the demand for such inquiries. However, we needed to wait for the outcome of the current police investigations into each of the cases. Gerry Adams said he could understand the reluctance of HMG to initiate an inquiry into the Finucane case. However, it was a 'can of worms'. He alleged that the 'military establishment' had used the UDA to commit murders and had imported weapons from South Africa. These were actions more often associated with a South American regime. In response, the Secretary of State said he was conscious of the feelings about these cases in large parts of the nationalist community.

12. The Secretary of State also had a private one-on-one session with Gerry Adams at the end of the meeting. The Secretary of State provided the following debrief:

- ◆ Adams asked whether there was great resistance within 'the establishment' to the deal being discussed in the current negotiations. The Secretary of State refuted this but made clear that HMG was not prepared to undermine security in Northern Ireland or the leadership of David Trimble.
- ◆ Adams said he was pleased the Secretary of State understood his difficulties with the IRA. He was regarded by the IRA as a 'political'. The Secretary of State accepted that Adams had management problems with the IRA.

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- ◆ Adams had pressed for movement on the policing issue. The Secretary of State had made clear that HMG was not prepared to change the Police Act, but hoped that we could find a form of words to indicate that the operation of the legislation would be reviewed in due course.

Paul Priestly

P G PRIESTLY

PS/Secretary of State

☎ (B) 28110

(L) 6462

cc: PS/Secretary of State (B&L) - O
PS/Mr Ingram (B&L) - O
PS/Mr Howarth (B&L) - O
PS/Mr Pilling (B&L) - O
Mr Watkins - O
Mr Alston - O
Mr Fittall - O
Mr Kelly - O
Miss O'Mara - O
Ms Bharucha - O
Mr Crawford - O
Mr Masefield - O
Mrs Madden - O
Mr Olszewski - O
Sir Ivor Roberts, HMA Dublin - O
Mr Powell, No 10

CONFIDENTIAL





NORTHERN IRELAND OFFICE
CASTLE BUILDINGS
BELFAST BT4 3SG

Michael Tatham Esq
10 Downing Street
LONDON

Faxed

29 January 2001

Dear Michael

FINUCANE, HAMILL AND NELSON - POSSIBLE INQUIRIES

Following the Prime Minister's meeting with the SDLP on Tuesday you asked for further advice on forms of words which we could offer the SDLP, Dublin and Sinn Fein.

Our position up to now has been that we do not want to do anything which would possibly prejudice any prosecutions or disciplinary proceedings which might result from the separate investigations of Sir John Stevens, Nuala O'Loan, and Colin Port. So, while we have not ruled out the possibility of a subsequent inquiry in any of these cases, Ministers have insisted that the time to address the matter is when we know what comes out of the investigations.

The Prime Minister has been clear that he is not going to give any firm commitments on inquiries now. The question is what assurances we can give about the approach which we will adopt when the time comes. The most forward formulation was one offered to us by the Irish on Tuesday. They proposed a commitment **that if in a year's time no prosecutions had been initiated or were in real prospect, we would invite a senior judge of international standing who would be given access to all the papers so that he could advise publicly whether some form of public inquiry was needed to ensure public confidence.** An eventual review of the papers by an independent figure may be something which we would want to concede at the right moment. But we do not believe that we



should do so now. Any suggestion of a time limit to the existing independent investigations is unacceptable.

John Hume suggested a less prejudicial format. As recorded in your note of the meeting it was that **if the investigations did not get to the bottom of the different cases the government would commit itself to taking the necessary steps (which might include an inquiry) so that truth was established and justice done.** Subject to the Prime Minister's view, the Secretary of State thinks that this might be acceptable, as our bottom line, if we were sure that it would get the SDLP on to the Policing Board. But a commitment to "taking the necessary steps" is quite a forward position, despite Mallon's reservations that it did not go far enough, and would create a strong expectation that we would set up inquiries unless the investigations were completely successfully.

A much more general formulation which the Irish offered us at the end of Tuesday was that **the Government recognises also that the circumstances surrounding certain deaths that have occurred and the handling generally of those cases are the source of concern, and that it is necessary to address the issues arising in these cases so as to ensure that the interests of justice are served.** Again we could probably live with this though "it is necessary to address the issues" contains an implied commitment.

We have, therefore, prepared the following text. It uses much of the Hume language and is more positive than what we have said previously, including in the former Secretary of State's letter of 14 January to Seamus Mallon, while still leaving us with a good deal of room for manoeuvre. My Secretary of State's recommendation is that this is the formula which we should deploy with the Irish and the SDLP. If



necessary we should be prepared to move closer to the Hume or second Irish formulation, but should not concede any timescale or external review of the papers at this stage. Our preferred formula would be:

"The government accepts that there is a widespread concern about the need to get to the bottom of these three murder cases so that justice can be done. When each of the investigations and any subsequent proceedings are completed, it will consider positively and flexibly what further steps, including possible inquiries, are required to ensure that the truth is established".

A handwritten signature in blue ink, appearing to read 'Sarah Todd'.

SARAH TODD

Very best wishes.

Let's hope that:
1) The present upset doesn't do too much damage to the campaign and
2) Northern Ireland continues to inch its way to devolution and peace.

But it's time I used my own political skills and experience on something
else in Parliament, and hope I shall have the chance to do this soon.

I have said I will carry on with John Reid. I like his new approach and
more inclusive style. I do know a lot of people (especially non-party
women and community leaders over in Ireland) and I will help with the
necessary two way familiarisation for the next few weeks.

Agreement.

In Northern Ireland he was able to use his skill and know-how about Party
workings to get the main Northern Ireland parties to focus on the real
implications of what they had signed up to in the Good Friday

But I was glad he went quickly. You may remember my very angry letter
to you after the last time I have kept my frequent personal concerns to
myself.

I was sorry about Peter. I had enjoyed working for someone with such a
sharp intelligence.

Dear Tony,

Friday, 26 January 2001

Rt Hon Tony Blair MP
Prime Minister

PERSONAL &
CONFIDENTIAL

(12)

nice little hand note
needed

5

FROM: BILL JEFFREY
Political Director
26 January 2001
JC:689(B)

WJP
cc JS
MT

cc Mr Pilling
Mr Watkins
Mr Alston
Mr Fittall
Mr Masefield
Mr Powell, No 10

✓

Par
This changes with
my conversations with
Dan. Does want
ask to see you
next week.
Beliefs of in
the polls, so is SF
(but only to 6% in
the poll)

PS/Secretary of State (B&L)

IRISH OFFICIALS MEETING WITH SINN FEIN LAST NIGHT

After our meeting with the Decommissioning Commission this morning (on which Margaret O'Mara is reporting separately), Tim Dalton – the Head of the Irish Department of Justice – gave me a readout of Irish officials' meeting with Sinn Fein yesterday evening. This is, for the moment, a quick factual report and no more. We will need to analysis the implications and discuss them urgently with Jonathan Powell.

JK

2. The meeting had taken place in Dundalk, and had involved – on the Sinn Fein side – Adams, McGuinness and Richard McAuley the Sinn Fein press officer. It had gone on for hours and the Irish had not got home until 3.00am. Dalton's conclusion was that Sinn Fein were still in the game, but were genuinely finding the decision difficult and were unsure if they could win IRA support for it.

3. The main Sinn Fein concerns had, as we expected, been around policing. They were broadly content on OTRs and – subject to one point noted below - on security normalisation. They had been unsettled by Archbishop Brady's recent intervention, since it was uncomfortable for him to appear to be in a harder position than them. (The Irish had assured them that they could arrange for a more positive statement from the

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Archbishop!). They had concluded that the Republican movement was likely to split on policing, with some unwilling ever to support even the reformed force. They thought they could work on this over time, but were clearly nervous.

4. The main Sinn Fein outstanding points on policing, which Adams is now likely to put to the Prime Minister on paper, were:

- the need for a more definite statement of our willingness to legislate following the proposed 12 month review;
- a private commitment that in such legislation we would amend the provision of the Police (Northern Ireland) Act 2000 which prevents people with criminal records serving as members of the district policing partnerships;
- the oath, although Irish officials apparently advised them strongly against pursuing that any further;
- the name, although again Irish officials had told them they would be wasting their time;
- plastic bullets, where they wanted more certainty that they would be taken out of use.

The only point on security normalisation had been that they needed a clearer indication of the timeframe on which the 4 installations would be removed.

5. Sinn Fein were still concerned about Trimble. At the point when the IRA re-engaged with the Decommissioning Commission, they want him not only to lift his North/South sanction but to provide some degree

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of certainty that the institutions would continue unobstructed. I will broach this with Trimble's people when I meet them later today.

6. Dalton also reported that Sinn Fein were pressing the Irish Government on two long-standing issues which were difficult for them; the release from prison of the murderers of Garda McCabe, whom the Irish have excluded from the early release scheme; and the question of access to membership of the Dail.

7. In short, the usual last minute Sinn Fein "chiselling" exercise. At first blush, the policing points all look difficult. It may be possible to offer some stronger statements on readiness to legislate and willingness to introduce any acceptable substitute that may be designed for plastic bullets, but I will consult David Watkins and Robin Masefield and offer some considered advice.

8. There now appears to be no question of Sinn Fein going off to consult the IRA before the weekend. Adams is expected to phone Dermot Gallagher tomorrow. As Jonathan and I rather feared, he has interpreted a remark the Prime Minister made during one of their meetings on Tuesday as implying willingness to have a further discussion if necessary. Dalton told me that the Irish had been discouraging this because the Prime Minister had already committed so much time. Adams had accepted that there would not be "another jamboree". But my guess is that there will be a request for a meeting with the Prime Minister at the beginning of next week. I also understand that there is a tentative arrangement for the Taoiseach and the Prime Minister to speak or meet on Tuesday evening.

(Signed)

BILL JEFFREY
11 Millbank ☎ 6447 (Castle Buildings ☎ Ext.28142)

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From: PS/Secretary of State
26 January 2001

cc: See Copy Distribution List

SP
cc: SS
MT
AC
RS

Mr Jeffrey - O

INTRODUCTORY MEETING WITH FIRST AND DEPUTY FIRST MINISTERS

The Secretary of State met David Trimble and Seamus Mallon in Castle Buildings this afternoon. David Trimble was accompanied by David Campbell and David Lavery. Seamus Mallon was accompanied by Peter May and Brian Barrington. The Secretary of State was supported by Bill Jeffrey.

2. The Secretary of State said he welcomed the opportunity to meet David Trimble and Seamus Mallon as First Minister and Deputy First Minister of Northern Ireland. He would see them separately with their parties in meetings which had been arranged for 29 January. He appreciated that he had a huge amount of learning to do. The circumstances of his appointment were unfortunate, but he had taken the post because he was genuinely enthusiastic about the peace process.
3. The Secretary of State asked about the day to day working of the devolved institutions and whether members of the Executive could successfully separate their work from the wider political problems in the peace process.
4. At this point, Seamus Mallon sought permission to use the ashtrays which have now appeared in the Secretary of State's office. The Secretary of State agreed with some enthusiasm and reached into his own pocket whilst apologising to David Trimble. David Trimble said he would put up with his colleagues' "bad habits". The Secretary of State shot back: "And I shall put up with yours -- and I understand they include a temper from time to time!".

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Turning to the working of the Executive, David Trimble said the wider political problems had never been discussed in the Executive before October 2000 when he had "upset the apple cart". The issues tended to be raised in the NI Assembly, but not to too great an extent. Seamus Mallon largely agreed. He said there was an air of unreality in wearing two hats: the parties were working constructively in the Executive but were widely divided on the underlying political issues. This made it very difficult to concentrate all their energies on devolved business. The problems were exacerbated by the fact that they were trying to manage a four party coalition within which the DUP were not playing a full role. In addition, an enormous amount of time and effort was given to matters of procedure, as opposed to forward thinking and policy development work.

6. David Trimble said there was no effective mechanism for ensuring a collective approach within the Executive. This was a systemic problem: executive functions were invested in individual Ministers. Moreover, all of those involved were learning from scratch in terms of their Ministerial offices. Seamus Mallon said that some "growing up" was required: parties tended to oppose unpopular decisions, even though their Minister in the Executive might have supported the decision. He reiterated that the underlying political issues needed to be dealt with once and for all to enable the parties to get on with running the devolved institutions and conducting long-term thinking on policy issues. The Secretary of State noted that similar problems had occurred in Scotland.

7. David Trimble said that on the underlying political problems, he believed we were on the last lap: "it would not take much more to happen to enable devolution to bed down". The Secretary of State said this was his fervent hope. He acknowledged the role being played by the Prime Minister in the current negotiations to find a way through the wider political problems.

8. The Secretary of State asked about the public expenditure position in Northern Ireland in comparison with the other regions of the United Kingdom. David Trimble said the official per capita expenditure figures were misleading since they took little account of levels of need. For example, in Northern Ireland there

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were more children in education because of the younger age distribution of the population and the greater levels of participation in higher education. The NI Executive supported the continuation of the Barnett formula but would like it reviewed to take account of differential levels of need. The Executive had set some work in hand in order to assess the implications for Northern Ireland if the formula were to be adjusted along these lines. The Secretary of State agreed on the necessity to do this work before coming to a hard and firm decision. He hoped the NI Executive would be prepared to co-ordinate closely with NIO Ministers on this issue and for officials to work closely together. David Trimble and Seamus Mallon agreed to the Secretary of State's proposal that Mr Howarth should liaise with the devolved administration on these issues [**PS/Mr Howarth and Mr Crawford to note please**].

9. David Trimble said the NI Executive was also worried about the implications for Northern Ireland of the Scottish Executive's decision on implementation of the Sutherland Report. The NI Executive did not have the necessary expenditure to match what was proposed in Scotland.

10. Bringing the meeting to a close, the Secretary of State said he hoped to work together with the First Minister and Deputy First Minister as a partnership. He believed there were a number of issues where there would be advantage in concerting the approach of the NI Executive and the NIO. He hoped there would be regular opportunities to talk.

Signed

P G PRIESTLY

PS/Secretary of State

☎ (B) 28110

(L) 6462

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Top: FA/PS
"COS
LFA/EP/PS
AC/Press

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RESTRICTED

26 January 2001

Fm: Ashley Ray (HME, Dublin)

- cc PS/SoS (L&B)
- PS/Mr Ingram (L&B)
- PS/Mr Howarth (L&B)
- PS/PUS (L&B)
- Mr Jeffrey
- Mr Fittall
- Mr Maccabe
- Ms O'Mara
- Mr Waterworth
- Mr Brett
- Mr Hallett
- Mr Elvy
- HMA
- DHM
- Ms Royle
- Mr Pike

To: Anita Bharucha (RIR, NIO)

IRISH TIMES OPINION POLL, 26 JANUARY

Summary

1. Opinion poll shows strong rise, (up 15 points to 58%) in satisfaction rating for the Coalition Government, following the recent budget. Ahern (66%) and Harney (54 %) are the most popular leaders. Little comfort for the main opposition parties, and particularly so for Bruton, with his lowest rating (37%) since November 1994.

Detail

2. Today's Irish Times opinion poll records that, since September 2000, support has risen for Fianna Fáil (up 1 point to 41%), the Progressive Democrats (up 1 point to 4 %), the Green Party (up 1 point to 5%), Sinn Féin (up 1 point to 6%, – the level achieved in the 1999 European elections) and "others" (mainly independents) (up 2 points to 9%). Satisfaction with the two main opposition parties is down – Fine Gael (at 20%, down 4 points) and Labour (at 15%, down 2 points).
3. Personal satisfaction ratings for the Coalition leaders have rocketed, with Ahern (up 11 points to 66%) and Harney (PDs) (up 12 points to 54%). Support for Quinn (Labour) is up 2 points to 48%, but support for Bruton has declined by 3 points, and at 37%, is at its lowest since November 1994.

SKP 30/1/01

4. Other significant statistics from the poll included:-

- 7 out of 10 polled considered that the recent budget was good for the country;
- the level of undecided voters was still high at 17% ;
- 9 out of 10 surveyed expressed reservations about the respect they have for politicians.
- almost half of those surveyed(46%) believed it didn't matter which parties formed the next government.

Comment

5. The feel good factor generated by the recent give away budget has clearly outweighed the negative reaction to the Lawlor affair and diminished concerns that past Fianna Fáil irregularities will still emerge from the tribunals. Nonetheless, the high level of uncommitted voters, together with clear signals of declining interest in politics, will be of concern to all parties.
6. Bruton, who faced open criticism of his leadership on television last night from party colleague Alan Shatter (Dublin South), will know that his poor personal showing in the poll will add to his woes - with the possibility of further challenges to his leadership before the next election.
7. The Coalition parties have predictably welcomed the poll results. The Government Chief Whip has already claimed that the poll shows that the electorate wants the Government to run its full term to summer 2002. But a possible slide of the US economy into recession - which would have a severe impact on Irish economic performance (the mainstay of the Government's support) - means that Ahern might yet be tempted to go to the country early while he is still ahead.

Ashley Ray

CONFIDENTIAL

The Rt Hon the Lord Williams of Mostyn QC



9 BUCKINGHAM GATE
LONDON SW1E 6JP

020-7271 2460

The Rt Hon Dr John Reid MP,
Secretary of State for Northern Ireland,
Northern Ireland Office,
11 Millbank,
London,
SW1P 4PN.

Kit

26th January 2001

Dear John,

*Top JS
cc JPB
Ac*

TERRORISTS ON THE RUN

I write further to my letter to Peter Mandelson of 8th January. In that letter I informed Peter that the Director of Public Prosecutions for Northern Ireland had reached decisions in relation to twelve names on the Sinn Fein list. The names were of those who had escaped from the Maze Prison in 1983. They were: Dermot Joseph McNally [10], Seamus Campbell [12], Seamus Joseph Clarke [13], Anthony Kelly [14], John Gerard Fryers [26], Dermot Finucane [28], James Pius Clarke [29], Terence Damien Kirby [30], Paul Brennan [31], Kevin Barry John Artt [32], Patrick John McIntyre [35] and Anthony McAllister [36].

In that letter I explained that whilst the RUC had conducted inquiries in relation to each, and no outstanding matters had been traced, the Director wanted to trawl his own files. The trawl revealed records of some fifty files in the Public Record Office involving the twelve men, some fifteen of which had been destroyed in the usual course of events. The Director has now had each of the remaining files examined and is satisfied that there are no outstanding matters. In relation to all twelve, therefore, I can inform you that there are



The Rt Hon the Lord Williams of Mostyn QC

no outstanding directions for prosecution in Northern Ireland. None of the individuals named are wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom.

The Director of Public Prosecutions for Northern Ireland has also now completed his consideration of the case of Gerard Michael Sloan [37]. Sloan has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Sloan is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom.

I enclose for your information an updated copy of the schedule setting out the current position in relation to each of the names on the Sinn Fein list. It does not take account of any action taken by the Northern Ireland Office in relation to extraditions, pardons or release on licence.

I copy this letter to **Jonathan Powell**.

*Yours ever,
Justin.*

ORIGINAL SINN FEIN LIST – UPDATE 26.01.01

The numbering is as used on the original list.

1. John James McClafferty

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 18th August 2000 refers.

2. Patrick McVeigh

A pre-trial case from England. A review of the evidence has been completed and the prosecution discontinued. My letter of 14th June 2000 to Jonathan Powell refers.

3. Robert Campbell

A post-conviction case from Northern Ireland. Campbell has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Campbell is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th November 2000 refers.

4. Paul Patrick Magee

A post-conviction case from Northern Ireland. Magee has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Magee is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th November 2000 refers.

5. Angelo Fusco

A post-conviction case from Northern Ireland. Fusco has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Fusco is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th November 2000 refers.

6. Nesson Quinlivan

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 13th July refers. There are currently live extradition proceedings in relation to the unexpired sentence before the Irish Courts.

7. Pearse McAuley

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. McAuley is currently in custody in Ireland. His extradition from Ireland will be sought following release. My letter to Jonathan Powell of 13th July refers.

8. Andrew Martin

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 13th July refers. There are currently live extradition proceedings in relation to the unexpired sentence before the Irish Courts.

9. Anthony Duncan

A pre-trial case from England. A review of the evidence has been completed. The evidence remains sufficient to afford a realistic prospect of conviction and the public interest requires prosecution. My letter to Jonathan Powell of 13th July refers. There are currently live extradition proceedings in relation to the unexpired sentence before the Irish Courts.

10. Dermot McNally

A post-conviction case from Northern Ireland. McNally is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, McNally is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

11. Liam Gerard Averill

A post-conviction case from Northern Ireland. Averill is a Maze escapee from 1997. The Director of Public Prosecutions for Northern Ireland is currently considering the

evidential position and public interest factors. The unexpired portion of his sentence remains outstanding.

12. Seamus Campbell

A post-conviction case from Northern Ireland. Campbell is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Campbell is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

13. Seamus Clarke

A post-conviction case from Northern Ireland. Clarke is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Clarke is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

14. Tony Kelly

A post-conviction case from Northern Ireland. Kelly is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Kelly is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

15. Rita O'Hare

A pre-trial case from Northern Ireland. The position is as set out in my letter to the Prime Minister of 23rd October.

16. Eibhlin Glenholmes

A pre-trial case from England. A review of the evidence has been completed and the prosecution discontinued. My letter of 14th June 2000 to Jonathan Powell refers.

17. Owen Carron

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

18. Seamus Drumm

Originally untraced, now recently identified as James Joseph Drumm. A pre-trial case from Northern Ireland. There is no outstanding direction for prosecution in Northern Ireland. Drumm is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 30th November 2000 refers.

19. Kevin McGuigan

Originally untraced, now recently identified. A pre-trial case from Northern Ireland. A review is being conducted and further inquiries will be necessary.

20. Michael Rogan

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

21. John Joseph Fusco

A review has been carried out and a direction for no prosecution issued. My letter to Jonathan Powell of 5th July refers.

22. Edward Joseph Rooney

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

23. Richard Stephen O'Callaghan

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

24. Michael Mulvenna

A pre-trial case from Northern Ireland. A review of the evidence has been completed. The evidence remains sufficient to afford a reasonable prospect of conviction and the public interest requires prosecution. My letter of 18th August to Jonathan Powell refers.

25. Marion Coyle

Originally untraced. A letter from Mr Adams was unhelpful in this regard as it dealt only with offences committed in Ireland. The Northern Ireland Office has, through Special Branch, found mention of her on the Police National Computer as wanted for questioning in relation to a conspiracy to cause explosions in 1976 and fingerprints found in the Southampton bomb factory in 1974. Inquires of the Director of Public Prosecutions for England and Wales confirm that his office holds no file in relation to her. The Northern Ireland Office may wish to make further inquiries of Special Branch.

26. Gerard Fryers

A post-conviction case from Northern Ireland. Fryers is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Fryers is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

27. Gerry Sloan

Identified as Anthony Gerard Sloan. Sloan has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. My letter to Peter Mandelson of 8th November 2000 refers.

28. Dermot Finucane

A post-conviction case from Northern Ireland. Finucane is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Finucane is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

29. **James Clarke**

A post-conviction case from Northern Ireland. Clarke is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Clarke is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

30. **Terence Kirby**

A post-conviction case from Northern Ireland. Kirby is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Kirby is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

31. **Paul Brennan**

A post-conviction case from Northern Ireland. Brennan is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Brennan is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

32. **Kevin Barry Artt**

A post-conviction case from Northern Ireland. Artt is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, Artt is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

33. **Daniel Joseph Keenan**

A post-conviction case from Northern Ireland. Keenan escaped from Magilligan prison in 1975. The RUC are investigating the matter. The Director of Public

Prosecutions for Northern Ireland will then consider the evidential position and public interest factors. The unexpired portion of his sentence remains outstanding.

34. Malachy McCann

A post-conviction case from Northern Ireland. McCann escaped from Magilligan prison in 1975. The RUC has completed its inquiries. The Director of Public Prosecutions for Northern Ireland is considering the evidential position and public interest factors. The unexpired portion of his sentence remains outstanding.

35. Paddy McIntyre

A post-conviction case from Northern Ireland. McIntyre is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, McIntyre is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

36. Anthony McAllister

A post-conviction case from Northern Ireland. McAllister is a Maze escapee from 1983. The Director of Public Prosecutions for Northern Ireland has completed his consideration of the case and has directed no prosecution in relation to the escape. Apart from the unexpired portion of his sentence, McAllister is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to Peter Mandelson of 8th January 2001 refers.

37. Gerard Michael Sloan.

A post-conviction case from Northern Ireland. Sloan has been prosecuted extraterritorially in Ireland for escape and related offences. There is no outstanding direction for prosecution in Northern Ireland. Sloan is not wanted in Northern Ireland for arrest, questioning or charge by the police in respect of any other matter. The RUC is not aware of any interest from any other police force in the United Kingdom. My letter to John Reid of 26th January 2001 refers.

38. Edward Francis Campbell

A post-conviction case from Northern Ireland. The RUC has not been able to trace an escape file. The Director of Public Prosecutions for Northern Ireland is considering the position in relation to escape and escape related offences.

39. Gerard William Patrick McCrory

A post conviction case from Northern Ireland. McCrory failed to return to custody after a period of compassionate leave. Offences relating to his failure to return are currently being considered by the Director of Public Prosecutions for Northern Ireland.

40. Hugh Clarke

A post conviction case from Northern Ireland. The RUC has located an escape file. The Director of Public Prosecutions for Northern Ireland is considering the position in relation to escape and escape related offences.

41. James Martin Monaghan

The RUC has located an escape file. The Director of Public Prosecutions for Northern Ireland is considering the position in relation to escape and escape related offences.

42. Rose Dugdale

The Director of Public Prosecutions for Northern Ireland is investigating whether his Department holds any file in relation to Ms Dugdale. The Northern Ireland Office has made inquiries of the RUC.

26th January 2001

CONFIDENTIAL

**From: Ivor Roberts
HMA Dublin**

Date: 25 January 2001

**cc: PS/Sofs (L&B)
PS/Mr Ingram (L&B)
PS/Mr Howarth (L&B)
PS/PUS
Mr Fittall
Mr Watkins
Mr Maccabe
Mr Waterworth
Ms Bharucha
Mr Brett, EUD(B)
Mr Arthur, FCO
(via EUD(B))
Mr Sawers, No 10)- by
Mr Powell, No 10)- fax
HMA WASHINGTON)-**

cc: MT
AC
CS

To: Mr Jeffrey

MEETING WITH IRISH FOREIGN MINISTER

1. I met Brian Cowen last night prior to his dinner for the Diplomatic Corps in Dublin. I thanked him for his generous statement on Mr Mandelson's resignation. He said that he had meant it. Peter and he had had their differences but "we couldn't have done it without Peter having steadied the Unionists". In subsequent discussion of the progress of the peace process, Cowen said that the Prime Minister's engagement in the last week or so had had an enormous impact and had freed up the situation. He felt that a deal was not only possible but within our grasp. I asked how Sinn Fein's "consultation process" was going. He said that he would have a better idea after today. I said that there was always a fear that Sinn Fein could overreach themselves and assume they could squeeze more out of us. Cowen said that he agreed; they had a gut instinct to go for a 5-0 win all the time rather than 4-1 or 3-2. That said, he and his colleagues had made very clear to them that there was nothing more to be extracted and that they should settle. They would be mad not to do so.

2. In a later conversation with the Head of the Anglo-Irish Division in the DFA, O'Ceallaigh confirmed that the Irish government believed that the bottom line had been reached. He had told Sinn Fein that "they would be dead" if they didn't agree on the deal. There might still need to be "a little tweaking" on policing but he believed that we were effectively there and that both the SDLP and Sinn Fein would come on board. O'Ceallaigh, besides repeating Cowen's appreciation of Peter Mandelson's role and

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contribution to the peace process, urged that we should get Dr Reid and Brian Cowen together as soon as possible. I said that I was sure that it would be a very early priority for the incoming Secretary of State.

3. Other conversations with Liz O'Donnell, Michael McDowell and Dermot Gallagher brought further warm and sincere tributes to Peter Mandelson. As I have reported earlier, there has been an increasing, if grudging, acceptance of his judgement, in particular the suspension of the Executive last February. This last point has been fully registered in both the Irish Times and the Irish Independent today.

COMMENT

4. Despite O'Ceallaigh's protestations, we can never be entirely confident of how hard the Irish government are pressurising Sinn Fein. But they do appear to have concluded in their own minds that what is on offer is the best that can be reasonably expected, that Sinn Fein should go for it and that the consequences of their not doing so will be dire. Cowen appears to be proving a tougher nut for Sinn Fein to deal with than they bargained for.

(SIGNED)

Ivor Roberts

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LEGAL SECRETARY
020-7271 2401

THE LEGAL SECRETARIAT TO THE LAW OFFICERS
ATTORNEY GENERAL'S CHAMBERS
9 BUCKINGHAM GATE
LONDON SW1E 6JP

Michael Tatham Esq
Private Secretary
10 Downing Street
London SW1A 2AA

Amend?
✓ CE: JPs
B.
Press

25 January 2001

Dear Michael,

OTRs

Thank you for your letter of 24th January which was faxed to this office this morning.

I have shown the amended draft statement to the Attorney General, who is grateful for your letter. He has noted the amendments but has asked me to mention two points by way of clarification. In relation to the reference to extradition proceedings, it should be remembered that it is possible that a foreign state may request the extradition of one of the individuals concerned. Should that happen, we would be bound to act in accordance with our Treaty obligations. The second matter concerns the issue of constitutional propriety raised in the Attorney's earlier letter. The Attorney General is proceeding on the basis that the phrase "such steps as are necessary" refers to a legislative scheme.

A copy of this letter goes to Paul Priestly (NIO).

Yours ever,

David

DAVID BRUMMELL

CONFIDENTIAL - PERSONAL

CONFIDENTIAL - PERSONAL



10 DOWNING STREET
LONDON SW1A 2AA

File
JP
JS.
FAXED

From the Private Secretary

24 January 2001

Dear David

OTRs

The Prime Minister has seen – and is grateful for – the note dated 23 January from the Attorney General concerning a draft statement on OTRs.

Recent negotiations have meant that the situation has evolved further. The language on OTRs is now part of a wider statement made jointly by the British and Irish Governments (and affects both). I attach the extract from this draft statement which is relevant to OTRs. This text has been given to the Irish Government whom, we understand, have shown it to Sinn Fein.

We have amended the text to meet the Attorney General's points, although it does not explicitly mention legislation.

I am copying this letter to Paul Priestly in the Northern Ireland Office.

Yours ever

Michael

MICHAEL TATHAM

David Brummell
Law Officers' Department

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With the completion of the early release scheme, the two Governments recognise also that there is an issue to be addressed about supporters of organisations now on ceasefire against whom there are outstanding prosecutions, and in some cases, extradition proceedings, for offences committed before 10 April 1998. Such people would, if convicted, stand to benefit from the early release scheme. The Governments accept that, as a matter of policy, it would be a natural development of the scheme for such prosecutions not to be pursued, and will take such steps as are necessary in their jurisdictions to deal with this difficulty, so that those concerned are no longer pursued.

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Day 1 (close to simultaneously)

- Two Governments' statements reaffirming commitment to May plans and calling on parties and paramilitary groups to follow through on their commitments.
- IRA statement re-engaging with the IICD for the purpose of agreeing how weapons to be put beyond use.
- OTRs statement.
- Chief Constable's statement announcing demolition of Newtonhamilton supersangar and intention to demolish two towers in South Armagh as the IRA fulfils its commitments.
- David Trimble statement lifting North/South sanctions.
- Patten Implementation Plan published, with Government statement announcing review of the legislation after 12 months of operation.

Within Days

- IICD reports first constructive meeting with IRA has taken place.
- SDLP, UUP, Sinn Fein and DUP nominate political members of Policing Board.

Date to be agreed privately

- IICD reports agreement with the IRA on scheme for putting weapons beyond use, and that he now believes that they will before long make a significant start on putting weapons beyond use.

1 April

- Policing Board to assume new responsibilities.

Date to be privately agreed before Easter 2001

- IICD reports IRA weapons put completely and verifiably beyond use.

Michl

for vol

The Forgotten Families
Concerns Relating to John Steele's Report
Review Of The Proposal For A New Police Fund

Prepared for The Secretary of State
The Rt. Hon. Peter Mandelson M.P.

December 2000

Summary of the Report

- We require an increase in the lump sum to prevent the widows having to live out the rest of their days begging from means-tested funds and to ensure that natural justice prevails. This lump sum should also ensure that the standard of living for the pre-1982 widows equates with the post-1982 widows.
- We believe the Fund should not be means-tested.
- We believe the recommendations in the Report do not provide for parity of treatment with the post-1982 widows.

FORGOTTEN FAMILIES: The pre-1982 widows.

- 1 We, the above group of widows, are pleased that the Government acknowledged the injustices for these widows by asking John Steele to undertake the *Review Of The Proposal For A New Police Fund*.
- 2 Following the publication of the above Report we recognize that it is not possible to alter the pensions, as this would require a retrospective change to UK policy.
- 3 However, we believe that it is essential to express formally our concerns regarding the following recommendations.
 - (i) Each of the widows pre 25 November 1982 should receive from the Fund a lump sum based on £1000 for each year, or part-year, of widowhood up to the date of the setting up of the Fund (para 32 in the Report).
 - (ii) Widows who have remarried should also receive a lump sum calculated in the same way up to the date of re-marriage (para 32).
 - (iii) The Fund should assume responsibility for the £1000 (not means-tested), which the RUC Benevolent Fund currently pays annually to each widow (para 33).
 - (iv) The Fund should make regular payments to widows to ensure that they have a reasonable standard of living. In other words – these payments should be on the basis of means-testing, taking in all their circumstances (para 34).
 - (v) The Fund should use 'Northern Ireland Police Fund' as its title (para 43).
- 4 The amount of £1000 for each year or part-year is totally inadequate. Our concerns are that the recommendations are not sufficient to ensure a reasonable standard of living for these widows without them having continually to apply to a means-tested fund. For example, a widow currently receiving a pension of £1932 per annum would, if the recommendations were followed through, receive a lump sum of £30,000, though it is not known if this amount will be taxable. If this lump sum of £30,000 was invested and had a return of, say, 6%, the figure used by life insurance companies today as a 'reasonable assumption for the rate of future investment growth', the income from this would be approximately £1800 per year. This would provide an income of approximately £3732. While this obviously increases the widow's income it is difficult to see how this amount would ensure a reasonable standard of living.
- 5 Actuarial figures were provided to John Steele requesting that these widows were given an adequate lump sum to ensure parity of treatment with the post – 1982 widows. This lump sum should not be viewed as additional compensation or recognition for the sacrifice of our husbands but the amount that should be the widows by right, thus ensuring natural justice for this group. There was recognition in 1982 that the amount payable through gratuities was not sufficient, hence the changes in payment at that time.

- 6 Many of the widows have gone out to work-often to low paid work with no occupational pension, rather than going to a means-tested fund; they are now either approaching retirement or already retired and their financial plight is very serious.
- 7 There is also a concern that a means-tested fund discriminates further against those who work, again highlighting the inequitable treatment for pre-1982 widows. Post 1982 widows received their gratuities, and pensions to ensure an adequate standard of living, regardless of whether they work or not.
- 8 It was identified within the Report that there are a number of means-tested funds already in existence. However, even though they are entitled, many of the widows will not apply to such means-tested funds as they believe they should not have to beg for an adequate standard of living.
- 9 This Fund has been set up recognizing the inadequacy of the current provision from RUC benefits yet the recommendation for means-testing is that it will be on the basis 'taking in all their circumstances'- again inequality of treatment compared with post-1982 widows.
- 10 The report recommends 'Bursaries for widows ...who wish to study; for the education of children of widows...' but these opportunities are too little, and come too late for this group of widows and their families. The widows have struggled over the years to make ends meet and in bringing up children on what is now recognized - indeed was recognized in November 1982 - as a wholly inadequate income.
- 11 We believe that we have been discriminated against in the financial provision, ie the gratuities payable. One of the consequences of this has been the financial struggle that the widows have had over the years, both for everyday living and in bringing up families.
- 12 We also request that the lump sum should ensure natural justice and parity of treatment for all, including those widows who have remarried or for their children.
- 13 **We require an increase in the lump sum to prevent the widows having to live out the rest of their days begging from means-tested funds and to ensure that natural justice prevails. This lump sum should also ensure that the standard of living for the pre-1982 widows equates with the post-1982 widows.**
- 14 While it is also recommended that the Fund should assume responsibility for the £1000 (not means-tested), which the RUC benevolent Fund currently pays annually to each widow, there is no indication, either for this £1000 or the lump sum, whether this will be paid tax-free or not.
- 15 The recommendations within the Steele Report will do little more than duplicate the provisions already in place through the RUC Benevolent Fund. Therefore the recommendations would seem to be inadequate in attempting to redress the situation for this group of widows.

5,000
per year

- 16 We are widows because our husbands were murdered while serving in the RUC. We are proud of that association and find it distressing that this recommendation would remove the name of the RUC from the Fund. We will always remain RUC widows.

In Conclusion

We would like to thank John Steele for undertaking a difficult task and starting the process for addressing the issues. We would also like to thank the Secretary of State for meeting with us. We have also had the opportunity to speak with the Prime Minister, the Leader of the Opposition, Lord Falconer, members of the House of Lords and the House of Commons. We have indicated our concerns to all. It is our hope that recognition is given to our concerns and appropriate actions taken to ensure parity of treatment for this group of widows.

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10 DOWNING STREET
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SUBJECT
MASTER

From the Private Secretary

24 January 2001

File on

Dear Paul

MEETING WITH UUP

The Prime Minister and Secretary of State met a UUP delegation consisting of David Trimble, Ken Maginnis, Michael McGimpsey, David Campbell and David Lavery yesterday afternoon. Jonathan Powell, Bill Jeffrey and I were also present on our side.

The Prime Minister said we were trying to get Sinn Fein and the SDLP signed up to Patten implementation. It was hard going. There were signs the SDLP might move. Sinn Fein looked like they would be harder to shift. The SDLP were looking for commitments and inquiries into Finucane/Hamill/Nelson. Maginnis argued strongly that there was no room for further concessions on policing or inquiries. SDLP demands were incessant. The danger was that continual tweaking would undermine the effectiveness of the police force. Mallon was becoming increasingly unreasonable and the party as a whole was paralysed by the lack of common purpose between Hume and Mallon.

Trimble said these concerns were reinforced by dissident republican activities (he mentioned that John Taylor's daughter had been present in the building that RIRA had tried to bomb in the last week). On policing, Trimble said it was important there were no private assurances on badges/flags.

Trimble said calls for inquiries were stacked up unreasonably on the nationalist side. There were also strong grounds for inquiries on some cases of concern to Unionists such as Billy Wright's murder inside the Maze or the many unsolved murders in North Armagh. There was also a general issue of police effectiveness. In his constituency an IRA maverick called Duffy (whom Trimble claimed had been Rosemary Nelson's boyfriend) was probably responsible for up to twelve murders. Yet hardly any police resources were deployed against him (though many people believed the police possessed evidence). There had been only a few charges in relation to the problems in the Shankill Road last year.

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The police were not getting on top of the regular pipe bombings in Larne and Coleraine. Nor were they acting sufficiently vigorously on smuggling (the proceeds of which might be small beer for HMCE but were hugely significant for the paramilitaries). The Secretary of State drew attention to the Task Force set up under Adam Ingram to deal with smuggling. The Prime Minister said he would minute Ministers on the importance of their departments lending full support to these efforts.

Trimble alleged that in northern constituencies the DUP were encouraging the UDA to stoke up tensions and unrest so that they could make political capital out of the subsequent problems. This week's split within the UDP was another bad development - those party branches (14 out of 32) that had broken away were primarily in northern districts, in many cases overlapping with areas of UDA-inspired tension. Maginnis predicted a coming together of the UDP breakaways and the LVF.

Maginnis referred to a clutch of separate security issues. He would be meeting the Irish Attorney General soon to raise Irish dilatoriness in investigating those murders in which an element of Garda collusion was alleged. He was frustrated by the lack of progress on the Omagh investigation (the Secretary of State assured him that intensive efforts were continuing - he had seen this for himself during a recent visit to the investigation team). Maginnis also complained about Liam Campbell's release on bail in Ireland (the Secretary of State said this was on the basis of a huge financial bail and required Campbell to report twice a day to the Garda).

Maginnis expressed concern about the restructuring of the police force. He believed the changes risked irreversibly damaging the effectiveness of the Special Branch. He also felt that some of the 26 unit commanders recently appointed lacked the necessary depth and experience. Trimble added that the DUP would exploit the large number of police retirements at the end of the financial year. The Secretary of State said he was convinced the new appointments were sensible. They would bring in younger people with new skills and resolve the bottleneck problem. We would not take steps on the Special Branch which would prejudice its operational effectiveness. Bringing together Special Branch and Crime Branch made operational sense. Specialist support units would be restructured but still dedicated to security work. Fixed tenure was standard police practice. These issues were driven by considerations of good management, not politics. We would not allow accountability requirements to erode the operational effectiveness of the Chief Constable or the police force. We would do what we could to ensure a responsible and constructive Police

Board. Maginnis asked if the Secretary of State would consult the UUP leadership over independent appointments to the Board. The Secretary of State said he would do so. The Prime Minister underlined that our bottom line was the need to maintain an effective operational police force. We were making this point strongly to Sinn Fein.

Trimble asked if there had been discussions with Sinn Fein about special policing arrangements in South Armagh. The Prime Minister said there had not.

Maginnis claimed we had failed to extract any quid pro quo for the demilitarisation steps so far taken (he cited the Borucki sangar, the holding centres and the patrol bases in Fermanagh). He could see no scope for further movement without a significant move forward by the IRA; that meant agreement on modalities attached to a specific timescale for decommissioning. McGimpsey worried that the IRA would not move further than re-engagement and even that would be bought at too high a price.

Trimble said his next party meeting was on 29 January. He expected this to produce a clearer sense of forthcoming party processes. After that meeting he (together with Mallon and Empey) would be travelling in Europe on an Industrial Development Board mission. It was possible there would be a Special Executive meeting on 3 February. In the absence of progress by then he might need to up the ante on his side although he would aim not to trigger a destructive chain reaction. The Prime Minister said this highlighted the importance of reaching an agreement within the next two weeks.

The Prime Minister asked if the UUP felt it would be better to have Sinn Fein inside or outside the Police Board. The wary consensus from the UUP was that it was better to have Sinn Fein on the Board though there might be short-term sensitivities. Trimble worried about a scenario in which the SDLP joined the Board aiming to demonstrate to the nationalist community that they could disrupt policing better from inside the Board than Sinn Fein could from outside. The Prime Minister said he had made clear to Sinn Fein and the SDLP that the Policing Board could not be used as a means to try and subvert the effectiveness of the police force.

At the end of the meeting Trimble raised two further issues:

- RUC widows. He handed over the attached memorandum from the Forgotten Families responding to the Steele Report. He urged the Prime Minister to consider this. The widows were seeking an increase from £1,000 to £5,000 for each year of widowhood. While

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- 4 -

this might not be possible, an increase of some sort would send a positive signal and would prevent the widows from being dependent on means-tested benefits.

- Trimble had received an invitation to visit Washington on 16-17 February. He would like to take this opportunity to call on the NSC and State Department (he was not looking to see President Bush). He had the impression that the Embassy were trying to prevent any Ministerial visits to Washington ahead of the Prime Minister's. He added that he was handling this as discreetly as possible because he understood Mallon would also be in the States at this time but he did not wish to do any joint calls. (John Sawers has since spoken to Bob Pierce in the Embassy in Washington and agreed that calls of the type envisaged by Trimble would not cause problems.)

At the end of the meeting the Prime Minister and Trimble had a private chat for about ten minutes (no officials were present).

Comment

A couple of points to follow up

- It would be helpful to have a draft note for the Prime Minister to send Ministers on the importance of lending their weight to efforts to combat smuggling in Northern Ireland.
- The Secretary of State will presumably need to reply to the memorandum from the Forgotten Families.

Yours ever

Michael

MICHAEL TATHAM

Paul Priestly
NIO

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**BRITISH GOVERNMENT'S STATEMENT ON POLICING
ACCOMPANYING PUBLICATION OF UPDATED IMPLEMENTATION
PLAN**

[This text reflects Sinn Fein and SDLP concerns. As the Prime Minister has made clear, the final version will need to reflect concerns of other parties once they have been brought into discussions.]

It is over two and a half years since the signing of the Good Friday Agreement and some 15 months since the publication of the report by the Independent Commission on Policing (the Patten Report) which had its origins in that Agreement.

The Government fully accepts, as described in the Good Friday Agreement, that it is

Essential that policing structures and arrangements are such that the police service is professional, effective and efficient, fair and impartial, free from partisan political control: accountable, both under the law for its actions and to the community it serves; representative of the society it polices, and operates within a coherent and co-operative criminal justice system, which conforms with human rights norms.

That remains the Government's steadfast goal.

The Government is fully committed to the vision of the new beginning in policing. It wishes to see a police service that is supported by both traditions, is effective and enjoys the confidence of all sections of the community in Northern Ireland.

The Police Act 2000 and an updated Implementation Plan, that is being published today, lay the ground work and establish a road map for the implementation of the Patten recommendations. In its consultation with those directly involved in implementation and others, the Government acknowledges that concerns have been raised. The point has been made by many that in an unprecedentedly large programme of this magnitude, greater certainty was required.

The Plan covers all 175 of the Patten Report recommendations. Significant progress has already been made in many areas. For example, the Ombudsman's Office is now fully operational (and she will shortly be given further powers).

Two of the holding centres have been closed. An external agency has been appointed to conduct recruitment to the police and the process for appointments to the Policing Board has begun.

The Plan has been updated to take account of points raised by the parties and of the substantial work which the Chief Constable and his colleagues have done to prepare for the new service, against a tight timetable and in the face of continuing policing pressures. Further steps will take place shortly. By April the recruitment campaign will be launched to attract new regular trainees on a 50-50 basis. They will begin training in September. District Policing Partnerships will be set up by the end of 2001. They (and their sub-groups in Belfast) will interface with the Police District Commands which will be established in April. The objective is to bring about effective community policing and the DPPs will play a crucial role in achieving this.

The Implementation Plan will provide clearer timetables for increasing the Part-time Reserve and phasing out the Full-Time Reserve. Gough holding centre will close in the next few months, once alternative accommodation is available. The Special Branch and CID will be brought together under the management of one Assistant Chief Constable in April. The aim is for the redeployment of support units to take place this year and for a new tenure policy to be operational by September. The Plan makes plain the commitment to establish a human rights-based approach to policing, accountable against defined standards. The Plan also sets out the Government's position in relation to the important symbolic issues.

Underpinning the Plan is the Government's determination to maintain law and order through the development of a police service and which gains strength from more widespread community support.

The Government is now taking steps to set up a Policing Board which will be representative of the community in Northern Ireland. The Policing Board will, alongside the Ombudsman, have powers that are without precedent in the United Kingdom, in the Republic of Ireland, in Europe or America. It will determine objectives for the policing of Northern Ireland and it will issue the policing plan. It will be empowered to call for reports from the Chief Constable on matters connected with policing, including performance against the policing plan, and to initiate inquiries.

On the basis set out in this document and the implementation plan, the Government welcomes the commitment given by the parties represented in the Executive to nominate members to the Policing Board.

All these steps are the start of a process of change. The Government will want to keep the effectiveness of the new arrangements under close and constant review. The Oversight Commissioner will monitor progress on implementation and will report at least three times a year.

In addition, after the first twelve months of operation, the Government will ask the Oversight Commissioner to carry out a comprehensive review of implementation thus far, in the course of which he will be able to identify any shortcomings in the Police Act 2000 in bringing about the new beginning in policing and in providing an effective Police Service, able to do its job, and acceptable to all parts of the community. In conducting this review, the Oversight Commissioner will consult closely with the Policing Board, the Chief Constable, DPPs, political parties and other organisations in Northern Ireland. The Policing Board will also be invited to express views direct to the Government on the legislation after twelve months of operation. In the light of these reports, the Government will consider with an open mind whether changes in the legislation are required.

Now is the time for the whole community to demonstrate commitment to the new beginning to policing. That calls for unequivocal support for and co-operation with the new police service, and the encouragement of young people to join the police. By participating in this way, the whole community can together help to shape the future. For it is only through cross-community support, at local, district and national level, that the vision can and will be delivered.

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STATEMENT BY THE TWO GOVERNMENTS

In a joint statement on 5 May, the two Governments set out proposals for securing full implementation of the Good Friday Agreement, and committed themselves to the steps necessary to achieve that goal. Since then, substantial progress has been made, but outstanding difficulties remain, and we have been discussing with the pro-Agreement parties how these can be overcome.

In the light of these discussions, we now believe that there is a new understanding on the part of all parties about how the remaining issues can be resolved and the Agreement fully implemented.

As indicated in the May statement, the British Government will progressively take all the necessary steps to secure as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat. It is their intention to continue with this process until complete normalisation is restored in Northern Ireland. But it can only be on the basis of a continuing implementation of the Good Friday Agreement and the assessment of threat and danger to the community and people in Northern Ireland. Provided this threat is reduced, the British Government will carry out a progressive rolling programme reducing levels of troops and installations in Northern Ireland. Ultimately the normal state would mean the vacation, return or demolition of the great majority of Army bases, the demolition and vacation of all surveillance towers, no further Army presence in police stations and the use of helicopters only for training purposes.

The two Governments believe that two things are now essential: that all paramilitary groups engage fully and actively with the Independent International Commission on Decommissioning; and that the current restrictions on the operation of the North/South Ministerial Council be lifted. We call on those concerned to take the necessary steps.

Full and active re-engagement with the IICD will, as a first step, make it possible for the IICD to consider whether, as envisaged in our May statement, "there are any further proposals for decommissioning schemes which offer the Commission greater scope to proceed in more effective and satisfactory ways with the discharge of its basic mandate." The Governments would expect an early report

on this matter, with a view to further rapid progress being made on the issue of arms thereafter.

The British Government is fully committed to the new beginning in policing through the establishment of a policing service supported by and fully representative of both traditions and all sections of the community in Northern Ireland. It is [today] publishing an updated version of the Implementation Plan for the policing reforms, which addresses concerns expressed by the parties and others and of the development in greater detail of the Chief Constable's plans for implementation. [The two Governments welcome the fact that all the parties eligible to do so have now indicated that they are willing to nominate political members of the Policing Board.]

With the completion of the early release scheme, the two Governments recognise also that there is an issue to be addressed about supporters of organisations now on ceasefire against whom there are outstanding prosecutions, and in some cases, extradition proceedings, for offences committed before 10 April 1998. Such people would, if convicted, stand to benefit from the early release scheme. The Governments accept that, as a matter of policy, it would be a natural development of the scheme for such prosecutions not to be pursued, and will take such steps as are necessary in their jurisdictions to deal with this difficulty, so that those concerned are no longer pursued.

With a view to coordinating and monitoring the implementation of remaining aspects of the Agreement, the two Governments will continue to work closely together, and to consult the parties.

There is now an opportunity to restore the momentum behind the implementation of the Agreement, and to achieve the goal of a permanent peace and political stability. We urge all concerned to respond positively to this statement.

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From the Private Secretary

23 January 2001

New Mr Priestley

MEETING WITH SDLP

The Prime Minister and your Secretary of State met John Hume, Seamus Mallon and Eddie McGrady for about two hours this afternoon to run through outstanding SDLP concerns on Patten. Jonathan Powell, Bill Jeffrey, Robin Masefield and I were present on our side. The Prime Minister had to leave the meeting for about ten minutes to take a telephone call from President Bush.

Holding Centres

The Prime Minister said the Castlereagh and Strand holding centres had been closed. We expected to have completed a closure plan for Gough by the end of this month. The Secretary of State said that in any circumstances Gough would be closed by September. We were looking at whether this date could be brought forward but this would certainly raise difficult resource issues which we needed to weigh up. That was why we could not guarantee closure for April. Mallon queried the need for extra resources – the same equipment could surely be transported from building to building. Even if there were a financial outlay, it would be more than offset by the huge political bonus of having closed Gough before the onset of recruitment. The Secretary of State said that extra resources would be involved because money would need to be spent on both interim and permanent facilities.

John Hume concluded that being able to say two centres had been closed and work was in hand on a third was a positive position. The Prime Minister said we would come back to the SDLP with a clearer sense of timescale on Gough and with detailed information explaining why there were significant resource implications to setting up interim facilities.

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Special Branch/Crime Branch

The Prime Minister said the bringing together of these two branches would happen by 1 April. (The SDLP did not indicate that they were looking for anything more.)

Support Units/Tenure Policy

The Prime Minister said that, subject to the prevailing security situation, support units could be amalgamated into the wider police service by 1 April. On tenure, we were ready to indicate a maximum of 5-7 years. Mallon replied that the Implementation Plan should set out the size of the support units and their precise rate of reduction in line with Patten. The Secretary of State said the Chief Constable had already provided an indication of this in a recent interview. It was not sensible to get into too much detail here. Mallon repeated that the Implementation Plan should set out the mechanics and timescale for reduction in the number of officers engaged in security work. This ought to be well in hand by the autumn. The Prime Minister said we could commit to amalgamation and reductions in staff working on security issues. There was no question that these recommendations would not be implemented. The Chief Constable's interview provided helpful language on proportions and timescales.

Mallon raised the issue of tenure. Patten had called for maximum tenure of "5 years or so". Our position was 5 to 7 years. He would prefer tenure to be set at 5 years. This would need to apply to all ranks and should come into operation in September. The Secretary of State said the new combined Head would take responsibility in April. He would need to be consulted on these points but introducing the new tenure arrangements in the autumn ought to be possible. Robin Masefield confirmed that tenure arrangements would apply to all ranks. On the length of maximum tenure, the Secretary of State cautioned against being too prescriptive. The Chief Constable had to strike a balance and build in considerations such as retaining sufficient expertise. The Prime Minister said there was a general point here. We were trying to move as quickly as possible on policing. But there were serious law and order challenges in Northern Ireland and many policemen were leaving. The bottom line was that we had to retain an effective police service. In certain areas that meant respecting the Chief Constable's judgement.

Full Time Reserve

The Prime Minister said we accepted this recommendation. We could give a clear assurance that new recruitment would all be part-time and the Full Time Reserve would be phased out. There was a specific problem relating to those on rolling three year contracts where a court might take the view that these amounted *de facto* to normal contracts. We were negotiating with the Police Federation on how to deal with the issue but this made it hard to be specific at this stage on the timetable. The Secretary of State said we could be certain of having phased out the Full Time Reserve by 2005 but it was best not to surface that date publicly because the timescale could be much shorter depending on how the industrial relations aspects panned out. Mallon asked if there was latitude to buy off those officers with three year contracts. The Secretary of State said there might be, but it made no sense to proclaim this while negotiations with the Police Federation were on-going. John Hume said the key points were the commitment and the start-date.

Part Time Reserve

The Prime Minister said SDLP concerns had been more or less addressed. The recruitment regulations had been published. We were clear that recruitment needed to be targeted at nationalist areas. The first trainees would join by 2001. We aimed to have the Part Time Reserve up to 2,500 within three years of start-up. The Secretary of State added that the Chief Constable was happy to include an appeal for the Part Time Reserve in the April advertising campaign.

Mallon raised a concern that recruitment on a District Command basis might mean that there was a discrepancy between levels of recruitment and levels of crime in certain districts (comment: I think this was his point - he was not altogether clear). He hoped we could consider ways around this.

Lateral Entry

The Prime Minister said this was not a problem area. We were waiting for a memorandum from the Irish (who were assessing the possible logistical implications for the Garda). But we were ready to commit in principle. Mallon said we should not simply have one to one secondments. And any arrangement should apply from Inspector level upwards. Bill Jeffrey said this was no problem. Mallon wanted arrangements to kick in in April. Robin Masefield said

we could agree to this as an aspiration (certainly for the main agreement – detailed protocols might have to follow) but progress would depend on the Irish and on negotiations with trade unions on equivalence issues. The Secretary of State encouraged Mallon to use his influence on the Irish to speed up their delivery of the memorandum.

Name

Mallon said the SDLP concern was of a successful legal challenge to the current formula. The Secretary of State said that if a court ruling (and subsequent appeals) on this question were to go against the Government, the situation would quickly become intolerable. In such circumstances the Government would need to seek a legislative remedy. But we believed this was an improbable scenario. The Prime Minister pointed out that the Oversight Commissioner would monitor the proper use of the name in his regular reports.

Badges/Emblems/Flags

The Secretary of State set out the proposed process which would be incorporated into the Implementation Plan. This took into account Unionist sensitivities. It was very clear that departing from this process would seriously destabilise Trimble. The process would involve consideration of these issues by the Policing Board (we could put forward a number of options). The Unionists on the Board would have the opportunity to argue for retention of traditional symbols. It was unlikely they would persuade the Board. Assuming no consensus emerged within the Board, the Secretary of State had undertaken not to impose a solution that would deter recruitment.

Mallon asked if we could not simply say that the default was the Patten recommendations. The Prime Minister said we needed the SDLP's indulgence on this point. Saying that now would lose Trimble's acquiescence. But the SDLP should not worry about our failing to live up to the language used publicly by Government Ministers.

On flags, the Secretary of State said he would consult the Policing Board and the Chief Constable before reaching a final view. As with badges and emblems, he would not impose a solution which would deter recruitment. Mallon again asked if this meant the default was the Patten recommendation. The Prime Minister said the sense of the language we had used publicly was fairly clear. We could not go further than this. We had to be in a position in

which we could truthfully tell Trimble that we had given no private assurances on badges/emblems/flags. The Secretary of State added that it would be unwise for the SDLP to force this question in the run-up to important UUP meetings.

Mallon expressed his concern that in any re-legislation scenario the Government might accept amendments in response to Sinn Fein pressure that had previously been rejected when proposed by the SDLP during the initial passage of the Bill. The Prime Minister assured Mallon we would be mindful of this concern. In any event, we had no desire to re-legislate. We were happy to review the legislation after twelve months to establish whether any party's fears had been borne out in practice. Re-legislation was not out of the question if that was the direction in which the review pointed. But we had made no public or private commitments to re-legislation, nor would we. Our intention was not to re-legislate if at all possible.

Mallon said he hoped the review would flow from the Oversight Commissioner's role rather than as a response to pressure from any particular party. The Prime Minister said this was our intention.

Inquiries on Finucane/Hamill/Nelson

The Prime Minister set out in familiar terms his reluctance to initiate further inquiries. Each case was different and it was not clear at all that the Hamill and Nelson cases merited inquiries. Even with the Finucane case (where the issues went deeper) there was a good prospect of the Stevens Investigation getting to the bottom of it. The Prime Minister's experience of inquiries was that they tended to spiral out of financial control without achieving closure. Moreover, the current focus on nationalist cases was starting to stir up Unionists to call for inquiries on cases which concerned them.

Mallon gave a slightly rambling reply focussed on the Hamill case. This was not a huge matter. It resulted from a combination of bad policing, sectarian violence and the possible criminal actions of a policeman to thwart the investigation. There would be no need for an extensive Saville-type inquiry. If the Ombudsman did not succeed in getting to the bottom of all aspects of the case, then a quick inquiry could achieve closure. This led John Hume to suggest a formula in which the Government would commit, if investigations did not get to the bottom of the different cases, to taking the necessary steps (which might include an inquiry) so that truth was established and justice done. (At this point

Mallon was muttering in a way which suggested he had reservations about Hume's proposal.)

The Prime Minister said we would look at language along the lines suggested by John Hume. If we were to find a satisfactory form of words on inquiries and resolve the outstanding issues on policing, could we be sure that the SDLP would join the Board? Mallon replied that with a reasonable commitment on inquiries and a closing of the gap on remaining policing concerns, then the SDLP would move forward. But they would not do this on an unconditional basis.

The Prime Minister said he assumed it was easier for the SDLP if Sinn Fein also came in on the Policing Board. Mallon confirmed this was so. It would make the SDLP's position easier and it would help realise the Patten objective on recruitment.

Comment

We now need to work up a form of words on inquiries building on John Hume's suggestion, together with language to close the remaining gaps on policing concerns.

Yours sincerely

M. Hughes-Tatham

PP

MICHAEL TATHAM

Paul Priestley
NIO

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Prime Minister

*Letter out
file*

I am concerned that the draft statement on OTRs may be susceptible to misunderstanding and suggest an alternation.

Michael Tatham copied to LSLO last evening a draft of the text you gave to Gerry Adams on dealing with OTRs.

Bill Jeffrey was kind enough to read it to me as a matter of information on Friday evening. I mentioned to him then that I had in mind Peter's minute to you of 18th December in which he advised, as I have consistently done, that the better way forward was by way of legislation. An acknowledgement that you agreed with that advice was sent by Jonathan Powell on 8th January.

With that in mind, I believe that the text will need to be altered, as it might imply that the Government, rather than Parliament, will seek to influence or even prevent the prosecution of individuals. Not only would this be constitutionally wrong, it would not be possible either. Neither I nor the Director of Public Prosecutions for Northern Ireland nor the Director of Public Prosecutions for England and Wales can be influenced by any such statement of Government intent. What does concern me is the possible use of such a statement in any abuse of process arguments that may arise at any trial of any individual covered by the statement.

The refusal to prosecute by either DPP is, of course, susceptible to judicial review, with the consequential duty of disclosure of all relevant internal documents.

I think, therefore, in order to make it clear to those who will challenge the constitutional propriety of the statement, that it should be altered slightly to read in the final statement that the Government is committed to presenting to Parliament a scheme to deal with the issue.

I copy this letter to Jack Straw and Peter Mandelson.

Frank Williams

23 January 2001

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