

FROM : [REDACTED]  
SECURITY AND EXTRADITION UNIT  
SIL DIVISION  
24 FEBRUARY 1994

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cc

PS/Secretary of State (L&B)  
PS/PUS (L&B)  
PS/Mr Fell  
Mr Legge  
Mr Thomas  
Mr Bell  
Mr Watkins  
Mr Steele  
Mr Williams  
Mr Marsh  
Mr Leach  
Mr Maccabe  
Mr Daniell  
Mr Rickard

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generally a good uply.  
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with some inflections  
refers.*

1.

[We have given careful consideration to whether there is more we could do to influence the tone and content of Amnesty's report. In the past, NIO has tried to engage in reasoned argument with Amnesty. But the organisation is highly suspicious of governmental approaches and guards its independence jealously. It seeks to project a stance of detached neutrality. On balance, I think an approach at Ministerial or Official level - would achieve nothing and be open to misconstruction. SB 25.2]

2. PS/SIR JOHN WHEELER (L&B) - B

AMNESTY INTERNATIONAL REPORT: "POLITICAL KILLINGS IN NORTHERN IRELAND"

I attach a draft letter for Sir John Wheeler to send to Amnesty International, responding to its latest report "Political Killings in Northern Ireland". The Secretary of State wrote to Amnesty immediately after the report was published; a copy of that letter is enclosed.

2. The report is significant in that, for the first time, it catalogues human rights abuses by members of terrorist organisations. This does represent a welcome advance, and resulted in slightly more balanced press coverage than usual.

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Nonetheless, as the Secretary of State pointed out, the report has a disconcertingly equivocal attitude to the legitimacy of terrorist killings of members the security forces; and gives considerably greater attention to alleged abuses by the security forces than actual ones by terrorists. Given that 1993 was notable for the fact that no-one was killed by the security forces - and notable also for the Warrington bombing, the Greysteel and Shankill Road atrocities, major peace demonstrations and the Joint Declaration - this creates a wholly distorted impression of who is in fact responsible for "political killings" in Northern Ireland.

3. Equally damaging, the report gives credence to the view that a substantial proportion of loyalist attacks are perpetrated in "collusion" with the security forces - whether through leaks of classified information, the failure of the security forces to act on information received (as, allegedly, in the Nelson case), or from a deliberate policy of vacating nationalist areas in advance of loyalist terrorist attacks. Apart from revelations following the Nelson case, these allegations appear to be based on claims by nationalist "spokesmen" reported in the Irish News or Irish Times.

4. The draft reply attempts to deal, in a fairly measured manner, with the deficiencies in Amnesty's approach (there are a few factual inaccuracies which the draft points out). Amnesty's central - and persistent - demand is that the Government should institute wide-ranging independent inquiries into both the use of force by the security forces and allegations of collusion. The reply seeks to explain why the justifications for this demand given by Amnesty are not persuasive.

(signed)

SEU  
SECURITY AND INTERNATIONAL DIVISION  
25 FEBRUARY 1994

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DRAFT LETTER

FILE NUMBER

ADDRESSEE'S REFERENCE

TO: Derek Evans Esq  
Deputy Secretary General  
Amnesty International  
International Secretariat  
1 Easton Street  
London WC1X 8DJ

ENCLOSURES:

COPIES TO BE SENT TO

FOR SIGNATURE BY: SIR JOHN WHEELER

You sent a copy of Amnesty International's latest report entitled "Political Killings in Northern Ireland" to Sir Patrick Mayhew on 7 February. This letter supplements his letter to you of 9 February.

We recognise and value the work of Amnesty International in developing and maintaining international standards and safeguards for human rights. The British Government is unequivocally committed to the protection and enhancement of human rights in Northern Ireland as in the rest of the United Kingdom, most importantly the protection of the right to life. As Amnesty recognises, that fundamental human right is under constant threat from terrorists, both Loyalist and Republican. It is the absolute duty of the security forces to protect the lives of all members of the community, whatever their political or religious affiliation.

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very much welcome the fact that Amnesty International has addressed, at least in part, the widespread, massive and persistent abuse of human rights by terrorist groups in Northern Ireland. However, despite this, I question whether the report gives sufficient weight to the nature and scale of the terrorist threat confronting the authorities and law-abiding citizens in Northern Ireland. Terrorist organisations represent far and away the greatest threat to the proper administration of justice and to human rights generally in Northern Ireland. It is not sufficient simply to admonish terrorist organisations to "observe minimum humane standards". The proportion of the report given to actual human rights violations by terrorists is significantly less than that given to unsubstantiated claims made against the security forces. In consequence, the report gives a wholly distorted impression of who is in fact responsible for "political" killings in Northern Ireland.

Equally, I am concerned by the language of the report, which in places is disturbingly lacking in objectivity; and remarkably similar to that of Republican political rhetoric, the language of those who excuse the killing of civilians as the "inevitable" casualties of conflict. Phrases such as "loyalist death squads", the killing of "suspected government opponents", the description of the UDA as a "pro-state" organisation, have distinct and one-sided connotations within Northern Ireland. Such language implies a perspective sympathetic to the views and attitudes of

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part of the political spectrum in Northern Ireland. The applications of language of this sort may not be evident to the compilers of the report; but it has a flavour which suggests a bias or partiality of view which many in Northern Ireland will read with unease.

#### Allegations of collusion

The report makes extensive use of allegations, many of them unsourced, about collusion between members of the security forces and loyalist terrorists. The assertion that there is "mounting evidence of widespread collusion" appears to be largely based on allegations made by groups of individuals from one section of the community. To reach such serious conclusions on the basis of such limited testimony - without at least acknowledging the security forces' response to the substance of the allegations - is hardly credible.

In this context, I, like many others in Northern Ireland take particular exception to the suggestion that the RUC turn a "blind eye" to the activities of loyalist terrorists, and in some cases actively facilitate loyalist terrorist attacks against Catholics. This is an exceptionally serious criticism; it is also without foundation.

As the report notes, representatives of the nationalist community have often, in the aftermath of attacks by loyalist terrorists, suggested that their community is inadequately protected by the security forces. Some have gone further, and claim this to be the

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product of a policy of "collusion". That this may be a perception within parts of the nationalist community does not make it true. It is literally impossible for the security forces to provide complete protection to either community from terrorist attacks. It is equally obvious that terrorists make considerable efforts to avoid being apprehended. How, if collusion of this nature does occur, can one account for the equally frequent criticisms of many representatives of the Unionist community that Protestant areas are inadequately protected against terrorist attacks by the Provisional IRA? Is there collusion here too?

On page 28 the report refers to the murder of hairdresser Sean Hughes in West Belfast in September 1993. It implies that the RUC deliberately left the area free from patrols in order to allow loyalist gunmen to carry out the attack. It also alleges that the RUC did not respond to the attack. This is untrue and inconsistent with the fact that a number of people were arrested and questioned in relation to the killing and one person has since been charged with murder.

I note that, both in the report and in press comments, Amnesty has chosen to dismiss factual and statistical evidence relating to arrests and prosecutions of republican and loyalist terrorists: do I infer from this that Amnesty prefers to trust allegations to evidence? Are statistics of this kind of no consequence, or simply inconvenient to the assertion that widespread collusion occurs?

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The inquiry into allegations of collusion headed by John Stevens represented the most extensive police investigation of its kind ever conducted in the United Kingdom. It was wholly independent both of the Government and RUC. I note, however, that Amnesty chooses to regard that inquiry as in some way flawed. The Government's view is that a further judicial inquiry which Amnesty advocates cannot be justified purely on the basis of generalised allegations. I remind you of Mr Stevens' published conclusion that:

"the detailed analysis of the security force documents recovered during the inquiry and the evidence secured makes it clear that the passing of information to paramilitaries by security force members has been restricted to a small number of individuals. It is neither widespread nor institutionalized".

Mr Stevens has confirmed publicly that he is investigating certain new allegations which have been made since his original inquiry, including matters relating to the murder of Patrick Finucane and those made in two Panorama programmes. His report will be submitted in due course to the Director of Public Prosecutions.

The scale of Mr Stevens' investigation, the measures taken in response to his report, the prosecutions which were instituted as a result of his inquiry and public statements by Government ministers do not support Amnesty's descriptions of "government

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ction", or of "a minimal response to a major crisis in public confidence." The Government is absolutely opposed to collusion of any form. Any individual found to be assisting in the commission of terrorist acts will face prosecution.

#### Use of force

The report asserts (on page 12) that "the laws and regulations applied in Northern Ireland which govern the use of lethal force by security forces are inadequate to prevent and deter unlawful killings". It also says that "Amnesty International believes that the concept of "reasonable" use of force is too flexible both to impose standards of behaviour on security forces which prevent excessive use of lethal force and to deter excessive force".

Yet on the same page you report the ruling of the European Commission, in the case of Kelly v UK, which dismissed the applicant's claim as inadmissible. That ruling clearly upheld the judgement of the domestic court, and accepted that the use of force was justified in the circumstances. In particular, the Commission recognised the high risk to soldiers on duty from terrorist actions. Nothing in the Commission's findings suggests that it considered the law in the United Kingdom governing the use of force to be incompatible with the standard laid down in Article 2 of the European Convention, as Amnesty suggests.

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Further, to assert that the law and regulations are inadequate to prevent and deter unlawful killings is unsupported by the facts. Despite being confronted on numerous occasions with potentially life-threatening attacks by terrorists, there are no occasions on which the security forces employed lethal force in 1993. 8 soldiers and 6 policemen were murdered by terrorists during the year. 367 persons were prosecuted for terrorist-related offences. In addition, a number of members of the security forces were put on trial for offences relating to earlier incidents in which lethal force was employed.

These facts simply do not support Amnesty's assertions about the use of force by the security forces. Indeed, I submit that they flatly contradict the contention that the security forces are encouraged to resort to lethal force rather than to exercise the power of arrest. I absolutely cannot and do not accept the view of the report that "members of the security forces believe they can operate with impunity" and that "this is reinforced by government failure to take steps to prevent unlawful killings".

Contrary to the impression given on page 12 of the report, the law governing the use of force in Northern Ireland is precisely the same as the law in England and Wales and applies to all individuals and not simply to members of the security forces. All the issues relating to the use of force by the security forces in Northern Ireland are kept constantly under review.

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Throughout the report, Amnesty implies that the RUC is incapable of conducting independent and impartial investigations into incidents involving the security forces. Yet in the first paragraph on page nine of the report you acknowledge the central role played by an RUC officer in the trial and subsequent conviction of Private Clegg and Private Aindow in the murder and attempted murder of Karen Reilly and Martin Peake. The report states that "the soldiers of the 3rd Parachute Regiment had been on patrol with an RUC officer, whose evidence proved to be crucial in the case."

It is not true, as the report suggests on page 8, that following the Stalker/Sampson investigation the RUC agreed that "all further killings by the RUC would be investigated by an outside police force." What is true is that the investigation of all complaints against the RUC involving death or allegations of serious injury must, under the law, be supervised by the Independent Commission for Police Complaints, which is composed entirely of lay persons drawn from the community in Northern Ireland. The Commission must state whether it is satisfied with the conduct of the investigation at its conclusion.

Amnesty International complains that the Government does not allow official policies and procedures in Northern Ireland, and the actions of the security forces, to be subject to independent inquiries. That is again untrue. The emergency legislation which governs the actions of the security forces is regularly reviewed

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y a distinguished independent lawyer, whose report is submitted  
Parliament. A number of those reports have considered the  
issue of the use of force by the security forces. Reports are  
also submitted annually to Parliament by the Independent  
Commission for Police Complaints, the Independent Assessor for  
Military Complaints Procedures, and the Independent Commissioner  
for the Holding Centres.

The Government does not seek to prevent outside scrutiny of its  
security policies in Northern Ireland; such scrutiny is entirely  
proper and healthy in a democracy. But we do expect that those  
who criticise do so with a proper recognition of the difficulties  
and considerable dangers faced by the security forces in Northern  
Ireland and their commitment to impartial policing in a divided  
society. I regret that Amnesty International's latest report does  
not do so.

The Rt Honorable Sir Patrick Mayhew QC MP  
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