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Brian Nelson Case
Speaking Points

- We note that following the completion of the case it was announced that the British Government "is considering what lessons are to be learned from this case and they will be applying them". We would be interested in knowing the intended scope of the review, by whom it will be undertaken and when it is likely to be completed.

- My predecessor put on record the serious concern of the Irish Government at this case and the many disturbing questions it raises.

- It is important in terms of confidence in the security forces that steps should be taken to prevent any recurrence of the abuses which occurred.

- We would also like to know whether it is intended to take legal action or disciplinary action against any of the members of the security forces associated with the illegal activities undertaken by Mr. Nelson.

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Brian Nelson
Background Note

Personal details

1. Brian Nelson, a 44-year old from the Shankill, is a former member of the British Army's Black Watch Regiment. He first joined the UDA in 1972. In 1974, he was given a seven-year sentence for his part in the kidnapping and torture of Gerald Higgins, a blind man. Upon his release, he is believed to have joined British Military Intelligence (the British claim that this happened in 1983) and reintegrated himself into the UDA. In 1985, Nelson left Northern Ireland to work in Germany. In 1987, apparently at the request of Military Intelligence, he returned to Northern Ireland and became Chief Intelligence Officer of the UDA, while also working for British Military Intelligence. His UDA role was to gather and record information on possible UDA assassination victims, (mainly persons whom the UDA believed to be IRA suspects and their associates) and pass this information on to UDA assassins. His role in British Military Intelligence was to provide the Army with information on his own activities and those of others in the UDA.

Arrest of Nelson

2. Nelson was arrested on foot of the Stevens Inquiry and initially charged in January 1990 with possession of information likely to be of use to terrorists. (It is clear that Nelson gave substantial information on UDA activities to the Stevens Inquiry team, as a result of which a number of senior figures in the UDA were arrested and charged). At one stage, there were fears in Loyalist circles that Nelson would turn "supergrass" but the prospects of this appeared to recede towards the end of 1990 following indications that the Army and the RUC were opposed to putting him in the witness box.

3. In May 1991, in what was generally seen as a surprise move, Nelson was charged with a number of serious offences including five counts of conspiracy to murder and two counts of murder. While it was known as early as February 1990 that Nelson had a detailed knowledge of the conspiracies and murders in question (on which he was believed to be cooperating with the Stevens Inquiry), a new development in May 1991 concerned the retrieval by the Stevens team of a suitcase containing Nelson's intelligence material (which had been passed by Nelson to his Army contacts for safe-keeping) from Thiepval Barracks at Lisburn. It is widely believed that this box contained material relevant to several murder cases.

4. On 22 January 1992, Nelson appeared in Court on 35 charges. He admitted 20 charges including five of conspiracy to murder, 14 of possessing information of use to terrorists and one of possessing a sub-machine gun. In what appears to be a deal between Nelson and the Crown, the prosecution announced that it was not proceeding with 15 other charges, including the two murder charges. On 29 January, an unnamed British Army Colonel (Colonel 'J') appeared as a mitigation witness for Nelson. On 3 February, Nelson was sentenced to ten years on five charges of conspiracy to murder. He is expected to be released in less than five years.

5. In response to our raising the case at the last Conference on 28 January, the British side claimed that the matter was still sub judice. It was agreed to return to the issue once this was no longer so.

6. Questions raised by the Nelson case
Basis for dropping the charges: role of the
Attorney-General?
At the Court case the Crown stated that the decisions reached, including the decision not to proceed with the

murder charges were based on a "rigorous examination of the interests of justice" and had been reached after a "scrupulous assessment of the possible evidential difficulties". The significant question is whether the British Attorney-General had any role in the decision not to press the murder charges, given the fact that the original recommendation by the Stevens team to prosecute Nelson, who was known to be an Army agent, was raised in the British Cabinet at the time.

Extent of official knowledge of Nelson's activities

Colonel 'J' claimed in Court that Nelson's reports were regularly discussed with the GOC, senior police officers, and sometimes the Chief Constable and the Secretary of State. The prima facie implication of this is that the range of his activities, and the fact that material had been leaked by the Security Forces, must have been known at the highest levels since 1987.

Degree of Army's foreknowledge of and involvement in UDA murders

The key evidence in the charging of Nelson and other UDA members was the suitcase of information (containing e.g. photomontages, addresses and personal details of suspected Republicans) left by Nelson with the British Army at Thiepval Barracks, Lisburn, for safekeeping once the Stevens team began to investigate in 1989. Nelson, however, had originally brought this information to the attention of his handlers in 1987, nearly two years before the Stevens Inquiry began. His handlers photocopied the information and gave it back to Nelson. Included in this was material leaked from the security forces. (These facts were confirmed by Colonel 'J' in Court). This clearly raises questions of collusion, complicity or negligence by Nelson's handlers in the commission of at least three murders, which are known to have taken place on foot of Nelson's activities as UDA intelligence collator, i.e. the murders of Terence

McDaid, Gerry Slane and Pat Finucane. (We understand that the material in question was also photocopied by the UDA, who may be presumed to have retained their copies).

Nelson's assistance in saving lives

Colonel 'J' stated that Military Intelligence had produced, on foot of Nelson's information, 730 reports of threats to the lives of 217 individuals, and that Nelson's information was responsible for saving the life of, inter alios, Gerry Adams. Only three of the 217 persons, Colonel 'J' said (presumably referring to McDaid, Slane and Finucane) had been murdered. This assertion begs the question of how, during the time between Nelson's return from Germany and his arrest, the UDA carried out seventeen murders. Moreover, the Colonel's curious and qualificatory choice of words in Court is noteworthy: he described Nelson's activities as being of "life-saving potential".

Possible bombing attacks in this jurisdiction

Nelson has claimed that his Army handler suggested that he (Nelson) encourage the UDA to bomb targets in this jurisdiction, with the aim of precipitating more extraditions of Republicans to the North. UDA plans to bomb targets in this jurisdiction were referred to at the trial of a leading UDA figure, Tommy Lyttle (who was arrested on foot of information provided by Nelson to the Stevens Inquiry) in June 1991.

Control of agents

Colonel 'J' stated that there were no laid-down Guidelines to govern the situation in Northern Ireland. Home Office guidelines were in his view inadequate. He believed that an agent was bound to be involved in criminality. Subsequently, on 3 February, British Army HQ in Northern Ireland issued a statement which said "the Government is considering what lessons are to be learned from this case and they will be applying them".

The RUC, for their part, are unhappy at the role of British Military Intelligence in Northern Ireland and claim that Nelson's reports were often withheld from them by the Army. According to newspaper reports, a senior MI5 officer was expected to travel to Northern Ireland to head an enquiry, authorised by the Cabinet Office, into the handling of informants and liaison between the Army and the RUC. This aspect of the case raises serious questions about the conformity of the Security Forces to the rule of law.

How long was Nelson a Military Agent?

In court it was stated that Nelson worked for British Military Intelligence from 1983 until 1985 (when he went to Germany), and from 1987 until his arrest in late 1989. In 1990, the UDA claimed that Nelson had worked for British Military Intelligence for over a decade.

South African arms

It is widely believed that Nelson, on behalf of the UDA, made an arms purchasing trip to South Africa in the mid-1980s. The UDA, UVF and Ulster Resistance combined to import arms from that source in late 1987/early 1988. Some of these arms were seized by the RUC in 1988. Other arms from the consignment are believed to have been used in subsequent attacks by Loyalists. The central question is: did Nelson inform his handlers of the South African shipments? If he did, why was this shipment not interdicted? Why was only a portion of the consignment seized? If he did not, then Colonel J's assertion, that Nelson was a loyal agent, appears to be called into question.

7.

Details of the two dropped murder charges, as revealed in Court

1) Murder of Terence McDaid (shot dead in May 1988)

McDaid was shot dead in mistake for his brother Declan. According to the Crown, Nelson was

approached by a UDA killer, named Dodds. Nelson supplied Dodds with the name, details and a photograph of Declan McDaid, and suggested Declan McDaid as a possible target. The court was told that Nelson had given his Army handler information on the UDA's targeting of Declan McDaid on at least five occasions, but that the information was not as complete as it should have been.

ii) Murder of Gerry Slane (September 1988)

Slane was shot following the murder by the IPLO of a UDA member, Billy Quee. Nelson showed photographs of IPLO suspects to a witness of the Quee killing, who picked out Slane's photograph. Nelson then passed on information on Slane to a UDA killer. The Court was told that Nelson told his handler 10 days before the Slane murder of what he had done and that the UDA wanted to retaliate for the Quee shooting. Nelson passed on further information to his handler the day before the shooting.

8. The deaths of McDaid and Slane led to considerable local suspicion of security force collusion in their murders, based on the appearance of heavy military presences in the areas immediately prior to the shooting. The suspicions were reinforced by the arrest shortly after McDaid's murder of Corporal Cameron Hastie and UDR Greenfinch Joanne Garvin on charges of passing information to Loyalist paramilitaries. In addition, an alleged RUC "mugshot" of Slane appeared in the UDA's magazine "Ulster" after his murder.

9. In June 1988, we conveyed through the Secretariat our concerns at tensions in North Belfast, an important element in which was the local suspicions of Security Force collusion in the McDaid killing. We raised the issue of the alleged leak of a RUC photograph of Slane on a number of occasions but received no response other

than to be told (in November 1989) that the case had been referred to the Stevens Inquiry.

10. We heard from our contacts in the North that there had been an internal UDA investigation which established that 15 separate operations since 1984 may have been frustrated by Nelson, through the flooding of an area with the military at the time of the expected murder bid. Against that, however, it could be argued, as Seamus Mallon has privately suggested in the past, that the military presence could have been geared to arrest the perpetrators after the attack had been carried out.

Pat Finucane

11. Finucane, a Belfast solicitor, was murdered by the UDA in February 1989. There have been considerable suspicions that Finucane, who had previously been criticised as a Republican solicitor by a British junior Minister in the House of Commons, had been killed as a result of collusion between the security forces and the UDA. Nelson reportedly denied, in a statement he made to the Stevens Inquiry, that he supplied UDA killers with information on Finucane. Instead, he has stated that he handed over a photograph of a Republican target. Finucane, the target's solicitor, was also in the photograph and attracted the attention of the UDA.

Anglo-Irish Division

4 March, 1992

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