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## ROINN AN TAOISIGH

Uimhir.....

To: Taoiseach  
From: Paddy Teahon

**Release of Prisoners**

We are moving from violence at one end of a continuum to consolidated peace with decommissioned arms at the other end. Full application of the law is appropriate as the violence ends. An amnesty may well be appropriate at the peace without arms end. We are now at a mid-point, post ceasefire, but pre dealing with arms. The Department of Justice already recognise this is a new situation by not applying to the full rigours of the law. In fact the position reached of a letter signed by prisoners to be released is, in a strict sense, outside the law as set down in 6(2) of the attached regulations which require a signature or mark on the "original notice".

The issue then is the extent of the flexibility that should be shown in the post ceasefire situation. The issue is not one of "who wins" but one of how to contribute to achieving a permanent peace and making a change in policy if believed justified. Difficulty on the prisoner release issue, which is important, but scarcely crucial, would have as a real downside, the danger of the new Government being portrayed as "offside" with Sinn Féin and the danger of this becoming contentious in party political terms here. My view is that the issue is not of sufficient importance to

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justify taking the risks mentioned provided that it is addressed openly as a new situation, post ceasefire and, therefore, justifying a flexible response but not an amnesty.

Two solutions should be considered the simpler one of adopting the terms of section 33 of the Offences Against the State Act 1939 (copy attached) or the more explicit and clearcut one of amending the regulations under the 1960 Criminal Justice Act to provide, in exceptional circumstances, for oral communication and acknowledgement of the terms of release.

Any decision reached should be communicated to Sinn Féin. A decision to allow flexibility should be communicated to the British side, as well as Sinn Féin, as a specific response to the post ceasefire situation and not an amnesty, in particular since it will be applied on a case by case basis. Serious consideration should be given to a public statement of the circumstances clearly differentiating them from those justifying an amnesty.

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22 December, 1994.