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Mr Kinahan

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SEEN BY TAOISEACH

Roinn an Taoisigh
Department of the Taoiseach

Mr Griffin
14.6.00

31 May 2000

**Secret**

Maurice Hayes has been asked by the Secretary of State, on a strictly private and personal basis, to let him have an assessment of the Police Bill as it now stands. Maurice's initial thinking, which he has passed to me on a strictly personal basis, is attached. He intends sending paragraphs 1-13 of this to Peter Mandelson tomorrow (Thursday).

DAG.

Dermot Gallagher,
Secretary General.

PS. The attached should be handled with the greatest sensitivity and should not, for instance, be included in any brief nor drawn on in any way which would suggest it had been passed to us.

cc. Taoiseach, Minister for Foreign Affairs, Minister O'Donnell, Mr. Dalton, Mr. Ó Ceallaigh.



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Confidential

Policing

1 This note is intended as a comment on the extent to which the Police Bill reflects the intent of the Patten Report, and not to promote or contest any party political arguments.

CURRENT BILL

2. Welcome - the acceptance of the necessity for a change of name (as the only means of securing the representative composition necessary for efficient community policing)
- the acceptance of the need to encourage the recruitment of catholic/nationalists
- the proposals to amend the Fair Employment Act to allow for 50/50 recruitment
- acceptance (although qualified) of the need to change badges and insignia,

3 Regret - the failure to use "Policing" in the title rather than "Place" and the constant references to "police force" rather than "police service".
- the loss of vision and innovation in the managerial aspects of Patten and the opportunity to create a really new beginning in policing which could be a model internationally
- the blandness of the references to Human Rights
- the emasculation of the proposed Policing Board.

4. The main perspective of Patten was that policing was a matter for the community as a whole and for a variety of agencies and not simply the police, who would remain the principal actors, but often in a supporting or brokerage role. The main themes emerging were of
-human rights based policing
- community policing
-accountability at all levels
- transparency.

5. At the highest level, the Chief Constable was to be publicly accountable to a strong and independent Policing Board. One of the problems detected in the past was the sidelining of PANI both by RUC and NIO. Patten asked for a clear definition of roles and responsibilities. This has been done but in a way which results in a Board which is weaker in many respects than PANI. The Policing Board was intended to set objectives, priorities and performance targets for the police (within broad principles set by Sof S) and should be able to obtain ex post facto explanations from the CC. In particular the power of the SofS to direct the CC on aspects of ordinary policing was to be dropped. In the Bill the power is retained and strengthened to the detriment of the Board and the power to call for reports is so qualified and hedged as to be vitiated.

6. The Report envisaged the Board being able to use its own staff or to call on others to follow up reports from the CC. This power has been nearly extinguished. It is not clear that Board staff are included in "others" (who can only be used with the approval of SofS) and the idea of informal inquiries and reports of a managerial nature has been lost in the requirement to hold only statutory inquiries with the approval of the SofS and the support of 12 Board members.

7. limitation of access to past reports and the This would put the clock back instead of forward.

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8. The references to Human Rights are limited to the 1998 Human Rights Act and omit references to "International human rights standards and norms", some of which are highly relevant to policing. The preparation of a Code of Ethics is being remitted to the CC and there is no indication that breaches are a disciplinary offence. The new oath is required only of new recruits, thus giving the appearance of a two-tier ethical system, and the omission of the requirement "to accord equal respect to the traditions and beliefs of individuals" is surprising, to say the least.

9. The term "operational responsibility" on which the Commission spent a lot of time, is lost, and the traditional "control and direction" used instead. This seems to underline a response based on a continuance of past practices and philosophies, and no great willingness to embrace a new beginning.

10. "Community policing" which is the core recommendation of Patten is reduced to a requirement to consult the community and for the community to co-operate with the police. This is simply a redefinition of the traditional approach, not the role-reversal envisioned by Patten. It is clearly based on a top-down approach in which the police decide and the public is expected to conform. This, along with the reduction of the Policing Board is the most disappointing aspect of the Bill.

11. The powers of the Ombudsman seem to have been curtailed in the Bill rather than confirmed and expanded as recommended by the Report. This is particularly so in the limitation of access to earlier reports and otherwise, and the loss of discretion to investigate complaints arising before the appointed day.

12. The transfer of staff en bloc from PANI to the Policing Board handicaps it from the start. The Board staff, as well as the police, should reflect the balance in the community. It will be hard for it to do so saddled with a bloc of staff (with no arrangements for early retirement) which is even less representative than the RUC. The same is true of NIO. People who have been looking at a problem through the same lenses for years are not likely to recognise the need for fundamental change.

13 An effort should be made to redress the balance in the Bill between the powers given to the SofS and the Board. Every effort should be made to show that it is the Board, on behalf of the community which prescribes the broad objectives for policing and holds the CC to account. Given the very wide powers given to the SofS in the Bill, it is hard to see how agreement could ever be reached on their exercise by a Minister in the Executive in the event of these powers being devolved, as Patten recommended.

14. It could be possible to achieve a change of emphasis by some amendments:

- Long Title might be extended to include a reference to human rights based policing and policing with the support and co-operation of the community.
- Sec 2. Patten suggested that the first function of the Board should be to hold the police accountable. This could be included, and also a requirement to secure compliance with human rights norms.
- Sec 3 (5) CC should have power to direct and control only those officers and employees directly engaged in policing or support staff, and not those servicing the Board.

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- Sec 7 (2) seems to provide only for one-way traffic and not for inward exchanges and secondments.
- Sec 8(8) and 9(4) moneys should be able to be used for "policing" purposes" (i.e. more widely than simply on the police)
-Sec 15 DPPPs should be able to seek explanations and reports from the District Commander. This seems too much one-way traffic
- Sec 18 Why require approval of SofS
-Sec 23 Board should be able to seek views from any relevant body or agency
-Sec30(1) Add protection of and respect for human rights
-Sec 30(5) This is a very watered down version of the concept of community policing
-Sec 32(2) An extended period of deputising should require the approval of the Board (which is, after all, the employer)
-Sec 36 omission of traditions and beliefs already noted.
-Sec 40(2) Could be worded "As the Board, with the approval of SofS, might determine..."
-Sec 41(1) and (3b) should include requirements to consult with Board
-Sec 43 The three-year review period seems unnecessarily short. There seems to be no accommodation of the recommendation that the quotas could be aggregated over three years if recruitment was slow in either pool.
-Sec 47 Why should the CC have to make a request to individual officers. There should be a general duty to inform. The proposal does not seem to conform to the generally accepted concept of a register of interests.
-Sec48 Board should at least be involved in if not actually responsible for drawing up the Code of Ethics. There should be a clear requirement to consult the Human Rights Commission.
Sec 50 It is almost more important to get the views of the young people we are trying to attract into the police than the existing police and Police federation.
-Sec 54(2) It should be made clear that the report should be published in a form accessible to the general public.
Sec55(3) It should be possible to publish an amended report omitting sensitive information

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