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CIVIL SERVICE

FROM: PS/Secretary of State (B)
9 October 1991

cc PS/SofS (B&L) - B
PS/Paymaster General (B&L) - B
PS/MofS (B&L) - B
359/10 PS/PUS (B&L) - B
PS/Mr Fell - B
1 OCT 1991 Mr Ledlie - B
Mr Thomas - B
Mr Wilson - B
Mr Leach - B
Mr McNeill - B
Mr McClelland - B

NOTE FOR THE RECORD

13/10
Mr Haughey:
Further classic
SECRET material!
Bell
10/15/91

COOKSTOWN SHOOTING: MEETING WITH SEAMUS MALLON AND DENIS HAUGHEY

The Secretary of State had a meeting with Mr Mallon and Mr Haughey in his room in Stormont Castle late on Friday afternoon, 4 October. Mr Ledlie, Mr McNeill and I were also present.

2. Mr Mallon began by expressing his deep concern about the incident in which Mr Kevin McGovern had been shot and about the cumulative effect which it was having on the local community. He said he was gravely concerned about the way in which the subsequent RUC enquiry was being dealt with and with what he described as the residue which would be left after the enquiry had been completed. He had not known Mr McGovern personally, but it was quite clear that young people in the area, particularly those who had known him, were badly affected by the incident. He was an innocent lad with no edges and his death was biting deep. Mr Mallon said that his main concern now related to the investigation. He had already asked the Secretary of State publicly to set up an independent enquiry carried out by an independent officer and he was now asking him again privately. He stressed that in doing so he was not casting doubt on the integrity and sincerity of the RUC's own investigating officer; but nobody in the Cookstown area or in the wider nationalist community would believe the result. He did not accept that supervision by the Independent Commission for Police Complaints (ICPC) was enough. He also asked the Secretary of State to look again at the question of legal force and the need for legislation on it, and at the overriding need in the present case for credible action leading to a credible result.

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3. Mr Haughey said that there were aspects of the incident whose significance could not be passed over. Why should three innocent lads run for their lives instinctively at the sight of the RUC? It was instructive that they had done so. Senior officials in the Department were well aware of difficulties in the relationship between the RUC and people in the Cookstown area. There was a general lack of proper respect among police officers for the rights of individuals in the Catholic community. The fact was that Catholics got a rough passage when in contact with the RUC. Mr Haughey said he was not sure what could be done about this in the long term but he was clear now that every possible step should be taken to ensure that there was proper redress available following incidents like the McGovern shooting. There was a need for an independent officer to investigate the case or people would not be reassured. The terrorists were the only gainers.

4. Responding, the Secretary of State referred to his discussions with Mr Mallon in the past on similar cases. He said that much would depend on whether the ICPC would have the determination to exercise its authority to the full. It already had much greater powers than Police Complaints Authorities in Great Britain because of the special circumstances of Northern Ireland. In the present case, the Chief Constable had decided to appoint an investigating officer and to refer the matter to the ICPC. If he had not done so, he (the Secretary of State) had the legal power to refer the case to the ICPC. However, having had the case referred, the ICPC had decided that the investigating officer was acceptable. The Commission had the right to object and indeed could insist on an officer from a Great Britain force, though technically he would be serving under the Chief Constable throughout the period of the investigation. Mr Ledlie added that he understood that in the present case the referral had been considered by two or three ICPC members who had ratified the Chief Constable's decision on the choice of the investigating officer and had appointed their own supervising member, Ms McGrady.

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5. Asked by Mr Mallon if he (the Secretary of State) had the power to appoint, the Secretary of State said that the power lay initially with the Chief Constable under the relevant legislation, though he (the Secretary of State) had the right to refer a case to the ICPC if the Chief Constable did not do so. Mr Mallon said that he regarded this as a weakness. Referring to another case, he said that Miss Alison McLoughlin had died in a policeman's car and the Chief Constable had decided to appoint an officer from another force to investigate the case. He could not understand why the Chief Constable had not taken a similar decision in the McGovern case. What was the qualitative difference between the two?

6. Responding, the Secretary of State said he would be happy to discuss informally with the Chief Constable and without encroaching in any way on his authority to make decisions the rationale behind appointments. He repeated that in terms of the legislation the ICPC were not obliged to accept the investigating officer appointed by the Chief Constable. He also added for the avoidance of misunderstanding that the ICPC did not actually conduct the investigation but rather supervised the investigating officer, though that did not preclude the supervisor becoming involved on the ground, as had already happened in the present case.

7. Mr Mallon questioned what "supervision" actually meant in practice. The ICPC had certainly not shown any inclination to get out on the ground generally to see what was happening. Returning to the main point, he asked whether the Secretary of State could not override both the Chief Constable and the ICPC and appoint an independent outside officer under the legislation. The Secretary of State repeated that the power to appoint an officer rested initially with the Chief Constable and he asked Mr Mallon in turn where he thought the power might reside. Mr Mallon said that his understanding during the drafting of the legislation was that it had been deliberately framed to allow the Secretary of State to override, to which the Secretary of State replied that if he was

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wrong then he was happy to be corrected. He went over the drill again. In Great Britain a case was automatically referred to the Police Complaints Authority as soon as a complaint was made but the Authority had no power to act in the absence of a formal complaint. In Northern Ireland the ICPC and the Secretary of State could act whether or not a formal complaint was made. If the Chief Constable did not act initially on an incident, the Secretary of State could do so. Mr Mallon replied that it was inconceivable that the Chief Constable would not act but he needed to do so in a way in which the result would command credible reaction. The Secretary of State repeated that the ICPC had greater powers than PCAs in Great Britain. Their role was to act as a check and balance on the quality of any investigation being carried out. Mr Mallon replied that no matter how well the present investigation was carried out it would still be seen as another RUC decision following an investigation of its own force. Responding to a question from Mr Ledlie about whether his concern related to an RUC officer carrying out the investigation or the ICPC not having enough powers, Mr Mallon said that one only had to look at history to see that the outcome of the case would not command credibility. He noted the Secretary of State's observation that the question of referral on the appointment of an investigating officer was a matter initially for the Chief Constable and not for him. But challenged by the Secretary of State that he was in fact pre-judging the outcome of the present case, Mr Mallon said that his experience of the past twenty years had told him otherwise.

8. The Secretary of State insisted on taking him head on on this point. There had been a number of cases during his tenure of office on which they had had debate, and on this case he (Mr Mallon) seemed to be questioning the rigour of the process. The evidence suggested otherwise - for example, as Mr Mallon was aware, six members of the Parachute Regiment had been charged with very serious offences following the incident last year when two teenage joy-riders had been killed. Mr Mallon replied that in the eyes of the local

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community if God himself came down to adjudicate in an RUC uniform the result would still not be credible. It was possible to avoid the difficulty of perception. It would be no slur on the RUC if the Chief Constable were to appoint an outsider since it would indicate acceptance by the RUC itself that it was only right for an independent officer to be appointed from the beginning. He repeated that he was not in any way casting aspersions on the RUC or on the role and integrity of the officer who had already been appointed.

9. Taking a hypothetical case, the Secretary of State said that surely, if there were cases where charges were eventually brought, such cases could only confirm the even-handedness of the security forces and the investigating processes which they observed. If the outcome were to be the same as with an independent officer there must be a dividend for the RUC investigating in terms of improving its relationships with the Catholic community. Mr Mallon disagreed. Perception was a potent factor. Although the outcome might be the same, it was much more important that the community should be reassured from the beginning by the appointment of an independent officer. Mr Haughey added that there was an overwhelming belief in the Cookstown area that guilt would not be exposed. Speaking from his own experience of statements which he had given to the RUC, it had been clear that officers' values and angle of approach were quite different from his own. This caused him considerable concern. It was vital for people to be reassured. Returning to the incident itself, he asked again why the three youths had felt it necessary to run and in what way the RUC had been disposed that they had felt the need to do so. Mr Mallon agreed with Mr Ledlie's observation that the environment in the area had been tense at the time but he suggested that where there was some sort of covert operation going on there should be a responsibility on the RUC to ensure that the general public were kept out of the way. He understood the feeling of tension amongst those officers directly involved in the operation but he suggested that others not directly involved could have been looking to protect the public.

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Broadening the discussion, Mr Haughey said that the Army base in Cookstown should be removed. It was a cause of ongoing friction and he had no doubt of its interconnection with the incident leading to the death of Mr McGovern. He pressed the Secretary of State again. It was compellingly obvious that an independent officer should be appointed to investigate the incident and that something should be done about the Army base.

10. Responding, the Secretary of State said that he understood the connection in Mr Haughey's mind but as issues they were quite separate.

11. Mr Mallon asked if the Secretary of State had any concept of what it was like when an incident like the Cookstown shooting happened in his constituency. He found that it tore him apart, with his rational self trying to cope with the well of emotion generated in the area. He and Mr Haughey were not asking for something big. They simply wanted an outside officer. Against the background of the experience of the past twenty years, he did not think this was unreasonable.

12. The Secretary of State replied that in terms of the sequence of events the issue was now academic. The Chief Constable had appointed an officer from within the force and this had been accepted by the ICPC. It would be a blow if the ICPC's decision on the matter were questioned now. The Secretary of State repeated, however, that he would talk to the Chief Constable informally about the process which led him to select an officer. Mr Ledlie added that it was worth making the point that the investigating officer in the McGovern case came from outside the Cookstown area. He said that it would be helpful if Mr Mallon and Mr Haughey as public representatives could support the ICPC and give it encouragement.

13. Mr Mallon said that he and other SDLP colleagues had already spent time with the Commission in that he could only describe as an

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appalling meeting. The perception of understanding of the Vice-Chairman in particular had been very poor. He (Mr Mallon) had been very enthusiastic about the legislation on police complaints procedures when it was being enacted but he did not see them operating in the way they should. For example, the Commission had powers to visit RUC stations and people in the community but they did not appear to exercise them. The only relationship with local people seemed to be a piece of paper coming back to them saying that their particular complaint had been investigated but that no further action would be taken.

14. Concluding the discussion, the Secretary of State said the statistics coming through to him tended to show a healthy number of successful complaints. He recognised and understood the concerns which Mr Mallon and Mr Haughey had expressed and indeed he was grateful for the manner in which they had put them. He repeated that he would speak to the Chief Constable about the rationale behind the selection of investigating officers and he invited Mr Mallon in the meantime to come back to him if he were incorrect about the powers available to him.

Signed

DAVID FERGUSON
Private Secretary

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