

E. R.

FROM: J R HARMER
Law and Order Division

Pla

Mr Mc Gough 21/12

Mr Mc Knight
22/12/88
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HEAD OF DIVISION
21 DEC 1988
POB-NIO BELFAST

CC PS/Secretary of State (B&L) - B
PS/Minister of State (L) - B
PS/PUS (B&L) - B
Mr A W Stephens - B
Mr A P Wilson - B
Mr Shannon - B
Mr Bell - B
Mr Wood - B
Supt McIvor, RUC HQ
(without enclosures)

1. Mr Hewitt (signed 21/12)
2. PS/Minister of State (B) - B

MINISTER'S CASE JM.1267: KEN LIVINGSTONE MP

Ken Livingstone MP has written to the Secretary of State about what he describes as the "execution" of three men "by plain clothes soldiers" in County Tyrone on 30 August. Mr Livingstone, who is referring to the incident at Drumnakilly in which three IRA men were shot by the security forces, asks the following questions:-

- a. Were police present at the time?
 - b. Why were the soldiers airlifted from the scene immediately after the incident?
 - c. Why five hours elapsed before the first release of "information" to reporters?
2. It would be unwise to attempt any answer to Mr Livingstone's first question: as a rule, we do not comment on who is involved in incidents of this kind. There is no reason to decline to reply to the other two questions and answers are included in the draft reply.

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3. I have been informed by Superintendent McIvor at RUC HQ that as soon as the RUC receive both the forensic and pathologist's reports they should be in a position to send their papers to the DPP. At this stage it is possible that the file will be sent to the DPP by the middle of January. Superintendent McIvor also confirmed that the incident at Drumnakilly took place just before 4 pm and that the first statement was issued by the RUC at 5.10 pm.

4. I attach a draft reply which is based upon the letter sent by the Secretary of State on 23 September in reply to Jim Marshall's letter of 31 August (copies attached flagged A and B respectively). The proposed reply follows the line that although it can be confirmed that the three members of the IRA were shot after they attacked the driver of the coal lorry, it would be wrong to comment in greater detail before the DPP has studied the report of the RUC's investigation.

(signed)

J R HARMER

20 December 1988

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ADDRESSEE'S REFERENCE

<u>To</u>	<u>Enclosures</u>	<u>Copies to be sent to</u>
Ken Livingstone Esq MP House of Commons LONDON SW1A OAA		

LETTER DRAFTED FOR SIGNATURE BY MINISTER OF STATE

I am replying to your letter of 6 December about the incident near Drumnakilly, Co Tyrone, on 30 August which resulted in the deaths of three IRA terrorists.

Following this incident the Secretary of State and I were fully briefed by the security forces, who reported that the three terrorists were shot after they launched a murderous attack on the driver of a coal lorry. The RUC also confirmed that the three dead men were members of the IRA; that all three were armed and were wearing boiler suits and balaclava masks; that they were in a car which had been hijacked earlier in the day at gunpoint and that spent cartridges, recovered from the scene, are consistent with the weapons carried by the terrorists. According to the IRA, the men

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were "on active service". This means that they were armed criminals planning to commit terrorist murder. The community in Northern Ireland has every reason to be thankful that by their actions the security forces averted any loss of innocent life.

The precise sequence of events is now the subject of a thorough RUC investigation which is being conducted by a senior detective of Chief Superintendent rank. A report will be forwarded by the Chief Constable to the Director of Public Prosecutions, who will decide whether any question of criminal conduct arises. This is the normal procedure and is followed in every case where people are killed as a result of the actions of the security forces. I know you will appreciate that it would be wrong for me to comment in greater detail about the circumstances of this incident before all the facts have been established and the Director of Public Prosecutions has studied the RUC report. I can say, however, that there is nothing unusual about members of the security forces travelling by helicopter in Northern Ireland and that the first statement issued by the police was made within 1¹/₂ hours of the incident.

I can assure you that all members of the security forces operating in Northern Ireland are required to act within the law at all times. Nor does this incident represent any change in the Government's underlying security policy. There has been no change in rules of engagement followed by the security forces. We remain totally committed to the defeat of terrorist violence within the rule of law and will continue to ensure that no effort is spared in this task.

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