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FROM: S A MARSH
SECURITY POLICY AND OPERATIONS DIVISION 2
24 MAY 1993

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27 MAY 1993
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HEAD OF THE N.I.
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the 26.5

Mr. Watters
I find the arguments against REC well be very weak and the on this 27/5 82/93

- PS/PUS (B&L)
- PS/Mr Fell
- Mr Bell
- Mr Steele
- Mr Lyon
- Mr Williams
- Mr Bentley - HOLAB
- Mr Cooke
- Mr Leach
- Mr Lavery
- Mr Rickard
- Mr Perry
- Mr Huggins

UNDER/ 910/S
26 MAY 1993
CENT SEC
Mr Watters
for files
Steve
29/5

1. MR LEDLIE [This is a very fair minute. But I personally believe that we have now reached the point where we shall, at the least, want to declare an open mind on video-recording and/or audio-recording etc. I agree with the proposal that we should seek the Chief Constable's views - but I would personally want to do it in a more open-minded way. Depending on the Secretary of State's inclination, he may deem it prudent for someone to have a private word with the Chief Constable on this; I think Sir Hugh Annesley may be half-expecting this. Signed JKL]

- 2. PS/MR MATES (B&L)
- 3. PS/SECRETARY OF STATE (B&L)

VIDEO RECORDING FOR THE HOLDING CENTRES

Lord Colville's 1993 report on the EPA, which is to be published later this week, recommends that the Government re-examine the case for video-recording interviews in Holding Centres. This submission discusses the issue and suggests that the first step in the exercise should be for the Secretary of State to write to the Chief Constable to ask for a full statement of his views.

Background

2. Controversy surrounding the treatment of detainees in the Holding Centres is of long standing. Allegations of ill-treatment

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have been bolstered by the regularity with which civil and criminal complaints are made against the RUC. That the problem existed was recognised in the creation of the post of Independent Commissioner for the Holding Centres. However, the appointment of Sir Louis Blom-Cooper has done little to reduce the strength of feeling in favour of video-recording; indeed there is a belief he will recommend it himself (though during his meeting with the Irish side Sir Louis stated that he did not see any value in video, but rather would want to see audio-recording: Mr Williams' note of 11 May to Mr Ledlie).

3. In recent years a range of additional safeguards has been introduced into the Holding Centres, but the allegations continue and the confidence problem persists. If anything the refusal to introduce video-recording has intensified the pressure. SACHR in their recent reports have strongly advocated the introduction of video-recording, and will be repeating that call, we understand, in their forthcoming report; as have the constitutional political parties (with the exception of the UUP) and the Irish. Following the Nash judgement the Lord Chief Justice called on the Secretary of State to express his concerns about the case and made an argument for continuous video-recording of all interviews (PS/Secretary of State's note of 7 January: the LCJ suggested that the Independent Commissioner should view the tapes if an allegation was made and provide the Court with an affidavit).

4. The pressure from national and international human rights groups for video-recording has therefore remained strong. The Home Secretary has introduced video-recording on a trial basis for interviews under the PTA in England, which increases the pressure for change in Northern Ireland, although it can be demonstrated that the situation in the two jurisdictions is not in fact comparable.

Argument

5. Those who advocate the introduction of video-recording advance a number of arguments. But in each case there are counter-arguments

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and the RUC hold strongly to the view that such a move would drastically inhibit intelligence gathering and the securing of sufficient evidence to convict dangerous terrorists. The arguments for and against can be summarised as follows.

(a) Video-recording would further guarantee the rights of suspects

For

It would be a further guarantee that the rights of those held in the Holding Centres under the PTA were being fully protected. Video would produce a physical record that would demonstrate that abuse did not occur. Video would not just be another safeguard; it would be a safeguard of a different nature to those that already exist. It would be able to show what actually happened.

Against

Video-recording would not be a complete safeguard. There would be no sound recording and video would be restricted to the interview room. Threats and inducements could still be made elsewhere, and the focus of complaints would simply shift from the interview room to the corridors and other facilities. Or to allegations of verbal rather than physical abuse.

(b) It would improve public confidence in the RUC and HMG.

For

It is argued that public confidence in the activities of the RUC, and in HMG's determination to protect human rights, would be improved.

Against

True, but we would never remove all criticism; it would continue, perhaps focusing on other aspects of the emergency legislation (e.g. access to solicitors).

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(c) There would be benefits for the criminal justice system

For

As interviewees would be less able to allege that they were forced to make confessions through intimidation or violence trials would be more straightforward. We could expect more guilty pleas and fewer and shorter voir dires. This would have the additional benefit of leading to shorter court lists and hence shorter remands.

Against

The exact effect that video-recording would have on voir dires and remand times is impossible to predict. In England video-recording has led to the demise of the voir dire. However, there is still a shortage of court time and so remands might remain lengthy. With the opportunity of undermining the criminal justice process it is unlikely that terrorists would plead not guilty even in the face of a damning admission. Moreover, it is not fanciful to suppose that ways would be found of mounting legal challenges to the authenticity of the tapes themselves.

(d) There would be no adverse effect of video-recording in terms of securing evidence

For

The introduction of video-recording would not undermine the interview process and so there is no reason not to introduce it.

Against

We know that the RUC strongly dispute the proposition that recording of interviews would not damage the interview process. It is their view that video-recording would have grave repercussions for the fight against terrorism. Tapes would inevitably find their way into

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the legal system; those in custody would know this and be fearful of the consequences of disobeying the instructions of their organisations not to co-operate with the police. Despite those who believe to the contrary, the RUC are convinced that it would be impossible to find a camera angle which would make clear that physical violence was not being offered while at the same time disguising the extent of an individual's co-operation.

A draft letter is attached.

6. There are three further arguments against video-recording. First, it would be seen by some simply as a response to pressure from human rights groups. This would further undermine confidence (particularly that of the RUC and Unionist community) in HMG's commitment to defeating terrorism. It would be argued by some that HMG was more committed to the presentational aspect of security policy than defeating PIRA through the legal system. Secondly, though there may be savings elsewhere in the system as a consequence it is clear that video-recording is not likely to be a cheap option; there are likely to be serious resource implications. And thirdly, it is the RUC view that video-recording would stop the flow of vital intelligence currently being received through the Holding Centres.

Conclusion

7. In the light of the foregoing officials remain persuaded that on balance the case for video-recording has not been made. However, this is inevitably a position reached partly on acceptance of the RUC claim that video-recording would undermine their work in a fundamental way. We accept that the Chief Constable continues to have good reasons to resist its introduction. However, in view of the continuing pressure and the need to be seen to respond to Lord Colville's recommendation I recommend that, if he agrees, the Secretary of State raise the issue formally with the Chief Constable, if only to confirm that his view remains the same and to remind him that we and the RUC will have to mount a strong defence of the status quo, not least in the context of the EPA renewal debates (now fixed for 8 and 15 June).

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8. It might also be worth mentioning that the Law Officers' Department have written to us recording the Attorney General's hope that before dismissing the idea the RUC have fully investigated the extent to which modern technology could be of assistance in introducing video-recording; this is something to take up with the police.

9. A draft letter is attached.

VIDEO-RECORDING FOR THE HOLDING CENTRES

You will be aware that in his Report on the Operation of the Northern Ireland (Emergency Provisions) Act 1991 Lord Colville urges the Government to review the case for silent video-recording of all interviews of suspects detained for questioning under s. 14 of the Prevention of Terrorism Act 1989 and to 'try the balance'. This is very much a live issue in some quarters and I believe we need to be

S A MARSH ion to respond.

Ext 27015

To begin with I should make clear that I am not persuaded that the argument for video-recording has been made, by Lord Colville or any of the other commentators. However, the arguments in favour of its introduction are strongly and genuinely advanced, not only by those with obvious axes to grind. They are as follows:

- a. it would further guarantee the rights of suspects
- b. it would protect the RUC from malicious allegations
- c. it would improve public confidence in the RUC
- d. it would refute our national and international critics
- e. there would be benefits for the criminal justice system
- f. it would not adversely affect the interview process

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DRAFT LETTER FOR SIGNATURE BY THE SECRETARY OF STATE

Sir Hugh Annesley
Chief Constable
RUC Headquarters
Brooklyn
Knock Road
BELFAST BT5 6LE

VIDEO-RECORDING FOR THE HOLDING CENTRES

You will be aware that in his Report on the Operation in 1992 of the Northern Ireland (Emergency Provisions) Act 1991 Lord Colville urges the Government to review the case for silent video-recording of all interviews of suspects detained for questioning under s.14 of the Prevention of Terrorism Act 1989 and to 'try the balance'. This is very much a live issue in some quarters and I believe we need to be in a position to respond.

To begin with I should make clear that I am not persuaded that the argument for video-recording has been made, by Lord Colville or any of the other commentators. However, the arguments in favour of its introduction are strongly and genuinely advanced, not only by those with obvious axes to grind. They are as follows:

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As I say, I myself am not persuaded. There are clearly valid responses to each of these arguments, and I understand that you continue to believe that the introduction of video-recording would seriously inhibit the work of the RUC in securing convictions and gathering evidence. But in the light of Lord Colville's recommendation, which will undoubtedly feature in the EPA renewal debate early next month, we are bound to revisit the issue again. I should be grateful, therefore, if you could confirm that this is still your view, and, if so, for your blessing to senior officials getting together with your people to consider the best possible public defence of the status quo. We shall in particular need to be able to deal with the point that technological advances might provide a way of demonstrating that no abuse has taken place without placing a co-operating individual in jeopardy from his organisation.

Lord Colville has made other recommendations in his report with regard to the RUC and I shall be writing to you in due course to suggest how we can give them the consideration that they merit.

Secretary of State

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