

C O N F I D E N T I A L

31/94

FROM: AMANDA JOHNSTON
Security Policy and Operations Division 2
9 March 1994

HEAD OF THE
3950
10 MAR 1994
SERVICE

ASST SEC 229/3
14 MAR 1994
CENT MBW SEC

- cc PS/Sir John Wheeler (B&L)
- PS/PUS (B&L)
- PS/Mr Fell
- Mr Legge
- Mr Thomas
- Mr Bell
- Mr Lyon
- Mr Shannon
- Mr Steele
- Mr Williams
- Mr Wood (B&L)
- Mrs Collins
- Mr Leach
- Mr Maccabe
- Mr Daniell
- Dr Power
- Mr Bramley
- Mr Bentley, HOLAB
- Mr McCaffrey
- Mr Brearley

SS4/3

*Mr Maccabe
for free
2 Dec
19/3*

*Mr Marsh
in light of
to the Secretary
and will be available by Friday
that day. It has been agreed
take place on 14 March which
followed by the issue of a press release (draft also attached)
deal with the substantive issues, is also provided, along with*

1. Mr Marsh [As amended. We are, as a courtesy, showing the PQ and press release to Sir Louis, who is not available until tomorrow. SAM 9/3].
2. PS/Secretary of State (B&L)

INDEPENDENT COMMISSIONER FOR THE HOLDING CENTRES: PUBLICATION OF SIR LOUIS BLOM-COOPER'S FIRST ANNUAL REPORT

The purpose of this submission is to seek the Secretary of State's agreement to the publication of Sir Louis Blom-Cooper's report on Monday 14 March by arranged Parliamentary Question and accompanying press release, and to provide appropriate briefing material and a line to take on the report. For the purposes of speed, particularly as the draft PQ requires urgent clearance, I am copying this simultaneously to Sir John Wheeler.

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Background

2. The terms of reference for the Commissioner require him to report to the Secretary of State at the end of each calendar year. His report should be made available in March/April, in time for the annual EPA renewal debates. The report is to be published and placed in the libraries of both Houses of Parliament.

Handling arrangements for publication

3. The final version of Sir Louis' report, which has been amended in light of further consultations since the advance copy was provided to the Secretary of State on 31 January, is currently being printed and will be available by Friday 11 March. A copy will be provided on that day. It has been agreed with Sir Louis that publication will take place on 14 March which coincides with him spending two days in Belfast to enable him to respond to any press interest. It is intended that an arranged Parliamentary Question should be tabled for answer on 14 March (a draft of the text is attached), which will be followed by the issue of a press release (draft also attached). A line to take on the report, which does not attempt at this stage to deal with the substantive issues, is also provided, along with supplementary briefing. We are liaising with Sir Louis' office over the distribution arrangements for the report.

The report

3. My submission of 28 January outlined the main conclusions contained in the first draft of Sir Louis' report. There have been a number of changes at the margin, but in essence the issues in the final version remain the same. They are as follows:-

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(a) Adequacy of facilities

The report is critical of the physical facilities at the Police Offices, and in particular at Castlereagh. Sir Louis concludes that detention of terrorist suspects for interrogation takes on the salient features of imprisonment. He does concede that the characteristics of a prison do not automatically come into play; however he considers it permissible to gauge the quality of the physical environment and conditions of detention, in terms of inhuman or degrading treatment, in parallel with what is provided in a prison. Sir Louis has, however, following consultation, dropped his proposal that part of the prison estate - either at Hydebank or the Maze - could be utilised as a Police Office. He mentions the search by PANI for alternatives, and concludes that other sites may be available to the Northern Ireland Office.

Although both the Chief Constable and the Law Society have been made aware of the proposal and neither have so far rejected the idea entirely, it is highly unlikely that they will embrace the notion sufficiently to allow it to proceed. Our own concerns include the fact that implementation of such a scheme would almost certainly change the nature of the lobby campaign to allegations that detainees were being denied access to their own lawyers and were being provided with police "owned" solicitors.

(b) Legal services

Sir Louis' report suggests the establishment of a panel of solicitors to provide a legal advice service to those detained in the Police Offices. He believes this will remove the need for that part of section 45 of the EPA which allows the police to delay a legal consultation for up to 48 hours in certain circumstances. He suggests that the scheme could be self-financing and funded by savings in the Lord Chancellor's Department's legal aid budget. Although both the Chief Constable and the Law Society have been made aware of the proposal and neither have so far rejected the idea entirely, it is highly unlikely that they will embrace the notion sufficiently to allow it to proceed. Our own concerns include the fact that implementation of such a scheme would almost certainly change the nature of the lobby campaign to allegations that detainees were being denied access to their own lawyers and were being provided with police "owned" solicitors.

(c) Video and audio recording of interviews

Sir Louis believes that there should be video and audio recording of all interviews, with the tapes to be sealed and viewed

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in private by a High Court Judge only in the event of a detainee at a subsequent trial alleging that a confession had been extracted from him by improper means. The Judge would then be empowered to order full disclosure of the tape only in those very rare incidents where it is revealed that there was a prima facie case for a confession to be struck from the record. Sir Louis believes this would get round the disclosure issue, of which he is well aware. We remain of the view, however, that this proposal does not meet the central RUC concern that the very fact that a recording is made would fatally deter any co-operation.

4. The remainder of the issues are raised in the tone of the report rather than particular substantive points. For example, Sir Louis continues to be somewhat sceptical about the system of CCTV supervision of the actual interrogation process. He describes it as 'minimal' and 'failing to provide satisfaction to reasonable people in Northern Ireland or to critics from outside'. He does, however, go on to suggest that his appointment has provided the opportunity for pointing the way forward. He also refrains from giving a judgement on the conduct of the detective officers who carry out the interviews with suspects. He considers that he is disabled from passing any comment, let alone judgement, given his confinement to observing interviews through the medium of soundless CCTV monitors. This is not particularly helpful in countering allegations of misbehaviour during interview - which, in the main, is the prime target of the lobbyists, and particularly of the terrorists' propaganda machine. There are issues to which we shall have to return; they do not make the report's handling any easier.

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It is unnecessary at this early stage to respond in detail to the substantive issues contained in Sir Louis' report (Sir Louis will not be expecting it). It is a lengthy and comprehensive document, and has only been in our possession for a matter of a few weeks. We will need to consult with a number of organisations before reaching a decision on some of the Commissioner's proposals. The HMC will

(d) Other issues

There are a number of other minor issues which could be construed as recommendations/proposals. In particular a number of marginal changes to the provision of medical services in the Police Offices - by appointing one female doctor to the panel, and establishing proper organisational structures. This is of course primarily a matter for the Police Authority.

4. The remainder of the issues are more questions of the tone of the report rather than particular substantive points. For example, Sir Louis continues to be somewhat scathing about the system of CCTV supervision of the actual interrogation process. He describes it as 'minimal' and 'failing to provide satisfaction to reasonable people in Northern Ireland or to critics from outside'. He does, however, go on to suggest that his appointment has provided the opportunity for pointing the way forward. He also refrains from giving a judgement on the conduct of the detective officers who carry out the interviews with suspects. He considers that he is disabled from passing any comment, let alone judgement, given his confinement to observing interviews through the medium of soundless CCTV monitors. This is not particularly helpful in countering allegations of misbehaviour during interview - which, in the main, is the prime target of the lobbyists, and particularly of the terrorists' propaganda machine. There are issues to which we shall have to return; they do not make the report's handling any easier.

Response

5. It is unnecessary at this early stage to respond in detail to the substantive issues contained in Sir Louis' report (Sir Louis will not be expecting it). It is a lengthy and comprehensive document, and has only been in our possession for a matter of a few weeks. We will need to consult with a number of organisations before reaching a decision on some of the Commissioner's proposals. The RUC will

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certainly expect to be consulted and be given sufficient time to consider the issues from their point of view before any firm conclusions are reached. As a result, it is recommended that the Secretary of State simply welcomes Sir Louis' report and makes it clear that we intend to give it very careful consideration. A line to take reflecting this approach is attached, along with additional background briefing material. It might also be prudent to let the Chief Constable know of the publication in advance (his staff are already aware). A draft letter is attached for this purpose.

Recommendations

6. The Secretary of State is therefore invited to:

(1) Approve the publication date of 14 March;

(2) Agree that a substantive response should not be given at this stage;

(3) Agree the text of the draft PQ and answer;

(4) Agree the text of the draft press release;

(5) Write to the Chief Constable as drafted.

(Signed)

AMANDA JOHNSTON
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C O N F I D E N T I A L

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WAST PARLIAMENTARY QUESTION: ANNUAL REPORT OF THE INDEPENDENT COMMISSIONER FOR THE HOLDING CENTRES

To ask the Secretary of State for Northern Ireland, when he hopes to publish Sir Louis Blom-Cooper's first annual report as Independent Commissioner for the Holding Centres.

SIR PATRICK MAYHEW

Copies of Sir Louis Blom-Cooper's first annual report as Independent Commissioner for the Holding Centres have today been placed in the library.

I welcome the report which contains a very comprehensive and detailed examination of procedures governing the custody of detainees in the Police Offices, and which will require, in return, detailed consideration. I shall be studying it carefully.

I am most grateful for the work carried out by Sir Louis Blom-Cooper. The principal function of the Commissioner is to provide me with further reassurance that persons detained in the Police Offices are being fairly treated and that both statutory and administrative safeguards are being properly applied. Sir Louis' first annual report offers a wealth of information relating to the operation of the Police Offices. It also demonstrates that the conditions of detention for those suspected of involvement in serious terrorist crime are open to independent scrutiny.

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I am pleased to note that Sir Louis has found nothing that might give anyone the slightest cause for concern about the care and treatment of detainees held in the custody of uniformed officers of the RUC.

On the publication of the first annual report of the Independent Commissioner for the Holding Centres, Sir Louis Blom-Cooper QC.

In answer to a written Parliamentary Question, the Secretary of State welcomed the report which he said contained a very comprehensive and detailed examination of procedures governing the custody of detainees in the Police Offices.

Sir Patrick went on to praise the work of Sir Louis Blom-Cooper in his first year as Commissioner. He said:

"Sir Louis' first annual report offers a wealth of information relating to the operation of the Police Offices. It also demonstrates that the conditions of detention for those suspected of involvement in serious terrorist crime are open to

Illegal width

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RAFT PRESS RELEASE

ANNUAL REPORT OF THE INDEPENDENT COMMISSIONER FOR THE HOLDING CENTRES

The Secretary of State for Northern Ireland, Sir Patrick Mayhew, today announced the publication of the first annual report of the Independent Commissioner for the Holding Centres, Sir Louis Blom-Cooper QC.

In answer to a written Parliamentary Question, the Secretary of State welcomed the report which he said contained a very comprehensive and detailed examination of procedures governing the custody of detainees in the Police Offices.

Sir Patrick went on to praise the work of Sir Louis Blom-Cooper in his first year as Commissioner. He said:

"Sir Louis' first annual report offers a wealth of information relating to the operation of the Police Offices. It also demonstrates that the conditions of detention for those suspected of involvement in serious terrorist crime are open to illegal width.

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MARY WARDEN
Deputy Secretary
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