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Opinion

Opinion: O'Loan, what she didn't say

Thursday, January 25, 2007

The report by Police Ombudsman Nuala O'Loan into the conduct of officers dealing with the UVF in the 90s in north Belfast presents an incomplete picture, and one which fails to take account of the number of lives saved through intelligence-gathering operations, argues Chris Albiston. The former Assistant Chief Constable Crime, RUC GC and lately UN Police Commissioner, Kosovo, was one of the top police officers referred to in the inquiry

On Monday, the Police Ombudsman for Northern Ireland, Nuala O'Loan, delivered the report on her inquiry (Operation Ballast) into the conduct of police dealing with the UVF in north Belfast during the 1990s. Her conclusions were strongly critical of what she perceived to be serious misconduct and mismanagement on the part of officers of the RUC Special Branch in their handling of informants and the intelligence produced by them.

It is unfortunate that the picture painted by her public report was so incomplete.

One deeply sympathises with the families of the victims of loyalist and republican murder during the last 40 years.

Some people may take some comfort from the successful prosecution of those who were responsible for the murder of their loved ones: to have prevented such murders would have been infinitely preferable.

This was precisely the thrust of the whole security policy prior to the first PIRA ceasefire in 1994.

What the Ballast report refers to as a 'culture of subservience to the Special Branch' was in fact a series of instructions which required the CID to seek clearance from SB for taking certain initiatives in relation to terrorist crime.

This was designed to cover such basic matters as the safety of public and police, preventing the so-called 'blue on blue' situation of policing operations clashing unwittingly.

But there were other issues. The arrest of a paramilitary quartermaster in possession of weapons could be a welcome success - and such events were frequent, due to the provision of accurate and timely intelligence.

But if the quartermaster were an 'agent', there might be wider considerations which would enable greater long term life-saving.

Such matters require close supervision. There were mechanisms in place to assess the wider picture and make such judgements.

Some of those judgements might be made differently with hindsight. Doubtless, over such a prolonged campaign involving so many police officers, mistakes will have been made. If police conduct amounted to deliberately obstructing the course of justice, then serious criminal offences would be committed.

Police officers, whether serving or retired, should never condone such conduct.

The Public Prosecution Service has carefully considered such evidence as the Ombudsman gathered, and directed that there was not the evidence upon which to mount a prosecution of any police officer.

Some remarks concerning regulations governing SB conduct which were made at the launch of Mrs O'Loan's report deserve comment. The direction to exempt SB from the new regulations governing the use of informants in 1997/8 was made because they were not appropriate for the conditions in which the RUC SB was operating. The Ombudsman's report fails to grasp that there is a big difference between running intelligence operations against criminal gangs with short term objectives, and running life-saving intelligence-gathering operations against large terrorist organisations which are prepared for a long war.

RUC SB officers regularly sought clearer guidelines. They played a major role in the working party which

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“ What the Ballast report refers to as a 'culture of subservience to the Special Branch' was in fact a series of instructions which required the CID to seek clearance from SB for taking certain initiatives in relation to terrorist crime ”

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drew up the current very tight statutory controls provided by the Regulation of Investigatory Powers Act, which now governs UK-wide intelligence operations and is fully Human Rights compliant.

The deaths of those murdered by the Mount Vernon UVF during the period when a number of its members were reporting to SB handlers are tragic. It does not follow that they could have been avoided.

The difference between intelligence and evidence proved a stumbling block to many RUC investigations, but remains a cornerstone of our system of criminal law. The Ombudsman's Office, never mind the public, will have difficulty with this distinction if they use the word 'evidence' so misleadingly and improperly.

Others have already elaborated on the difference between what an informant tells his handler and what a suspect under caution tells an investigator. We may not know whether additional lives might have been saved, but we should not so quickly dismiss the value of the lives that were saved, the number of warnings that were issued, or the number of operations that were thwarted.

The Ombudsman made pointed reference to the alleged refusal of certain retired senior officers to co-operate with her inquiry. This was both inaccurate and unjustified. A number of retired senior SB officers were told in terms which bordered on intimidation how they would co-operate.

They declined to do so in the manner directed. Instead, they offered to answer specific questions and, indeed, directed the Ombudsman towards a number of lines of inquiry.

Why were they reluctant to write the statements which she wanted? The answer does not lie in a lack of concern for their junior colleagues - rather the reverse is true. Nor was there any disrespect for the bereaved families.

The disrespect was for the Office of the Police Ombudsman.

This was founded upon their personal knowledge of a number of matters, including the now discredited Omagh report, an apology for which is still awaited.

The result of the steady stream of Press leaks and misinformation around the Operation Ballast report, culminating in the crescendo over the last weekend, is that many more families are now wondering, without any substance, just what their relatives were up to during their dedicated and dangerous years in the police service.

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