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NOTE FOR THE RECORD

CONFIDENTIAL

cc Mr Lyon
Mr Marsh
Dr Power
Mr Haire
Mr McCready
Mr Myles

RIGHT OF SILENCE: DISCUSSION WITH SUPT CASKEY, RUC HQ

I called today on Supt George Caskey at Knocknagoney (RUC x21851), partly to obtain an RUC notebook (with cautions reflecting the right of silence legislation printed inside, which the Criminal Justice Bill Unit are anxious to be able to show to the Home Secretary); partly to expand on my earlier phone conversation with him (my note of 29 September) about the use of the right of silence legislation.

He reiterated the view that it was useful. Hard core terrorists might still at times remain silent throughout. New tactics had, however, been widely adopted in response to the legislation. Very often suspects, including some such hard men, would now at first offer the line that they would comment when they had seen their solicitor. Sometimes this would be used repeatedly: the suspect would say a new point had been raised, and demand a further consultation; and solicitors committed to or coerced by terrorist organisations would sometimes delay their visits, so as to extend the time during which the suspect could legitimately remain silent, or after a first consultation demand time to consider before advising - in fact so that they could report back to the suspect's organisation, and try to find out more of what had passed in interviews with the suspect's co-accused. As the resort to these tactics demonstrated, however, the suspect and his adviser were boxed in by the legislation: they had to put together their defence during the time of the interrogation, without fully knowing, for example, what co-accused had said. If they did not, they risked adverse inferences in court; as they also did if they changed their story.

Some judges had given a broader sway to the Order than others. More needed to be done to ease the task of the police in tackling organised crime, terrorist and non-terrorist: he seemed to have in mind, predictably, a generalisation of authorised investigator powers. The 1988 Order was, nevertheless, a useful part of the armoury.

Use of the legislation was by no means confined in practice to terrorist cases. Supt Caskey gave examples of drugs and burglary cases where it might be used.

We talked briefly about cautions to suspects under the legislation. There had not been any

difficulties in practice with them to his knowledge, apart from judicial comment which had led to a small amendment (we knew about this, of course). There was no difficulty with suspects understanding them: in the course of an interview, their meaning would become clear to the suspect, if it were not already.

Comment: a brief interview (Supt Caskey had other meetings) but useful. We should not regard this as a definitive "RUC view" - I do not think such a thing exists, and others have been less upbeat about the value of the legislation. The superintendent used to be in charge of Castlereagh until a few months ago, however, so speaks with authority of what goes on in the interview room.

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