

ASST/ SEC 180/6
26 JUN 1996
C.C.R.U.

UNDER/ SEC 41374/15
24 JUN 1996
CENT SEC

From: J MCGIMPSEY
Security Policy and Operations Division
19 June 1996

2. Cross...

PA - 327/96

300 file...

5. 28 / 6..

- cc PS/PUS (B&L) - B
- PS/Sir David Fell - B
- Mr Thomas - B
- Mr Steele o/r - B *in contact 27.6*
- Mr Watkins - B
- Mr Leach - B
- Mr Maccabe - B
- Mr Perry - B
- Mr Clarke *in contact 28*

1. MR LEGGE [I have made a number of amendments, in particular to 6.. reflect three points. First I do not think we should identify the RUC and Police Authority members of the Working Group: I gave them an undertaking that they would not be publicly associated with the results. Second, I think it would be helpful to reflect the Secretary of State's view that he does not wish to close the door finally on this issue. Finally, in order to demonstrate that we have not been idle on this issue, I have referred to Sir John Wheeler's efforts and suggested we offer Dr Mowlam the opportunity of a meeting with the Minister if she wishes to pursue this further. Signed JML] - B
2. PS/SIR JOHN WHEELER (B&L) - B
3. PS/SECRETARY OF STATE (B&L) - B

HANDLING OF MARCHES IN NORTHERN IRELAND

Marjorie Mowlam MP wrote to the Secretary of State on 10 June requesting a progress report on our internal investigation into the establishment of an Independent Commission on parades.

2. As you are aware a working party was commissioned to examine the feasibility of setting up an advisory body which could provide independent advice on parades. The findings of that working party were that the disadvantages of establishing an independent body were likely to outweigh the possible advantages.

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3 In view of Dr Mowlam's close interest in this matter and her clear understanding of the issues involved, it is recommended that the reply covers the ground examined by the working party in some depth and clearly sets out the rationale behind the group's conclusions. This has the benefit of indicating to Dr Mowlam that the idea of an independent body has been thoroughly scrutinised by HMG and that its conclusions are based on a logical thought process.

4. A draft reply is attached.

Signed

J MCGIMPSEY
Ext 27032

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DRAFT LETTER FOR SIGNATURE BY SECRETARY OF STATE

Dr Marjorie Mowlam MP
Shadow Northern Ireland Secretary
House of Commons
LONDON SW1A 0AA

Thank you for letter of 10 June requesting a progress report on our internal investigation of the establishment of an independent commission on parades. I very much agree with you that if we can make progress towards defusing the parades issue, it could have important wider political benefits.

Although the specific idea of an independent commission of some kind is not new, in view of the recent interest from a number of sources, including your own proposal, I asked a working group of senior officials, together with high level representatives from the RUC and the Police Authority, to carry out a thorough re-examination of all aspects of the issue. The group has recently reported its conclusions to me.

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The group were very firmly of the view that the establishment of a body with decision making powers was not a viable prospect. I agree with this conclusion. The principal reason for this is that to give an independent body power to establish conditions in advance of a parade could well bring the body into conflict with the RUC, who would be responsible for enforcing any laid down conditions in practice. It is vital in a public order situation that police have the authority to deal with any situation as it develops on the

ground and this authority cannot be overridden by an independent body. Even if the police were given operational discretion to vary the decisions of the body, it is easy to foresee that in the event of such a situation arising that the senior officer concerned could be left open to criticism for taking a decision contrary to that laid down by the body, no matter how justified his actions. It would, of course, be necessary to legislate in order to give an independent body statutory decision-making powers: something that could not be achieved quickly.

The working group then considered whether there was a role for an independent body to advise the police about contentious parades. They concluded that, were such a body to be established, it should only deal with parades referred to it by the RUC. If this was not the case the body could be used by those intent on creating mischief to prevent or disrupt parades which are not at present likely to lead to public disorder. If the advice provided by the body was then accepted by all parties, it would obviously have played a very useful role. But there is no guarantee that this would happen in practice. If the body's advice was subsequently ignored by those organising and/or opposing a given parade, and consequently had to be set aside by the RUC for operational reasons, then the standing of the body would immediately be called into question. The body could not act as a substitute mediator or arbitrator, as such a role would immediately compromise its aim of providing independent advice. Moreover, its involvement would cut across existing mediation efforts; once the RUC referred a parade to the body its

own efforts to seek a compromise between the parties would have to cease.

On a more practical level, an independent body would have to command the respect and confidence of both communities and therefore the selection of the membership would be critical. Finding the right balance of individuals who were considered to be neutral in the eyes of the community and who would be willing to serve on such a body would be extremely difficult. The Lord Chief Justice has also made it clear to me privately that he would be strongly opposed to a role for the judiciary on such a body, particularly where matters surrounding a parade could subsequently be referred to the courts.

Taking all these factors into consideration, I agree with the conclusions of the working group that, on balance the disadvantages associated with the establishment of an independent body outweigh the advantages. As I indicated in my letter to you in March, compromise is the key to this issue and I am not persuaded that an independent body would make the achievement of such compromise any more likely. I do not, however, have a closed mind on this issue; the subject is one that might well be usefully addressed in the current Political Talks or the Forum, and in any event I will wish to revisit the whole question of parades in the light of our experience during the current marching season.

John Wheeler has been doing a great deal of work behind the scenes to try to persuade those organising the most controversial marches

(and those who may have influence over the organisers) to adopt a more flexible attitude. It would not be helpful to make these efforts public, but he would be happy to talk to you privately about the results of his discussions.

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