

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

*Mr Johnston*

*dc 197/c*  
17 JUN 1996  
CENT SEC

UNDER/ SEC  
*41021*  
12 JUN 1996  
CENT SEC

FROM: PUS  
12 JUNE 1996

*h. Long*  
*7/20/96*  
*17/6.*

*This has the makings of another political disaster: I myself have even used reservations (on law + practice for security forces, another for the rest).*

*7/20/96*

- cc PS/Michael Ancram (L&B) - B
- PS/Sir John Wheeler (L&B) - B
- PS/Sir David Fell - B
- Mr Legge - B
- Mr Bell - B
- Mr Daniell - B
- Mr Leach - B
- Mr Shannon - B
- Mr Steele - B
- Mr Watkins - B
- Mr Wood - B
- Mr Stephens - B
- Mr White - B
- Ms Checksfield - B
- Miss W Johnston - B

C

PS/SECRETARY OF STATE (L&B) - B

GUARDSMEN FISHER AND WRIGHT: ANNOUNCEMENT OF TIMING OF LSRB REFERRAL

In my submission of 6 June I indicated that if the Secretary of State were content with my proposals for the handling of these cases I would provide lines to take and a draft substantive response to Michael Portillo.

2. These are attached.

3. It is important that the prisoners are the first to be informed of the decision. I should therefore be grateful if before issuing the letter you would liaise with the Life Sentence Unit about timing.

(Approved by Sir John Chilcot and signed in his absence)

JOHN CHILCOT

12 JUNE 1996

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DRAFT LETTER FOR SIGNATURE BY SECRETARY OF STATE

Rt Hon Michael Portillo MP  
Secretary of State for Defence  
Ministry of Defence  
Whitehall  
LONDON  
SW1A 2HB

GUARDSMEN FISHER AND WRIGHT

I am writing further to my letter of 8 May in reply to yours of 1 May about the cases of Guardsmen Fisher and Wright.

My purpose in writing is to let you know that the internal review of these cases has now been concluded and that it has been decided to refer them to the Northern Ireland Life Sentence Review Board in 2 years time, in late 1998. This would be at the 6 year point in sentence and therefore significantly in advance of the normal timing for first review which is at the 10 year point. Although review by the LSRB does not necessarily imply that a release recommendation will be made, the timing of the first review is an indication that these are exceptional cases which are being dealt with exceptionally.

The internal review of all life sentence cases is carried out carefully and thoroughly. Account is taken of all the known facts and can assure you that in this particular instance your detailed and very pertinent representations (and those of others who have written on behalf of the Guardsmen) were taken fully into account.

In your letter you referred specifically to comments made by the trial judge about the difficult circumstances faced by

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soldiers in Northern Ireland and about the law of homicide. In this context I think that it is also worth recalling that the trial judge concluded that Guardsmen Fisher and Wright had not been placed in a panic situation or indeed a situation that called for split second reaction. Instead, he pointed out that the events which led to the murder of Peter McBride took place in daylight, on a bright morning with the suspect retreating at all times and increasing the distance over a distance of three streets. Moreover the trial judge said that, even if the House of Lords had allowed Private Clegg's appeal, he doubted if a verdict of manslaughter would fit his findings in these cases.

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GUARDSMEN FISHER AND WRIGHT: ANNOUNCEMENT OF TIMING OF LSRB REVIEW

Line to Take

- \* The LSRB must see cases at a sufficiently early point in sentence to ensure that its discretion, and ultimately the discretion of the Secretary of State, is not limited;
- \* There are mitigating factors in these cases and indications from the judges who dealt with them that the prisoners should serve a different period from that normally served for murder;
- \* Consideration of a case by the LSRB is not a guarantee that release will be recommended;
- \* (If compared with the decisions taken in the Casement Park cases) - each case is looked at on its own individual merits. In the cases of Kane, Kelly and Timmons one of the factors determining the timing of their first review by the LSRB was that they each have concurrent determinate sentences. They cannot be released on life licence while they are serving out these fixed term sentences.
- \* (If criticised that the Board is being held too late/comparisons with Private Clegg) - these cases cannot be directly compared with that of Private Clegg. As the trial judge pointed out, the events took place in daylight, on a bright morning, with the suspect retreating at all times and increasing the distance between them and

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over a distance of three streets. It was not a panic situation which required split second action, if any action at all.

### Background

In line with the normal review procedures which apply to life sentence cases in Northern Ireland a full internal review of these cases was carried out once all the normal avenues of appeal to the Courts had been exhausted.

That review has concluded that they should be referred to the Life Sentence Review Board in late 1998. They will have served about 6 years. Cases are normally seen for the first time by the LSRB when prisoners have served 10 years.

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