P/A: Security Forces + the Community. 233/92

CONFIDENTIAL

DUSB/3375/1.10

FROM: J K LEDLIE
8 February 1993

cc PS/Mr Mates (B&L)
PS/PUS (B&L)
Mr Fell
Mr Lyon
Mr Steele
Mr Bell
Mr Watkins
Mr Maccabe

PS/SECRETARY OF STATE (B&L)

IAN PAISLEY JUNIOR: UDR4 AND CRIMINAL JUSTICE

Just in case the Secretary of State has not already seen it, I enclose a copy of a memorandum prepared by Ian Paisley Junior on "The Case for the UDR Four" and the implications of the Appeal Court verdict on the case. Mr Paisley sent me the memorandum, following a lunch I had with him and a third party a week or two ago to discuss various points of common concern.

2. The memorandum is interesting - not only for its powerful advocacy of Neil Latimer's innocence (Mr Paisley, referring to many conversations with the RUC, the UDR and Latimer himself, says that he is in absolutely no doubt that Latimer was framed), but also for the conclusions which Paisley draws on the need for radical reform of the criminal justice system. Some of his 7 points are familiar enough (audio and video-recording of police interviews, public access to holding centres), others are more radical - and in many cases a little superficial. But I found it interesting that such sentiments should come from someone with Mr Paisley's background.

[redacted]

Signed JKL
J K LEDLIE
Ext 3286

ID 42733

CONFIDENTIAL

256 Ravenhill Road,
BELFAST BT6 8GJ.

HOUSE OF COMMONS
LONDON SW1A 0AA

IPJ/EM

3rd February 1993.

Mr. J. Ledlie,
Northern Ireland Office,
Stormont Castle,
BELFAST.

Dear John,

I enjoyed our lunch on Friday, I hope you found the topics of conversation useful and interesting.

As promised, I enclose a copy of the implications of the Appeal Court verdict (July 1992) for Neil Latimer and would draw your attention to my comments on pages 5 to 7 with regard to reforms in Northern Ireland. I look forward to hearing from you in the future.

Best wishes.

Yours sincerely,

Ian

IAN PAISLEY, JNR.,
Assist. to
IAN R.K. PAISLEY.

The Case For The U.D.R. Four

The Implications Of The Appeal Court Verdict (July 92) For Neil Latimer

I. Paisley
Press officer U.D.R. Four Campaign

THE IMPLICATIONS OF THE APPEAL COURT VERDICT JULY 29) FOR NEIL LATIMER

The Continuing Error Of Justice

On July 29, the Belfast Court of Appeal announced its decision to allow the appeals of Noel Bell, James Hegan and Winston Allen and to refuse the appeal of Neil Latimer. This case, commonly known as the "U.D.R. Four," is of enormous importance to the Criminal Justice System in Northern Ireland. It is of such vital importance that already the police have announced new reforms so as to avoid such a scandal ever reoccurring. Those reforms are inadequate and I will come to their importance later on in this address.

Most people are au fait with the cases of the Guildford Four, Birmingham Six, Maguires and Judith Ward, to name but a few which readily come to mind. The U.D.R. Four case although bearing all the hallmarks of these other cases in terms of police corruption, the rewriting of police evidence and the mental and physical pressure applied to the suspects is significantly different. The U.D.R. Four were members of the system which imposed a miscarriage of justice upon them.

The Background

During the early 1980's a co-called policy of "shoot to kill" existed in Northern Ireland. Six terrorists were gunned down, according to the government on active service. Disquiet arising from the circumstances of these killings led to a formal inquiry known as the Stalker Investigation. The R.U.C. were put under immense pressure to prove their "evenhandedness" by sustaining a conviction against "their own sort".

In 1983 in Armagh a Roman Catholic man, Adrian Carroll, whose brother was a notorious I.N.L.A. activist and who was shot dead in one of these shoot to kill incidents, was also murdered by a lone gunman. The murder was claimed by the Protestant Action Force. One eyewitness, Elaine Dunn, watched the event and supplied the R.U.C. with a description of the gunman. The most significant aspect of her evidence was that the gunman was extremely small - he was only 5'2".

While police investigations concentrated on tracing a P.A.F. suspect who met this description, another witness known only as Witness A told a local priest she witnessed something unusual on the day in question. She claimed she saw a U.D.R. soldier whom she knew called Neil Latimer being mock arrested by the U.D.R. She believed it was strange that he was wearing a disguise that matched the description of the evidence given by Elaine Dunn. This information was conveyed to the police who were under pressure to convict someone for the killing of Adrian Carroll and began arresting U.D.R. soldiers including Neil Latimer. How better to prove the evenhandedness of the police than by arresting and pressing charges against U.D.R. soldiers.

The evidence of Witness A was arrived at in a rather dubious manner. She never signed any statement, but rather blank pieces of paper upon which her statement was later typed

Four soldiers eventually signed confessions to the murder of Adrian Carroll and in 1986 they were jailed for his murder. All along they claimed they were put under physical and mental pressure to sign such confessions.

During and after the trial Witness A has further discredited her evidence by claiming that Neil Latimer could not have been the murderer, and that she too was under immense pressure!

Nine years after Adrian Carroll was shot it has been proved that the police did tell lies. Certain officers contaminated their evidence by rewriting confessions and statements that were used to convict these men. Not only did they pervert the course of justice but they robbed these men of their liberties and livelihoods by corruption and contamination. It took a long and vigorous campaign of searching for new evidence and reassessing this case to prove corruption sealed the original convictions.

The scenes in the Court of Appeal on July 29 were dramatic and astonishing. Sitting in the public gallery listening to the decision to refuse Latimer's appeal and to allow the appeals of the trio Bell, Hegan and Allen had an astonishing affect upon the emotions of everyone gathered to watch. I suppose it could best be described as jubilation drowned in sorrow and shame. The remarkable scenes will never be forgotten.

I believe that the Court of Appeal missed a great opportunity to put right that which was so terribly, terribly wrong, to rectify their mistake and to give liberty and freedom to four innocent men. Their decision on July 29 was a gigantic error. It was an example of a classic compromise in justice. It was revealed in evidence to the court that the police officers lied at the original trial of the U.D.R. Four. They swore, in 1986, that the evidence they tendered was unaltered and a verbatim account of interviews with the appellants although substantial rewrites of this material had taken place.

During the trial it was revealed that ESDA tests had found that up to 290 pages of police interview notes tested that a significant amount of these had been rewritten. For example, Neil Latimer was interviewed 29 times by eight police officers between November 29, 1983 and December 12, 1983. Twenty of the interviews showed no irregularities. However, the remaining nine interviews, almost one third, showed instances of rewriting. These nine interviews contained Latimer's confession on which he was convicted.

The rewrites against Neil Latimer were significantly greater in quantity than the rewrites against the other men. For instance Winston Allen was interviewed 18 times, there were no irregularities in 15 interviews but the remaining three were tampered with and rewritten.

Noel Bell was interviewed 17 times. No irregularities appeared in 13 interviews however the remaining four statements were contaminated.

James Hegan was interviews 31 times. No irregularities appeared in 29 of these interviews however the remaining two interviews were contaminated to such a degree that a request for a solicitor was written out of the evidence tendered before the trial judge in 1986.

I think this highlights the appalling lack of justice extended to the case of Neil Latimer.

Since July 29 I have been asked time and time again why is it that the Court of Appeal

partitioned the extensive contamination in Latimer's case yet allowed the appeals of his co-appellants. The answer I can give is that the conviction of Neil Latimer, like that of the original conviction, is a stinking conviction based upon lies. The answer given by the Court of Appeal in its 130-page judgment is by no means a logical, lucid or clear answer. The Appeal Court, I believe, attempted to besmirch the character and personality of Neil Latimer. The Court of Appeal had no choice but to allow the appeal of the U.D.R. Four. However, they were obviously ashamed that the establishment had stooped so low and they intended to salvage something of their credibility. In doing so they demonstrated where their true interests lie in self-preservation and not in self-rectificaton.

The appeal of the U.D.R. Four offered the system a chance to prove it was neither stuffy or reluctant to change. Their decision has done nothing to invigorate the system with new life to prove it is not bent in persecuting the innocent. It is an unfair, unjust and invidious decision sustaining a conviction on lies. Obviously the establishment had tried to salvage something out of all the ruins. The Northern Ireland Appeal Court resisted an opportunity which must surely call into question their ability to dispense purely and fairly the administration of justice in Northern Ireland.

The anger and discontent caused by this decision goes to the heart of Northern Ireland society. For once it is loyalists who believe the system has sold them short and has attempted to save its face. A system I believe that does not act impartially and fairly is in no one's interest. The case and the fight for the U.D.R. Four continues. It continues on the basis that the Criminal Justice System for Northern Ireland must be based upon equality and fairness - not equality and fairness to a minority but equality and fairness to all.

Where Do We Go From Here?

Noel Bell, James Hegan and Winston Allen are back on the street without guilt and hopefully without prejudice yet they walked away from the court with a heavy burden that the fight goes on to clear their names. As long as Latimer is in jail for the killing of Adrian Carroll then his name and the names of the other 12 on his patrol remain soiled.

Appealing to the House of Lords was never a real option. Abdicating responsibility for a hard decision is not my choice or the choice of the U.D.R. Four Committee. The Northern Ireland Court Service and the Northern Ireland Court of Appeal must face the music and must make their decision and inevitably they will.

In the long term perjury trials of those officers who lied could offer Latimer a chance of freedom. As you know the judgment was forwarded to the D.P.P. with a recommendation to prosecute any officer who contaminated the evidence before the court. Today might we ask the very awkward question "When will these trials begin?" Nine senior police officers contaminated evidence, committed a criminal act, robbed men of liberty, they must now face the consequences for their actions.

In the short term a public outcry must commence. Writing to the Secretary of State and urging local councils to adopt motions supporting a fresh appeal worked for the other three and must work again in Latimer's case.

Already, I am pleased to announce substantial progress with regards to one aspect of new evidence. In two week's time the public will be made fully aware of this significant

development.

The U.D.R. Four Committee are beavering away putting together a second dossier on the case of Neil Latimer. This dossier will have to consider three important areas.

First of all, the evidence given by Mrs Dunn, the eyewitness, must be followed through and a person found who fits the description she gave to the police. Secondly, a reappraisal of the evidence of Witness A must be made and thirdly, new evidence must be gathered concerning the confession of Neil Latimer.

This case of course must challenge us all to think again about the workings of the Criminal Justice System in Northern Ireland. It throws wide open the whole question of the administration of justice within this province. I believe it highlights the importance for a fundamental reappraisal of how we are governed. I recently put forward suggestions entitled "An Agenda For Justice". These suggestions included both criminal justice reform and political reform. Looking at the criminal justice side of that document I suggested seven reforms that could be instantly implemented to assist the process of justice in Northern Ireland.

1. I believe that the Royal Commission which is currently investigating the workings of the C.J.S. in the United Kingdom should be extended to Northern Ireland. After all we are part of the Kingdom and we deserve the same rights and liberties as every other citizen within it.

2. The Diplock Courts. With regard to how the Diplock Courts work no one should doubt the necessity for special trials in the special circumstances that exist in this province. In fact I support the Diplock System in view of Northern Ireland's special circumstances, although ideally I would like to see a return to full jury trials. I do, however, recognise the limitations and problems caused in the past. Northern Ireland and Northern Ireland citizens have foregone a major civil liberty in order to assist with the prosecution of terrorist offences. However, when a depletion in the fundamental rights of the people signally fails to convict the guilty and undermines the liberty of the innocent then the system begs for reappraisal. My main concern is how prejudicial evidence is brought before a Diplock Court. I believe this must be carefully looked at and reformed.

3. Such reform would be aided by the introduction of audio and visual recordings of police interviews. This I believe is an immediate necessity. I understand the fear such a call can raise but let me explain how I envisage it all to work. If we start from the premise that the police interviewer is a custodian of law and fair play and is up holding it then the officer will benefit from a system that guarantees and under writes his correctness. No longer will his reputation be blackened with allegations of applying undue pressure verbal, physical or otherwise. Such a system would protect the suspect and the rights of the interviewing officer. I would envisage no change to the current court room scenario of a trial with a Diplock judge. The judge at his leisure could review the recording and listen to the audio tape of the interview and his decision would no longer be reliant on the word of either a policeman or suspect but will have incontrovertible, independent evidence to base his decision on what occurred in the police interviewing room. Such a system guarantees a fair ruling on evidence and permits the judge to weigh up and value such evidence. It would of

course be necessary to guarantee the strict control of these recordings that they would not fall into the hands of the public or of others who would try to damage further our system. I sympathise with the argument that the battle against terrorism can only be advanced by superior intelligence and that the interview rooms provide such intelligence. But that argument in no way depletes the cause for the introduction of these measures.

4. A solicitor must be allowed to be present for interviews. This acts as a double safeguard and I see no difficulty for the suspect knowing the entirety and complexity of their rights. Terrorist suspects are so well versed in resisting interrogations that those who normally suffer from not having access to a solicitor are usually the innocent or at least not the hardened criminals. It is the hard men, the "Godfathers of terrorism" who should be behind bars., not their puppets.

5. Independent Forensic Laboratory. The Criminal Justice System must be seen to be operating fairly. Independence encapsulates fairness and equality, dealing with peoples perceptions and putting to rest false perceptions surrounding the operation of the system must be an admirable goal in a divided society. In order that the public feel sure that justice is not only done, but seen to be done then I believe those mechanisms of justice must be independent and accessible. Forensic laboratories in Northern Ireland must set the pace by becoming fully independent.

6. The most radical proposal that I could make would be for an independent appeal mechanism. Recently the Lord Chief Justice in England, Lord Taylor announced that appeals in Great Britain were up by 25%. Such an overload in the appeal system meant that the appellants were waiting many months and even years before their appeals were heard. He said this development is "Taking the Court of Appeal towards a crisis point." The reason for this development must be to a certain degree the belief by some appellants that they suffered a miscarriage of justice and hope the appeal system can rectify it.

   Such a selective grouping would require special measures to deal with them and as such I would propose the introduction of an independent appeals tribunal within the Criminal Justice System. In other words those people claiming to have been convicted unfairly should have their cases independently investigated by the Appeal Commissioner who would request new evidence or fresh factors or question the original evidence. His report or recommendations could then be considered by the Secretary of State for Home Affairs or in Northern Ireland's case by the Secretary of State who in the normal course of his duty would refer them back for a second or third appeal. Such a body would be accessible to all and would relieve the overworked appeal system which could concentrate on the more mundane and straightforward matters permitting the independent tribunal to handle the troublesome task of preparing referrals. Obviously once a case was referred, the independent tribunal would cease to have an interest in the matter permitting a normal appeal to proceed.

7. I believe that a system of public access to police centres would be a welcome development. Earlier this year the Secretary of State for Northern Ireland announced that he would consider appointing an independent monitor of R.U.C. procedures at holding centres. I would however favour a system that allows sensible lay visitors to

be permitted to scrutinise the workings of the investigation centres.

The main thrust of my argument for proposing such radical reforms is simple that if a system is seen to be equal and fair to all then we have nothing to fear from that system and can put our hands on our heart and say that fairness guarantees plurality and equality of the state. Northern Ireland needs that plurality and that equality and it needs to prove it more than any other region of the United Kingdom because of the adverse publicity we have received down through the decades.

The decision in the Appeal Court concerning the U.D.R. Four was a victory for neither justice or freedom. The real killer of Adrian Carroll, whoever he may be remains untouched by due process of law. The Carroll family, distraught as I am sure they are by the entirety of this case will never be able to say to their son "Rest in peace" because in their heart of hearts they must surely know that the man behind bars is not the real killer of their son. It is a shame for us all that we have allowed such a conviction to occur and it therefore is our duty to strive to rectify this gross error in justice.