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The Rt. Hon. Sir Patrick Mayhew QC MP  
Secretary of State for Northern Ireland  
Stormont Castle  
BELFAST

31 January 1994

## INDEPENDENT COMMISSIONER FOR THE HOLDING CENTRES

When you appointed me to the above-mentioned post on 16 December 1992 you told the House of Commons that I would be submitting a report annually to you and that such report would be published and a copy lodged in the House of Commons library. I now enclose my report for the first year in post. As I have indicated in the report, I have undertaken the task of writing the report on my own, but I envisage that I and my Deputy will for the next year report jointly, if that is acceptable to you.

I have specifically refrained from making any recommendations, in order to avoid the public embarrassment that might ensue, were you to find yourself unable to accept any one or more of my recommendations. Instead, I have couched my report in the language of proposals which are made for your consideration. I can, however, indicate here that two of my proposals should be treated as firm recommendations.

First, the replacement of Castlereagh (and the closing of Gough Barracks, Armagh and Strand Road, Londonderry) by a single institution is an imperative. I have given you my reasons for coming to the conclusion that Castlereagh is unsuitable, and I am confident in thinking that the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), when it reports probably in March, will endorse the view that Castlereagh in certain respects may violate Article 3 of the European Convention on Human Rights. Some of the deficiencies that might constitute inhuman or degrading treatment are physically remediable; for example, the supply of reading and writing material is entirely feasible. Others - such as access to open air and facilities for physical exercise - are not capable of remedy on the existing site. More particularly, the size of the cellular accommodation, which is below the minimum standard for imprisonment, cannot be enlarged. The Secretary of CPT has been in touch with me and we are meeting on 11 February 1994. I should get some inkling of the Committee's likely report on Castlereagh. I will pass on any information I get.

Second, my proposal for the establishment of a Legal Advice Unit within the Holding Centre is also to be treated as a firm recommendation. I can be fairly certain that the proposal will find favour with the RUC; but doubtfully so by the Law Society. I have argued the case for amending section 45 of the Northern Ireland (Emergency Provisions) Act 1991, on the grounds that the detainee's entitlement to legal advice is

inadequately fulfilled under the present scheme. The service to detainees is delayed, inevitably, by the inability of solicitors in private practice to attend at the Holding Centre promptly. You will readily appreciate that there is a hidden - I suspect, not undetectable - motive for the proposal. One of the greatest sources of irritation, not to say friction between the RUC and solicitors in Northern Ireland who currently service detainees - which is reflected in the activities of pressure groups, such as Amnesty, CAJ, US Lawyers' Committee for Human Rights and the British Irish Rights Watch - relates to the operation of section 45, not least to deferral provisions in sub-section (8). I have pondered long and hard as to how that long-running battle could be resolved. The persistent call for some independent investigation of the allegations and counter-allegations is increasingly difficult to avoid, even though the lawyers are unwilling to give any particulars and the RUC are not desirous of pursuing their claims of unprofessional conduct by some of the solicitors. The case of Patrick Finucane also remains a rumbling complaint among civil libertarians. Whatever the rights and wrongs of the past conflict - and, I may say, they linger on in an attenuated form - at least my proposal will put an end to the foundation for any future allegations.

I have already set in train a series of meetings with members of the legal profession to try and persuade them of the soundness of my proposal. I am meeting the President and some members of the Law Society for N.I. on 7 February.

I would also wish to make a visit to 3 or 4 major centres in the US to speak to the American human rights lawyers about my role as Commissioner for the Holding Centres. The US Consul-General here has already indicated support for such a visit.

My proposal for the recording (both audio and video) of interviews is very much a proposal only. It will need much further discussion and debate. But I am hopeful that it will find general acceptance. Unless and until it is accepted, I would wish to make a firm recommendation that I am entitled, in my discretion, to attend any interview, subject to the qualifications made in my report. I regard such a clarification of my terms of reference, to include a right to observe interrogation, as having a crucially important presentational element in the Commissionership.

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You will observe that there is, in terms of independent supervision of the Holding Centres, a stark distinction between what I call the interrogatory and gaoler functions. The former is at present almost entirely beyond my scrutiny; the ability to watch the closed-circuit television screens in the Duty Inspector's Room is of very limited value. So far as the gaoler function is concerned, my visiting (and that of my Deputy) is becoming routine. It is entirely feasible that citizens of Northern Ireland can be made available to act as my deputies. This raises the question whether selected members of the Lay Visitors panels, when administered under

the new Police Authority, might qualify for appointment as deputies.

Finally, may I say how privileged I have felt at having the opportunity to contribute to the solution of problems facing you and your ministerial colleagues in maintaining civilised standards of criminal justice in the face of the assault upon the rule of law by the terrorists on both sides of the political divide. I am looking forward to the second year of a unique experiment in the independent supervision of detention in police custody within the system of criminal justice. I would add that I think there may be lessons from my office to be learned by those administering criminal justice in the UK generally. I note that the Runciman Commission saw little prospect of introducing a scheme for solicitors to be regularly present at police stations "in the foreseeable future" (paras. 55 - 56, p.37 Cm. 2263). I get the impression that the lack of prospect for such a scheme is cost-related.

[SIGNED]

LOUIS BLOM-COOPER