

NORTHERN IRELAND

State of Emergency

As the British government continues to seek a basis for talks on the future government of the North of Ireland, it is simultaneously strengthening its emergency powers and military/police forces. During the House of Lords Committee state of the Emergency Provisions Bill, the government introduced further amendments, some of which are described as 'safeguards'. A new power permits 'civilian specialists' to accompany RUC/army search teams when raiding homes and other premises. If, during the course of exercising their emergency powers, the authorities stumble across an offence which they take to be in some way 'connected with the emergency', this offence will be 'scheduled', and therefore tried by a jury-less Diplock Court. Presenting this as an anti-racketeering measure, and citing the case of Al Capone, Lord Belstead said that 'experience in Northern Ireland and elsewhere was that the criminals who engage in racketeering often fail to meet their other obligations under the law'. *Northern Ireland Information Service*, 13.5.91.

Resisting the argument that PACE provisions should apply to the detention and interrogation of people seized under emergency powers, the government is 'prepared to consider' the appointment of a Commissioner to monitor what goes on in the 'terrorist holding centres' and will introduce a statutory code of practice on the detention, treatment, questioning and identification of suspects (see *Irish News*, 25.4.91). Meanwhile, reports of physical ill-treatment continue to emerge (eg *Amnesty International* 1991; *Irish News*, 15.6.91).

In March, 500 extra troops arrived in the North to reinforce border garrisons, this was followed by another 500 at the end of May bringing the total to around 11,500 (in addition to the 6,200 members of the UDR). The RUC is seeking government approval to increase its numbers by 400. As part of this recruitment drive, the Chief Constable, Hugh Annesley, is campaigning to increase the proportion of Catholics in the RUC, currently running at under 7% (see *Irish News*, 1.3.91; 11.3.91; 20.3.91; 18.6.91).

Prisons

The Committee for the Transfer of Irish Prisoners has launched a new pamphlet explaining the social, legal and political problems of getting Irish prisoners transferred from Britain to the North of Ireland. 'Double Sentence' shows how since 1973 the British government has stood behind eight different reasons for refusing transfer. This issue has also been taken up by the Standing Advisory Committee on Human Rights which is currently considering a paper by lawyer Alana Jones on prisoners' rights to privacy under Article 8 of the European Convention on Human Rights. The paper concludes that 'restrictions on the availability of visits, compassionate home leave and transfer to prisons nearer home, based solely on punitive grounds cannot be justified' (see also *Irish News*, 18.4.91).

For many years Belfast's Victorian Crumlin Road prison, used

largely as a remand prison, has been the site of conflict (*APRN* feature, 7.3.91). Recently, this has intensified as prisoners have resisted a policy of enforced Loyalist/Republican integration. In May it emerged that the Northern Ireland Office is considering a major £15 million refurbishment programme to bring the prison into line with the Woolf Report recommendation to end slopping out within five years (*Irish News*, 21.5.91). Another recent indication of the problems at the prison was the four week hunger strike by Gerard Clarke which began when he was placed in isolation following his refusal of an attempt by the RUC to recruit him as an informer (*Irish News*, 18.4.91).

Human Rights

Britain's record on human rights was under scrutiny by the United Nations Human Rights Committee at the beginning of April. In particular, the British government's representative, Mr. Halliday, faced forceful questioning on 'shoot-to-kill' practices (*Just News*, May 1991). The same practices are at the centre of Amnesty International's new report United Kingdom, Human Rights Concerns, released in the United States on 11 June. (see *Andersonstown News*, 15.6.91; *APRN* 13.6.91; *Irish News*, 7.6.91).

Northern Ireland - new material

United Kingdom, Human Rights Concerns, Amnesty International, 1991.

Double Sentence, Committee for the Transfer of Irish Prisoners, available from PO Box 303, Tomb Street, Belfast BT1, price 2.00. Also available from this group is the 50 minute video 'Sentenced', price £20 + £1 p&p.

The Right of the People of the Whole of Ireland to Self-Determination, Unity, Sovereignty and Independence, Harvey, Richard, *New York Law School Journal of International and Comparative Law*, Vol 11, pp167-206.

Review Article on Stalker, Hillyard, Paddy, *Linen Hall Review*, April 1991, pp 30-32.

The Ireland Agenda - a new two-monthly briefing produced by Labour Committee on Ireland. Details from LCI, BM Box 5355, London WC1N 3XX.

Prisoners' Rights to Privacy and Article 8 of the European Convention on Human Rights, Jones, Alana. Belfast: Standing Advisory Commission on Human Rights, 1991.

CIVIL LIBERTIES

ID cards - a few steps nearer

The introduction of 'voluntary' identity cards has moved nearer with the Home Secretary's proposal that banks and building

societies should introduce a common photocard bearing the owner's signature and laser-engraved digitised photograph.

The proposal comes out of a working group comprised of representatives of the police, banks, building societies and Home Office officials as a means of combatting money-laundering and the opening of accounts in false names (see *Statewatch*, no 1).

This comes on top of the decision that in future driving licences will carry photographs. The Department of Transport argues that the loss of a driving licence causes difficulties for owners and the absence of a photograph may make it difficult for the police when they are trying to establish a driver's identity.'

The government's main objection to the introduction of 'voluntary' IDs cards is not one of principle but of the high costs of introducing them and the police's reluctance to administer such a system. The encouragement of 'voluntary' ID cards by the government was confirmed in a recent letter from the Home Office to the Association of Metropolitan Authorities Police Committee. It said that although there might be a significant number of people who would object to compulsory cards on 'civil liberties grounds':

It is by no means apparent, however, that a similar objection can properly be made to a voluntary system. The objection would depend for its validity on the hypothesis that a voluntary card must inevitably develop into a compulsory one, which seems questionable.

Guardian, 20.6.91; *Department of Transport* press release, 25.3.91; *Home Office letter* to the AMA, dated 30.4.91.

Liberty

The Spring issue of the redesigned Liberty (NCCL) quarterly magazine *Civil liberty Agenda* contains features by Richard Norton-Taylor on the concept of 'national security', and Philip Knightley on news management in the Gulf War.

Report on the Criminal Record and Information System, £2 (inc p&p) from Liberty looks at police criminal records and calls for a comprehensive inquiry particularly with arrangements for greater EC police co-operation coming into place.

Liberty launched a 'Campaign for Criminal Justice Reforms' on 20 June centred on convictions based on uncorroborated confessions and discredited forensic evidence. It is calling for a permanent Justice Review Body and a Standing Judicial Inquiry to look at existing cases.

Liberty, 21 Tabard Street, London SE1 4LA.

Civil liberties - new material

The following are recent publications added to the library of the National Council for Civil Liberties, 21 Tabard Street, London SE1 4LA. Tel: 071-403-3888. They are available for reference. Please make an appointment if you wish to visit - a small charge is made to non-members.

Cases and materials on constitutional and administrative law, Allen, Michael and Thompson, Brian and Walsh, Bernadette. Blackstone, 1990, 536pp, £17.95.

Triennial Review: 1988-91: Independent Commission for Police Complaints for Northern Ireland, (252) HMSO, March 1991, 15pp, £3.85.

European Union: fortress or democracy, Brown, Michael Barrett, Spokesman for European Labour Forum, 1991, 128pp,

£7.95.

AIDS and Human Rights in the European Communities, Carle, Pia, Netherlands Institute of Human Rights, 1991, 71pp.

Drugs and the law, Crawford, Peter (chair), Justice, 1991, 50pp, £4.

Peers, queers and commons: the struggle for gay law reform from 1950 to the present, Jeffrey-Poulter, Stephen. Routledge, 1991, 296pp, £9.99 (pb)

Immigration law and practice in the United Kingdom, Macdonald, Ian and Blake, Nicholas J, Butterworths, 1991, 702pp, £75 (hb)

Building a people's Europe: 1992 and the social dimension: the facts, the proposals and the legislation, Maes, Maire-Elizabeth, Whurr, 1990, 104pp.

A study of the Police Complaints System, Maguire, M and Corbett, C., HMSO, 1991, 232pp, £17.95.

The Human Rights Committee - Its role in the development of the International Covenant on civil and Political Rights, McGoldrick, Dominic. (Oxford Monographs in International Law) Clarendon Press, Oxford, 1991, 576pp, £60 (pb).

Report to the Home Secretary on procedures for the supervision of the investigation of complaints against the police, Police Complaints Authority, (231), HMSO March 1991, 45pp, £7.35.

World criminal justice systems: a survey, Terrill, Richard J, USA: Anderson, 1984. 417pp. Available from: OICJ, Social Sciences Faculty, University of Reading.

Pornography in a free society, Hawkins, Gordon and Zimring, Franklin E., Cambridge University Press, 1988, Paperback ed: 1991, 236pp, £10.95. Looks at the wider political issues concerning pornography, mainly in the United States.

Lessons from Northern Ireland, Hayes, John and O'Higgins, Paul (eds), SLS Legal Publications, Queen's University of Belfast, 1991, 329pp, £14.95. Collection of papers, revised before publication and thoroughly documented, from the proceedings of a conference, covering legal, social and political perspectives on the situation in Northern Ireland.

Called to court: a public review of criminal justice in Northern Ireland, John Jackson, Rosemary Kilpatrick and Clare Harvey, SLS Legal Publications, Queen's University of Belfast, 1991, 231pp, £12.95 (pb). Result of a research project considering the problems faced by people attending courts in Northern Ireland.

LAW

Fighting extradition

Joseph Doherty is the longest-held prisoner in the history of the Metropolitan Correctional Center in New York. He has now spent eight years in confinement. He was arrested and imprisoned in New York City on 18 June 1983, on an immigration warrant. Request for his extradition was lodged by the British government

in August 1983.

The Extradition request was denied by US District Court Judge John E Sprizzo in December 1984 on the ground that the acts for which extradition sought not common crimes but rather offences of a political character; extradition was therefore barred by the political offence exception provision of controlling treaty. He said 'the facts of this case present the assertion of the political offence exception in its most classic form.' [*Matter of Doherty*, 599 *F.Supp.* 270, 276 (S.D.N.Y. 1984)].

In February 1985, the executive branch filed an unprecedented lawsuit against Mr Doherty, asserting that Judge Sprizzo decided the extradition case wrongly. In June 1985, US District Court Judge Charles S Haight, Jr dismissed the government's lawsuit, ruling that Judge Sprizzo's order denying extradition was not subject to review. [*United States v. Doherty*, 615 *F.Supp.* 755 (S.D.N.Y. 1985)].

In March 1986, the US Court of Appeals termed the executive branch position 'startling' and affirmed Judge Haight's decision in favour of Mr Doherty in all respects. [*United States v Doherty*, 786 *F.2d* 491 (2d Cir. 1986)].

On 19 September 1986, Immigration Judge Howard I Cohen entered an order rejecting the claim of the executive branch that Mr. Doherty should be deported to the United Kingdom. Judge Cohen ordered Mr Doherty returned to Ireland, the country of which he is a citizen.

The Immigration and Naturalization Service (INS) appealed on the ground that Mr Doherty's deportation to Ireland would be prejudicial to the interests of the United States. On 11 March 1987, the Board of Immigration Appeals (BIA), in a unanimous decision, ruled in favour of Mr Doherty and against the INS. It observed that no such claim of prejudice has ever before been raised and that the INS presented no evidence to support it.

The INS moved to reopen the BIA decision on the ground that it wished to submit evidence in support of its claim of prejudice. On 22 May 1987, the BIA, in a 3-2 decision, reaffirmed the correctness of the order rejecting the executive branch's assertion that Mr Doherty should be returned to the United Kingdom.

Unable to prevail in any forum, the Reagan administration referred the case to Attorney General Edwin Meese for his personal 'review.' By so doing, the Attorney General, the losing party throughout, was empowered to have the final say on whether he should have lost.

On 9 June 1988, Edwin Meese reversed his own immigration officials decision and ordered Joseph Doherty deported to the United Kingdom. The controversial ruling effectively vitiated six separate decisions in Mr. Doherty's favour.

Prior to the Attorney General's controversial decision, the Justice Department's handling of the case necessitated Mr Doherty's filing, on 3 December 1987, a motion to reopen the deportation proceeding to permit him to reassert his claims for political asylum and withholding of deportation, as well as to enable him to redesignate his country of deportation.

The motion was necessitated by the 1 December 1987, implementation, in Ireland, of the Extradition (European Convention on the Suppression of Terrorism) Act, 1987. Subsequent to its implementation, Mr Doherty's deportation to Ireland would be the functional equivalent of extradition to the United Kingdom.

On 14 November 1988, the BIA, in a 3-2 decision, granted Mr Doherty's motion to reopen the deportation proceedings. This decision, the seventh in his favour, entitled Mr Doherty to a hearing on his claims for political asylum and/or withholding of deportation. The granting of either would bar his return to the United Kingdom.

The Department of Justice, through the INS, looked again to the Attorney General, this time to reverse the Board's decision to grant Mr Doherty's motion to reopen. On 8 December 1988, the Board, at the request of the INS, conveyed its decision to the Attorney General for his personal review.

Attorney General Richard Thornburgh followed the lead of his predecessor Edwin Meese. On 30 June 1989, he reversed the decision of the BIA. Although the BIA had determined that Mr Doherty had established prima facie that he would be subject to persecution if returned to the United Kingdom, the Attorney General denied him even a hearing on his claim for political asylum.

Both the Meese and Thornburgh orders were challenged by Mr Doherty in the US Court of Appeals. Amicus curiae briefs in opposition to the government's position were filed on behalf of 42 members of the United States Congress and on behalf of the American Immigration Lawyers Association.

On 29 June 1990, the US Court of Appeals rendered its decision. As to the evidentiary hearing the government had sought to deny Mr Doherty, the Court said that 'the need for an evidentiary hearing should be obvious.' The Court found that when the Attorney General acted to deny Mr Doherty such hearing, he improperly based his decision on geo-political and foreign policy concerns that Congress intended to eliminate from political asylum cases and 'seriously exceeded his discretion.' The Court further remarked that it '[found] the government's professed concern for the "integrity of the administrative process" unconvincing in light of its own actions in this case.'

On 13 September 1990, the US Court of Appeals denied the government's petition for rehearing. On 12 December 1990, the executive branch filed a petition for a writ of certiorari with the US Supreme Court. The Supreme Court granted the government's petition on 19 February 1991. Briefs will be were submitted during the Spring of 1991, and the case will be heard by the Court during its October 1991 term.

The Bush administration is currently introducing new legislation to deport aliens who the Government says have engaged in 'terrorism'. It is part of the Administration's massive crime bill. The proposal would apply to all aliens, including permanent residents who have lived in the United States legally for years and involves the creation of a special new system of secret trials, secret evidence and secret decisions.

A special court is to be established to which the Justice Department would file an application. The hearing will be in secret and the alien would receive no notice of the proceedings. The court would decide whether there was probable cause to hold a 'special removal hearing' and the decision would be made on the Government's papers, with nothing heard from the defendant's or his or her lawyer. If a judge denied the application the government could appeal in secret.

At a 'Special removal hearing' the evidence may be withheld in whole or in part from the alien. There is a provision that a summary of the grounds for seeking deportation may be given to the person, but if requested by the Department of Justice, this can be withheld. When a judge decides the case, any part of his opinion relating to the withheld evidence would be secret. After the secret trial, the Government would be free to send the alien anywhere.

The bill uses a vague definition of 'terrorist organisation.' It includes any organisation that has ever committed violence in the past, or that, even if nonviolent now, might in the future.

The Bill is sponsored by Attorney General Richard Thornburgh, who on a visit to Harvard's Kennedy Law School last month, said that America's most valuable export to the world would be 'the

rule of law.'

Sources: *Stephen A. Somerstein and Mary Boresz Pike, Attorneys at Law*, 401, Broadway, 27th Floor, New York 10013. *New York Times*, 24.5.91, page A31, Cols 1-2.

Women judges

There are currently 22 women judges - 4.3% - out of a total of 517 High Court and circuit judges. Between 1981 and 1991 (to 17 April) 379 High Court and circuit judges have been appointed of whom 16 are women, 4.2%

Hansard, written answer, 18.4.91.

Spycatcher and the press

The House of Lords has approved the bringing of criminal contempt of court proceedings against newspapers which published extracts of *Spycatcher* after the Attorney-General had obtained injunctions against other papers. They agreed that the newspapers concerned were not in breach of any injunction, since none had been made against them. But, drawing on old case law, they said that a criminal contempt was performed when someone did something with the intention of frustrating court proceedings brought against someone else. This means that in future, the government will only have to take proceedings against one newspaper to shut them all up.

Attorney-General v Times Newspapers, reported in *2 Weekly Law Reports* 994 (April 1991)

Law - new material

Curtailling the Right of Silence, Jackson J D, June 1991 *Criminal Law Review*, pp404-415. Critical examination of restrictions on the right of silence in Northern Ireland.

Anti-Terrorist Legislation and the European Convention on Human Rights, Finnie Wilson, *Modern Law Review*, March 1991, pp288-293.

Freedom of Speech and judicial review, Allen T, 141 *New Law Journal*, 17.5.91, pp683-685. Note on the case of *Brind v Home Secretary*.

Running with the hounds, Stockdale Russell, 141 *New Law Journal*, 7.6.91, pp772-775. Relating to defence access to forensic evidence.

Still time for a change, Hall A, *Legal Action*, June 1991, p9. Review of Police Complaints Authority's recommendations for legislative change.

Suing the police: should plaintiffs make a complaint, Harrison John and Cragg Steve, *Legal Action*, June 1991, pp22-23.

PRISONS

Prison security alerts

In the year 9 May 1990 to 8 May 1991 there were 30 security alerts in closed prisons requiring a full search of the prison and 19 alerts which 'presented a significant threat to control'. There were an additional four full searches of open prisons.

The full search alerts at closed prisons included 11 bomb threats, 7 firearms alerts, and two losses of security keys. The alerts involving 'threat to control' largely concerned refusal by prisoners to return to cells or to leave the exercise yard, and five rooftop demonstrations. Control and restraint teams were used in three incidents.

Hansard, written answer, 16.5.91.

Prisons - new material

Breaking the Cycle of Sex Abuse, Hawkes, C. *Open Mind*, No.38, 1989. The paper evaluates the progress of an experimental group set up to work with sex offenders in the community.

Challenging Practice or Challenging Women?: Female offending and illicit drug use, Buchanan, J. et al. *Probation Journal*, June 1991. The article examines three pieces of research by members of Merseyside Probation Service regarding the treatment of women offenders by probation officers. The paper highlights difficulties in the way the criminal justice system deals with and is experienced by female drug users.

House Burglars and Victims, Nation, D. et al. *Probation Journal*, June 1991. Research carried out in Plymouth showed that offences of house burglary attracted the highest rate of custodial sentences. A programme was thus designed to offer non-custodial options involving meetings between offenders and victims, reparation and crime prevention tasks. This paper is an evaluation of the first four completed programmes.

Drug Misuse; Developing a harm reducing strategy, Boother M, *Probation Journal*, June 1991. The paper describes the work of the Inner London Probation Service's Demonstration Unit which promotes effective practice with drug and alcohol misusing offenders.

Helping Unconvicted Sex Offenders on Bail; An 'attachment and loss' model, Nixon, T. et al. *Probation Journal*, June 1991. The paper examines strategies for managing bailees charged with sex offences in the period before their court appearances.

Public opinion and Penal Reform in Britain, Ruggiero V, *Crime, Law and Social Change*, Vol.15, No.1. 1991. The paper looks at the concept of public opinion on penal reform.

Dutch Perspective on some of the Effects of Alternative Sanctions, Hauber, A.A. *Crime Law and Social Change*, Vol.15, No.2. 1991. The paper describes the increase in juvenile delinquency in the Netherlands and discusses the need for alternative sanctions to deal with this.

Postpartum Psychosis, Infanticide and the Law, Maier-Katkin, D. *Crime Law and Social Change*, Vol.15, No.2. 1991. The article examines cases of infanticide and discusses the issue of 'responsibility' ie. whether these killings are wilful or are the women who carry them out insane at the time of the offence?

Burma's Insein Prison; Punishment and oppression, HTUN AUNG GYAW. *Crime Law and Social Change*, Vol.15, No.2. 1991. The paper looks at the imprisonment of political activists in Burma.

Imprisonment in Western Europe: some facts and figures, NACRO briefing, 3 June 1991. The latest comparative statistics

compiled by the Council of Europe shows that the UK has a higher proportion of its population in prison than any other country in Western Europe, and the largest prison population of 55,047 people. The UK has the second high proportion of under 21s in prison who make up 21.3% of the prison population.

SECURITY AND INTELLIGENCE

Telephone-tapping - how much?

The 1990 annual report of the Commissioner, appointed under section 8 of the Interception of Communications Act 1985, to the Prime Minister was published in April. It states that during 1990 the number of warrants issued by the Home Secretary to tap telephones was 473 and to intercept letters 42 (the additional figures for Scotland were 66 and 2 respectively). The Commissioner, the Rt Hon Lord Justice Lloyd, states that he is 'satisfied that this system works'. However, recent evidence given to the *Guardian* shows that 35,000 telephone lines are now being tapped each year.

Warrants to tap phones and to open mail are issued by the Home Secretary to the police, Customs and Excise and MI5 (the Security Service). The report does not cover warrants issued by the Foreign Secretary or the Northern Ireland Office, or 'bugging', where devices or phones are used to listen to conversations in a target's home or office, or the surveillance undertaken by Government Communications Headquarters (GCHQ) at Cheltenham. In the case of a threatened strike in an essential industry, covered by civil contingency planning or a major demonstration such as that on the poll tax, a single warrant issued against a subversive organisation can involve hundreds of 'target' telephones.

The Commissioner's report shows that 60% of the warrants issued to the police did not result in an arrest, nor did 50% of those issued to HM Customs and Excise. The report states that there were: 'only a handful of individuals subject to warrants on the ground that they posed a major threat to parliamentary democracy... By the end of 1990 there were only two. The number of subversive organisations covered by warrants has also decreased. At the end of 1990 there were less than half the previous year.' Indeed the report states that: 'The level of threat from subversion has remained very low during 1990'.

The report tackles the question of metering as a means of monitoring telephone calls. This involves recording the duration and destination of phone calls. As 'a warrant' is not required for metering there can be no offence of unauthorised metering under the 1985 Act, and although disclosure of this information is prohibited exceptions are available for the prevention and detection of crime and 'in the interest of national security'.

Metering the destination of calls is a standard means of surveillance for both criminals (police) and subversive organisations (Special Branch and MI5) to establish contacts and friendship networks.

Fifty-nine people made complaints that their phones were tapped to the Tribunal set up under the 1985 Act, but none were upheld. Overall the Commissioner's report gives the impression that all tapping is authorised by a warrant, that it is all justified under the 1985 Act, and that there is no cause for complaint.

In June the *Guardian* carried a report which estimated that over 35,000 phones are being tapped each year installed by 70 specialist engineers known as 'squirrels'; in 1980 there were 40 tapping engineers (a similar report was carried in the *Observer* in 1988 which estimated 30,000 phones a year were being tapped). These engineers are responsible for installing taps on phone lines at

exchanges and for placing 'bugs' which pick up conversations. Calls on tapped lines are relayed to a reception centre at the BT HQ in Gresham Street, London where over a further hundred engineers route the calls to banks of tape machines or directly to MI5 and MI6 (the external Secret Service). BT employs transcribers to type out relevant conversations for different agencies.

By the mid 1990s the new phone National Network's Central Operations Unit at Oswestry will be able to place taps on phone calls by computer and do away with visits by the 'squirrels' to local exchanges. The improvement of current voice recognition and the introduction of key-word computerised transcripts will also greatly increase the tapping capacity.

Two recent cases which have come to light are the tapping of a BBC journalist, and of banking transactions during the 1984/5 miners strike. Scotland Yard has admitted that a BBC journalist was placed under surveillance - involving a telephone tap and visual observation - when he was preparing a documentary film on an allegedly corrupt relationship between a senior detective and a major criminal. After the journalist made a formal complaint to the Police Complaints Authority in 1987 the then Assistant Commissioner of the Metropolitan Police, John Smith, replied: 'after very careful consideration the Commissioner has concluded that your complaint in this regard is unsubstantiated'.

The movement of money, through the European banking system, from trade unions in the Soviet Union during the miners strike was monitored through a joint operation of the US National Security Agency (the NSA) and the UK Government Communications Headquarters (GCHQ). The monitoring was conducted by NSA listening posts in Europe and by the joint NSA/GCHQ satellite station at Morwenstow in Bude Cornwall. The routine monitoring of confidential banking transactions is supposedly for tracing drug money-laundering operations.

Report of the Commissioner for 1990, Rt Hon Lord Justice Lloyd, Interception of Communications Act 1985, Cm 1489, April 1991, HMSO; *Guardian*, 22.5.91; 6.6.90; 14.6.91; 15.6.91; *Observer*, 30.10.88 & 28.5.91.

Dutch police and security service at odds

On May 1, 1991, the Dutch commission Blok installed in March 1990 by the heads of the Binnenlandse Veiligheidsdienst (BVD) and the Centrale Recherche Informatiedienst (CRI) to advise on the cooperation of the two services in the field of counter-terrorism published its findings.

To the present day, the two services have been quarrelling over questions of competence and priorities caused primarily by the ambiguity in their respective mandates. This conflict now seems to have been settled, with the police and the justice department gaining in influence over counter-terrorist policy and operations. The commission has decided that the Bijzondere Zaken Centrale (BZC, Special Branch of the central police information service CRI) has a legitimate interest in proactive information gathering, that is running informants and conducting other operations without concrete indications of serious preparatory activities for terrorist operations (which include violent political activism). This in spite of the fact that the administration explicitly stated in parliament four years ago that the BZC should not have such a mandate since it is not an intelligence service.

Since the legitimization of proactive BZC operations by the commission confirms the existence of a grey area where both services have competence, an intensification of cooperation between BVD and BZC is sought. At a policy level, the heads of both services should have periodical discussions. At the operative

level, coordinating meetings should be intensified, with the national public prosecutor for terrorism holding a leading position. Also, the separate services should no longer supply information to the justice department and (local) police without first consulting their counterpart.

Shortly before publication of the report it was decided to replace the top of the BZC, the commissioners B.N. Barendregt (head of BZC), C Feenstra (deputy head) and J. Mast (coordinator). Official sources refused all comment, but it seems likely that the officers had to make way for a new team in order to facilitate the intensified contacts with the BVD. In the near future, the BVD too is expected to announce several replacements in its upper strata. One BVD director recently commented off-record to Intelligence Newsletter: 'this is not a booming business at present.' Now that there are still career opportunities in the international field, several top officials are considering leaving for Brussels or other promising European posts.

The recent developments could be interpreted as supporting the views expressed by both BVD officials and some leading parliamentarians that the dangers of excessive intelligence operations in Holland are more virulent in the growing number and intensity of pro-active police operations than in BVD activities. Also, the leading role of the public prosecutor could result in a dominance of the justice department's views on counterterrorism policy, thus weakening the long-term approach favoured by the intelligence service.

Security and intelligence - new material

The Calculus of Intelligence Cooperation, Richelson, *International Journal of Intelligence and Counterintelligence*, vol 4, no 3 (Fall 1990). Author elaborates on the types of intelligence cooperation, the benefits and the costs. He mentions well-known agreements and pacts between UK, USA, Australian and other Western agencies, but also lesser known relationships between Israeli, Turkish and Iranian intelligence, various Eastern Bloc networks and the influential position of South Africa. However, in 17 pages Richelson cannot discuss all the information now available.

Accountability for Secret Operations in Israel, Doron and Shapira, *International Journal of Intelligence and Counterintelligence*, vol 4, no 3 (Fall 1990). Discusses the process and limits of accountability for Israeli intelligence, with case studies of the 'Lavon Affair' of the 1950s and the Shin Bet mishap of 1984, when it tried to cover up the death under torture of two Palestinian commandos. Although the notorious plausible denial mechanism often lets a minister off the hook in the short run, the authors point at the fact that in Israel many people have a 'need to know' of some form, thus making it very difficult to cover up serious failures.

Western Goals (UK), Mike Hughes, *Lobster 21*, May 1991, pp21-25. Article looks at the radical right and the connection between Western Goals (UK), the Monday Club, the Committee for a Free Britain, and the International Freedom Foundation.

EUROPE

Ad Hoc Group on Immigration

Mr M Fischbach, President in Office of the Council of Justice

Ministers and President of the Ad Hoc Group on Immigration, gave some details of the Group when he addressed the Legal Affairs and Citizens Rights Committee of the European Parliament on 19 March. The Group, set up in 1986, has five sub-groups: 1) *Border controls* at the external boundaries; 2) *Visa Policy* towards citizens of third countries; 3) *Asylum*, implementing the agreed Convention that anyone seeking asylum in the EC would be allowed to apply to only one country; 4) *Forced Occupance*, establishing entry requirements for non-Community citizens and investigating illegal immigration networks; 5) *Informatics*, working on setting up a Community-wide data bank on people who are described as 'inadmissible'.

Letter from Michael Elliott MEP, 28.3.91.

Dutch Social Democrats suggest alternative for Schengen agreement

The Dutch Social Democrat Party (PvdA), which together with the Christian Democrat CDA constitute the present Dutch government, has expressed its deep dissatisfaction with the cabinet's decision to go ahead with the ratification procedures on the Schengen agreement. At the end of May, the cabinet decided to ignore the negative advice given by the government's supreme advisory council, 'Raad van State', on the ratification of the Schengen treaty (see *Statewatch* No 2, p.5). Social Democrat MP Maarten van Traa has contacted his colleagues in Belgium and Germany in order to bring together an alternative text for Schengen. Attention would be focused on improving the arrangements for political asylum, on installing an impartial European court to settle conflicts caused by Schengen arrangements, and on better protection of privacy in exchanging police information. Both the leftwing and the rightwing liberal parties have expressed their support for the initiative, which theoretically would give it a majority support in parliament, however, most observers give the initiative little chance of success.

Belgian Gladio

The Belgian Senate committee recently received an anonymous 80 page manuscript from a person who claims to have been a member of Gladio from 1988-1990. The author of the manuscript is critical of the decision to close down the Belgian Gladio network. It details the start of the Belgian Gladio network immediately after World War Two by the Deuxieme Bureau. The final form of the post invasion 'stay behind' network came into being in 1952 after co-operation between Belgian and British intelligence.

The Senate committee is currently investigating evidence which seems to point to the existence of American clandestine structures connected to SHAPE. It appears that with the closing down of a number of national Gladio networks the US may have decided to keep their own contacts alive in order to have a fall-back for contingency situations.

De Morgen, Brussels, 7.6.91.

Dutch radio station prosecuted as criminal organization.

The Amsterdam progressive station Radio 100, which is run by volunteers and has been on the air since 1986, was the subject of a massive police operation on 15 May when 15 people were arrested. Radio 100 has no broadcasting license and the public prosecutor initiated an intensive police investigation in November 1990 on the basis of section 140 of the penal code. He argued that the organisation held large sums of illegitimate profits which made Radio 100 a criminal organisation. Section 140 concerns

participating in an organization with a view to committing criminal offences under which individuals can be held responsible for activities initiated by a larger group, if the law decides that they were part of the group. Taking part in the actual criminal acts is not necessary, it is sufficient for an individual to have contributed to the founding or the preservation of the organization, by being a member for instance. Even a less direct relation can be punishable as complicity.

This juridical instrument was initially said to be essential in the fight against organized crime. But so far it has been used on a number of occasions against squatters and similar 'undesired elements' in society. Squatters in Nijmegen and Groningen were prosecuted as a criminal organization, including those that had only made the coffee or paid to a collective household cashbox. The Dutch supreme court (Hoge Raad) has accepted the use of wide-ranging investigations in these cases which include powers to tap telephones.

Criminal law Professor M. Groenhuijsen of Tilburg University says that: 'Section 140 is used against people that you don't like. Groups of which the law says: 'We have had enough of this.' Other observers see the unsuspected moves against the radio station as a new crackdown on what's left of the subcultural and radical structures of the 1980s.

European Convention on Extradition

The European Convention on Extradition which covers the 12 EC countries plus Austria, Cyprus, Finland, Iceland, Israel, Liechtenstein, Norway, Sweden and Turkey, came into effect on 14 May.

The Convention makes extradition 'simpler and speedier' by abolishing the requirement that an extradition request must be accompanied by sufficient supporting evidence to establish a *prima facie* case. In future extradition will be simply on the basis of a request, an arrest warrant, a statement of the facts of the offence, evidence of the law in the requesting country and the identity of the individual. The Home Office says that this will ensure that extradition is 'not hampered by differences in legal systems'.

Home Office press release, 14.5.91.

Europe - new material

Snail's pace for Euro Rights, *Labour Research*, June 1991, pp17-18. Looks at the progress on the Social Charter.

European Border Controls: Who Needs Them?, Alan Butt Philip, Discussion Paper 19, Royal Institute of International Affairs, pp30, £3. Analyses the need to remove EC internal borders, and raises the conflict between commercial needs of unimpeded movement and the demands of policing and security for new methods of internal control.

Data Protection and Freedom of Information, paper by Peter Dippoldsmann to the Haldane Society of Socialist Lawyers, 27 April 1991. In the paper Peter Dippoldsmann, Legal Researcher at the German National Research Centre for Computer Science, states that the situation in the EC: 'is characterised by an interest in the free flow of personal data for the economy of the single market where the citizens are only a function of this economy. The Europe of the single market and the security and police bodies dominates the Europe of human rights and democracy.'

European Commission dodges immigration issues - again

A European Commission document on immigration, believed to reflect the more liberal wing of the immigration debate in Europe, has been set aside for the time being because of the likely difficulties in achieving agreement on it. Proposals are believed to include the gradual easing of controls over Europe's 16 million or so resident non-EC nationals, to achieve eventual parity with EC citizens over the right to move around the Community in search of work. It is known that certain countries, notably Britain, would strongly oppose such a proposal.

At the same time, a draft Convention on the same issue, due to be ready for signature in June, has been deferred until the second half of the year, for the same reason. This Convention was to have followed the Dublin Convention - a document outside Community competence but signed by all twelve EC countries - in order to regulate the movement between EC countries of third country nationals.

The failure of the European Commission means that Europe still has no official immigration policy. Some member states insist that the whole issue is outside Community competence and can and should only be dealt with by inter-governmental agreements such as the Dublin Convention and the Schengen accord. The Schengen Agreement now covers eight countries, with Spain and Portugal due to sign on 25/26 June, but its insistence on the removal of internal frontiers means that Britain and Ireland are expected to hold out against signing to the bitter end, perhaps creating a 'two tier' Europe, whose core would be free of internal borders but not its periphery. The Schengen provisions, however, are not generous to third country (non-EC) residents of Schengen territories, granting them the right to travel outside their country of residence for a maximum of three months in six, but not allowing them to move around the territory in search of work or to change their country of residence - in contrast to the position for EC nationals. It had been expected that the Schengen agreement would be adopted by the European Commission as a model for an EC-wide immigration policy, but since the Dutch State Council issued a negative advice on the Schengen agreement (see *Statewatch* May/June) splits between the hardliners and the more liberal national authorities have begun to open up. *Migration Newsheet*, June 1991.

Asylum-seekers - right of appeal?

The Home Secretary intends to create a statutory right of appeal for asylum-seekers who are refused refugee status, to preempt criticism from the European Court of Human Rights on the lack of such an appeal right. For years, refugee groups have campaigned for a right of appeal before the rejected asylum-seeker is sent home. But the Refugee Forum was sceptical about the proposals. A spokesperson said, 'Of course, refugees will welcome anything which makes the system fairer, but we have been told that the system Kenneth Baker is setting up is designed to expel people as quickly as possible unless they can prove they have a well-founded fear of persecution. How can we have faith in a system whose aim is not to secure justice for those now denied asylum, but simply to turn them round faster? The definition of refugee must be broadened to include victims of war, civil war and natural disaster, if refugees are to be treated justly.' *Guardian*, 15.6.1991.

Passport control checks

IMMIGRATION

Home Office Minister Peter Lloyd MP said in reply to a written question:

We intend to retain immigration controls on non-EC nationals. In order to ensure that these controls are effective, we believe that it will be necessary to require EC nationals to show their passports or other identity documents.

Hansard, 30.4.91.

Immigration - new material

Carrier Sanctions in Five Community States: Incompatibilities between International civil aviation and human rights obligations, Antonio Cruz, Churches' Committee for Migrants in Europe, Brussels, pp17, 2 ecus. Looks at the law and practice in Belgium, Denmark, Germany, Italy and the UK, on fining air and sea carriers bringing in undocumented or falsely documented passengers, in the context of international civil aviation codes and international obligations towards refugees.

House of Commons debate

Asylum-seekers and refugees 8 May 1991, cols 745-752

MILITARY and NUCLEAR

New Chief of Defence Staff

Field Marshall Sir Richard Vincent, GBE KCB DSO, became the new Chief of the Defence on 2 April, and a member of the Defence Council. He succeeded Marshall of the Royal Air Force Sir David Craig, CGB OBE.

Army news release, MOD, 19.4.91.

Military Aid to Civil Ministries during strikes

1,208 troops were deployed for 18.6 weeks for the ambulance strike and rail dispute in 1989-90 with 33,600 on standby (total estimated effort - person weeks); 417 were deployed over 35.4 weeks in 1988-89 for the prison officers and fire service disputes; 322 deployed for 0.8 weeks in 1987-88 for the fire service dispute; 275 for 19 weeks in 1986-87 for prison officer and fire services dispute; and in 1983-4 23,000 were on standby for the threatened fire service dispute.

Statement on the Defence Estimates, Vol 2, 1990, Cm 1022-II, HMSO.

Book Review

Meltdown, The Collapse of the Nuclear Dream, Aubrey Crispin, Collins & Brown, £6.99. ISBN 1 85585 017 6. The nuclear industry unites military and energy policies - and the construction and engineering industries - with the energy and weapons industries. Its tentacles spread not just within countries with a nuclear programme, but throughout the international community. The problem with writing about the nuclear industry is its complexity, from the scientific and technical perspective as well as the political, military, economic and environmental consequences. The temptation is to provide too much technical information, causing most people's eyes to glaze over, or so little it can be

readily dismissed. Crispin Aubrey has skilfully avoided these traps - if you want to know about positive void co-efficients in reactor cores, find another book.

Aubrey provides just enough background and technical information to allow the reader to follow the plot of what at times reads like a political thriller. He traces the development of the nuclear industry and provides an excellent, albeit brief guide to how the anti-nuclear and environmental movements slowly exposed the industry's weaknesses, faults and problems which took it to the edge of the cliff. The bulk of the book looks at how it was both pushed and fell from the cliff's edge. This was achieved when the privatisation of the UK electricity industry by the Thatcher Government took away its last foothold - the economic argument that it was cheaper than other form of energy generation, in particular coal. One of the main scenes for this tragedy was the Hinkley Point C nuclear power station public inquiry which was running alongside privatisation and in which Aubrey played a vital role on behalf of the objectors.

This is a book written by a campaigner, from a thoroughly human and non-technical approach. If you want to find out something about the nuclear industry this is a fine book to start with - it will make you want to find out more.

Military - new material

Military justice - an oxymoron? Venn J K, *New Law Journal*, 19 & 26.4.91. Looks at the need to review military justice.

A New Era of Counterinsurgency, Mockaitis Thomas R, *RUSI Journal*, Spring 1991, pp73-78. Concludes its argument with: 'In the new era of counterinsurgency, as in the old, the British approach may prove the most successful'.

The Army's Need: A Relevant LIC Environment, Motley, *International Journal of Intelligence and Counterintelligence*, vol. 4 No. 3 (Fall 1990). An interesting discussion of changes taking place in American intelligence. With the growing importance of Third World countries as the battlefields of the future in which the US army may find itself, the intelligence community has to reorganize its priorities and way of thinking. The US increasingly relies on high-tech electronic intelligence gathering facilities, whereas the real need is more down-to-earth human intelligence. Greater efforts are needed in recruiting and organizing agent networks in the Third World, working both on the local governments and on guerilla or dissident forces. With illicit narcotics trafficking identified as a major threat to US national security by former president Reagan and several African intelligence services reportedly cooperating with the KGB in their countries in attempts to steal US secrets abroad, the need for more intensive (counter)intelligence operations in both Latin America and the African continent has been given a greater priority. Over the last three years, several authors and military operators have advocated the advancement of US interests abroad through intensified covert action programs.

The New Technologies of Political Repression: a case for arms control? Wright Steve, *Philosophy and Social Action*, 17 (3-4) July-December 1991, 30 pages. This paper looks at how the arms trade and producers of 'less lethal' weapons of the Western liberal democracies supply the equipment to 'protect unpopular, illegitimate and authoritarian governments in the Third World against upheavals and insurrection.' The author argues that although the international trade in internal security equipment is relatively small in financial terms (\$4-5 billion a year) compared to

the weapons of war it is critical in maintaining some 50 Third World governments run by the military. Examples are given of the main suppliers in the United States, Britain, France, Italy and Germany. 'Less-lethal' weapons and equipment exported include watercannon, plastic bullets, CS, CN and CR gas, prefragmented exploding ammunition, restraining and prison technologies (leg shackles, thumb cuffs, gallows, and blunt trauma inducing drugs), 'Discreet Operational Vehicles' such as armoured internal security vehicles - the electrified AMAC riot tank and CRAYs - which look like ambulances and hence excite less public interest, and the new JAI camera which can take several thousand pictures of a demonstration in a few seconds, freeze-framing individuals for later arrest.

Cabinet decisions on foreign policy - the British experience October 1938-June 1941, Hill Christopher, Cambridge University Press, £35.00, 1991.

Puppet Masters: the political use of terrorism in Italy, Willan Philip, Constable, £19.95, 1991. Includes chapters on the manipulation of rightwing groups by the Italian secret services and Gladio.

The Ulster Defence Regiment - an instrument for peace? Ryder Chris, Methuen, £14.99, 1991.

Nuclear Weapons and British Strategic Planning 1955-1958, Navias Martin S, Clarendon Press, £30.00, 1991.

House of Commons debates

RAF 5 May 1991, cols 450-524.

Atomic weapons establishment 24 April '91, Cols 1092-1148

RACISM

How racist is Britain?

CARF issue 3 contains a four-page survey, 'How Racist is Britain?' examining institutionalised racism in housing, education, social security, employment, criminal justice and mental health, ten years after the Scarman Report. Other articles look at the BNP in Thamesmead and elsewhere, the media treatment of black human rights activist Revd. Al Sharpton, racism in Germany, death in prison and in a police station, and racism on football terraces. *CARF*, no 3, June/Aug 1991. Subscriptions £5 a year (six issues) BM Box 8784, London WCIN 3XX.

Book review

Newham: the forging of a black community, Newham Monitoring Project/CARF, £3.50. **Keeping the fight alive: Newham Monitoring Project Annual Report 1990**.

What led black people to settle in Newham? Why is it that the north of this London borough has witnessed the growth of a strong, powerful, resistant community, whereas in the south it is small, isolated and beleaguered by white racists? How do central and local government policies, and industrial development and decline, change the shape of communities and the struggles they have to fight? *Newham: the forging of a black community* locates the growth of Newham's black community and its struggles against racism within the economic, political and social history of

Newham since the end of the Second World War. It reveals the complacent racism of the old, stultified Labour administration, riddled with patronage and freemasonry, and demonstrates how the struggles of the earlier generations to build a community in the face of racism at work, in finding somewhere to live and somewhere to pray, laid the foundation for later generations' struggles against racism at school and on the streets. The book ends with a recognition of the changing face of the community in Newham, the arrival of new groups of refugees and migrants and the new struggles they will have to face. An illuminating and informative study.

The reality of black struggles against racism is graphically captured in *Keeping the Fight Alive, Newham Monitoring Project's annual report for 1990*. NMP's annual reports are consistently excellent, and this is no exception. By 'opening its files', the Project informs the reader of what is actually happening daily, the barrage of racist abuse, vicious attacks, police indifference, harassment, and blaming the victim, that those who come to NMP have experienced, and the hard and arduous work needed to achieve justice for each of them. The material, shocking at times, is written in a down-to-earth, non-rhetorical way, amply illustrated with photographs, cartoons and news cuttings. An important document.

BNP attack meeting

At the beginning of May the British National Party launched a smoke bomb attack on a meeting addressed by US civil rights activist Reverend Al Sharpton in Euston, London. Police came in for severe criticism from people at the meeting for allowing most of the fascists to escape; only two of the thirteen strong gang were detained and they were released without charge. A black youth, was charged with actual bodily harm and threatening behaviour, although the assault charges were later dropped.

Standard 2.5.91; *Voice* 7.5.91 & 28.5.91; *CARF* June-August 1991.

Following the racist killing of a black youth, Rolan Adams, outside the Hawksmoor youth club in Thamesmead, south east London the openly fascist British National Party announced their intention to march past the spot where he died. On the day their march only managed to cover two hundred yards before it was forced to retreat under a hail stones from anti-fascist demonstrators and members of the local community. A few weeks previously the Rolan Adams Family Campaign had peacefully marched in memory of Rolan.

CARF April-May 1991; *Voice* 21.5.91.

POLICING

Police Complaints Authority Annual Report 1990

Complaints against the police have reached a record high according to the latest Annual report from the Police Complaints Authority (PCA). During 1990 the Authority had 5,078 cases referred to it, an increase of 1% over the previous year, of which 836 were undertaken for supervision by the PCA. Of the referrals 95% related to death, serious injury or assault occasioning actual bodily harm (Table 1a).

Disciplinary cases rose by 16% to 7,156 and action was completed on 7,273 cases, (16,712 individual complaints) clearing a backlog of cases from 1989. Of the 7,273 disciplinary cases dealt with by the PCA in 1990, 758 (10.4%) resulted in some form of

action ranging from criminal or disciplinary charges being brought to advice given.

Of the 16,712 individual complaints no action was taken on 13,372 of these. The vast majority were cases in which the 'evidence was insufficient either to establish that misconduct had occurred or to identify the officers whose alleged misconduct had given rise to complaint.' In 72 complaints there was no action because the officer was no longer serving.

In particular the Report draws attention to 'a noticeable increase in the number of complaints about police officers making use of the Police National Computer (PNC) or force intelligence records for other than official purposes'. In one instance an officer whose daughter was seeing someone he disapproved of used police records to discover confidential information on him. In another example a police officer whose wife was going out with another man used the PNC to discover the owner of the car in which his wife had been seen. Of these cases the Report notes that 'a few chief officers ... do not seem to consider it serious enough to warrant taking formal disciplinary action.'

Given its poor record dealing with complaints since its introduction in 1984 it is hardly surprising that, according to the British Crime Survey, less than one in ten people aggrieved by police conduct bother to make a complaint.

Police Complaints Authority Annual Report 1990, April 1991, HC 351, HMSO; *Police Complaints Authority Triennial Review 1988-1991*, April 1991, HC 352, HMSO.

Metropolitan Police patrols

Figures provided by the Metropolitan Police show that the percentage of police time spent on foot patrols is 14% of available police person-days, on protection duties 3.3% and on traffic and parking 3.5%

Hansard, written answer, 26.4.91.

Remember Vandena Patel Campaign

Vandena Patel was stabbed to death by her husband after he was allowed to visit her in the domestic violence unit of Stoke Newington police station. Following Vandena's death the Remember Vandena Patel Campaign has called into question 'the effectiveness of the police's domestic violence units and whether officers in these units really understand the needs of women seeking protection from violent partners.' The campaign is making the following demands i) a public inquiry into Vandena Patel's death, ii) a review of national policing practice on domestic violence and domestic violence units, and iii) national legislation to protect women against domestic violence. The Campaign can be contacted at PO Box 1558, London N16 5JJ, 081 472 0528.

Armed Response Vehicles for London

From July permanently armed police patrol cars, known as armed response vehicles (ARV), will be patrolling the streets of London. Eight ARVs are planned with between three and five on the streets at any one time. Officers trained by Scotland Yard's PT17 firearms unit will provide crews for the specially customised vehicles and their armoury will include automatic pistols and Heckler and Koch 9mm sub-machine guns. The plans have been attacked by the National Council for Civil Liberties as 'the further militarisation of the police' without debate or consultation.

Guardian, 10.5.91; *Independent*, 11.5.91; *South London Press* 17.5.91.

Damages against the police.

South Yorkshire police have agreed to pay more than £500,000 in damages and costs to 39 former striking miners injured during clashes with police outside Orgreave coking plant in June 1984. The miners were among 95 pickets arrested and charged with riot and unlawful assembly. At the trial of some of the pickets in 1985 the police offered no evidence and the charges against the rest of the men were dropped. Commenting on the out of court settlement, Russell Broomhead, one of the men compensated said that it showed 'how afraid the police were to go to court.'

One of the witnesses to police behaviour at Orgreave was photographer Lesley Boulton, who was herself the subject of a widely used picture showing her under the raised truncheon of a police horseman. In June this year she told the *Observer* that she had begun proceedings against the police, but had dropped the case in 1985 after her case file was taken from her solicitor's office in Sheffield. It was apparently an expert burglary in which nothing else was taken.

Stephen Henson has received £12,000 from Gwent constabulary following an incident in Newport during which he was assaulted and hit on the head with a truncheon after being approached by policemen. His wound required 18 stitches and he was charged with being drunk and disorderly and assaulting police. Awarding the damages Mr Justice French said one of the officers lost his temper after Henson was rude.

Vijay Kumar Janardnan received a £40,000 settlement from the Metropolitan Police in an action for malicious prosecution and wrongful imprisonment following his arrest in 1982 for shoplifting and pickpocketing. The charges were quashed on appeal in 1985 but by this time Janardnan had lost his job because of the convictions. The settlement does not include court costs, which have been described as considerable.

Guardian, 24.4.91; *Police Review*, 10.5.91; *Independent*, 21.6.91; *Guardian*, 21.6.91; *Observer*, 23.6.91.

Police 'malpractice' in Hackney

The mothers of three black youths have claimed that their sons were beaten-up and racially abused by Hackney police. The boys, aged 13 and 14, were chased across Hackney Marshes by police who had been called out over a stone throwing incident. One of the youths needed hospital treatment for head injuries allegedly caused by truncheons. No charges have been made against the youths but the mothers, in conjunction with Hackney Community Defence Association are suing the police for damages.

City Limits, 2.8.91.

Policing - new material

The role of the police in a major air disaster, Theobald M and Jackson G P S, *Disaster Management*, Vol 2 no 4, 1990, pp203-206.

Policing the Nineties, Webb David, Wroxton papers in politics (B7), £3.50, 1990, pp14. David Webb was in charge of the Handsworth police sub-division when he retired in 1981. In this paper he writes:

'Everyone now knows that the Handsworth dream has finally been shattered. The will to persevere with those community initiatives has been lost and those who considered community policing to be a soft option have won the day. The potential for racial conflict continues as evidenced by recent rioting and the open hostilities engendered by the "Rushdie affair". The

appearance of the policeman in riot gear and in possession of equipment thought necessary to subdue unruly British subjects, is a reality not just in the inner cities but, at industrial disputes, soccer matches and other public gatherings.'

FEATURE

Guildford 4, Birmingham 6 and the Maguire Family

Seventeen people, most of them originating from Northern Ireland, were sent to prison for IRA offences in Britain in 1975 and 1976. In the past twenty months ten - the Guildford Four and the Birmingham Six who were all sentenced to life imprisonment - have had their convictions quashed after belated evidence of malpractice by the police and the prosecuting authorities. The Maguire Seven also expect to be vindicated in their protestations of innocence when the Court of Appeal deliver their judgement.

These miscarriages of justice have had a profound and damaging effect on the criminal justice system. With the release of the Birmingham Six, the government has set up a Royal Commission. The reputation of the police has sunk to an all-time low. The forensic science service has been found wanting and less than impartial. Former high-ranking law officers have been implicated in suppressing evidence. Senior judges have been shown to be reluctant to confront and deal with miscarriages of justice. And the law itself, particularly the Prevention of Terrorism Act, has been shown to facilitate false confessions rather than identify legitimate suspects.

It began with the Provisional IRA's armed campaign on the mainland in 1974, with active service units operating in London, Southampton, Birmingham and Manchester. At the time the IRA was a legal organisation.

The first serious incident happened on October 5 in Guildford when timebombs exploded in two public houses, killing five people. In a series of further attacks a bomb was thrown into a pub in Woolwich on November 6, killing two customers. These were the opening shots of the unit later to become known as the Balcombe Street gang, after the London street where four of them gave themselves up to the police after a siege in December 1975.

The Guildford explosions were investigated by Surrey police. For reasons which have never been adequately explained they arrested a young Belfast man, Paul Hill, many of whose friends had joined the IRA. Under pressure and some violence Hill began naming names. The arrests escalated as others followed suit. Gerry Conlon, Hill's friend, was picked up in Belfast. Paddy Armstrong, another Belfast friend, and his girlfriend, Carole Richardson, were detained, in Kilburn, along with a number of their squatter friends. Both Hill and Conlon, under the duress of interrogation, named Conlon's aunt, Anne Maguire, of Kilburn, as a bombmaker. The Maguire family, Anne, her husband, their two sons, Anne's brother, a family friend, and Conlon's father who had come over from Belfast to help his son were arrested at the Maguire home and charged with possession of explosives. Murder charges against a number of those arrested, including Anne Maguire, were eventually dropped.

Surrey police were satisfied they had broken up an active service unit, even though the London campaign continued unabated. It is now known that statements were fabricated and that alibi evidence for Conlon was withheld.

Meanwhile, in Birmingham, the IRA blew up two crowded public houses on Thursday, 21 November 1974. Twenty-one people died and 162 were injured. Within a week Parliament rushed through

the Prevention of Terrorism Act, which allowed for suspects to be held for seven days and outlawed the Provisional IRA and several other paramilitary organisations.

Within hours of the bombings five Irishmen were detained for questioning at Heysham in Lancashire. Residents of Birmingham for many years, they were travelling to Belfast for the funeral of an old friend from the Ardoyne, James McDade, who had blown himself up planting a bomb outside Coventry telephone exchange. Tested for explosives by a Home Office scientist, Dr Frank Skuse, two were found to be positive. They were interrogated by members of the West Midlands serious crime squad and No.4 Regional crime squad. The sixth, a friend who had seen them off at New Street station in Birmingham, was arrested two days later. Four signed confessions; two were alleged to have implicated themselves orally. They were later to complain of various degrees of violence and intimidation by the police. On the Monday they were remanded in custody and sent to Winson Green prison where they were savagely attacked by the warders.

Information which has come to light in the past two years suggests that the police in both Surrey and Birmingham knew, at least within months, that they had the wrong people. Reports from the Special Branch and the bomb squad, the precursor to the Anti-Terrorist Branch, show that none of the Guildford, Maguire or Birmingham suspects figured in any of the intelligence assessments at the time. The intelligence officer for the Metropolitan police, who investigated the Woolwich explosion, was Peter Imbert, now the Metropolitan police commissioner.

In December 1975, after the Guildford Four had been convicted, Imbert was instrumental in the arrest of the Balcombe Street gang. Their confessions to Guildford and Woolwich formed the basis of the Guildford Four's appeal in 1977. While not ruling out the involvement of the Balcombe Street men, the judges decided that the Guildford Four must have been involved as well.

The convicted entered a prison system where IRA members received the roughest treatment. Although many inmates and a few concerned outsiders who came to know them and their cases recognised their innocence, it took several years before the prosecution evidence was seriously undermined.

Television had an important role to play in raising public consciousness and revealing new evidence in all three cases. Yorkshire Television's First Tuesday concentrated on the Maguire and Guildford cases, with support from prominent judges, politicians and churchmen; Granada's World in Action worked on Birmingham. In 1985 World in Action commissioned new forensic tests which cast doubt on the original scientific evidence. A policeman came forward to say he had seen the men abused. This the Home Office could not ignore and the Birmingham case was sent back to the Court of Appeal, only to be rejected in January 1988 by the Lord Chief Justice, Lord Lane. The men's new witnesses were dismissed as mistaken or liars.

Meanwhile a new witness in the Guildford case had been found and interviewed by First Tuesday, leading to an investigation by Avon and Somerset police. This discovered that police evidence

about interviews with Carole Armstrong and Paul Hill had been fabricated, and that alibi evidence for Gerry Conlon had been suppressed. The Home Secretary referred the case back to the Court of Appeal and this time the Crown did not contest the cases.

On October 1989 the four walked free and the government set up an inquiry by Sir John May into both the Guildford and Maguire cases. As Surrey officers were charged, May has concentrated on the Maguire case first. It became apparent during the public hearings that the forensic evidence against them could not be sustained and that the scientists had been less than frank. Both the DPP and the Home Secretary decided that the case against the family could not be upheld and they too were referred back to the Court which quashed their conviction on 25 June this year.

In the summer of 1990, after pressure from the lawyers for the Birmingham Six, their case too was opened up for another police investigation - by Devon and Cornwall. This time a relatively new scientific device was used to examine police papers. Electrostatic document analysis, which was being used in a number of cases of allegations of misconduct by the West Midlands serious crime squad, revealed that interview notes with one of the Six, Richard McIlkenny, had been tampered with.

New tests by the Home Office forensic science service concluded that there was no firm evidence that the men had handled explosives. With both planks in the prosecution case undermined, the Home Secretary had to send the case back to the Appeal Court. Unlike the Guildford case, the DPP decided to stick by the letter of the law. While not relying on the credibility of the police or the scientific evidence, the director decided to let the Court hear the evidence and make the final decision. His legal team argued that the convictions were unsatisfactory, but not unsafe - suggesting that the men were in fact guilty.

After a two week hearing, the Birmingham Six also were freed. The judges refused to accept any distinction between unsafe and unsatisfactory. It was a foregone conclusion but in their judgement they fought shy of agreeing with the men's lawyers that the police (and others) had engaged on a massive conspiracy.

A report by Devon and Cornwall police into possible prosecutions of police officers is being considered by the DPP. Charges of conspiracy to pervert the course of justice against three Surrey officers involved in the Guildford case were discharged by the Bow Street magistrate, Ronald Bartle, as an abuse of process. This decision is to be appealed by the DPP.

Chronology

1974

October 5: The Horse and Groom and the Seven Stars in Guildford bombed. Five dead.

November 6: The King's Arms pub in Woolwich bombed. Two killed.

November 21: The Tavern in the Town and the Mulberry Bush in Birmingham bombed. Twenty-two dead.

November 24: Birmingham Six charged with murder. 28: Paul Hill arrested.

November 29: PTA passed. 30: Gerry Conlon arrested.

December 3: The Maguires, Paddy Armstrong and Carole Richardson arrested.

1975

August: Birmingham Six convicted at Lancaster Crown Court.

October 22: Guildford Four convicted at the Old Bailey.

December 12: Balcombe Street seige ends. 1976

1976

March 4: Maguire Seven convicted of possession of nitroglycerine at the Old Bailey.

1977

July 29: Maguires' appeal rejected.

October 10: Guildford appeal rejected.

1980

January 23: Guiseppe Conlon, Gerry Conlon's father, dies in prison.

Devlin rejects Birmingham Six civil action against the police.

1984

March 6: First Tuesday's 'Aunt Annie's Bomb Factory.'

1985

February 22: Anne Maguire released from prison, the last of the Maguire Seven to be freed.

October: World in Action questions forensic evidence in the Birmingham case.

1986

July 1: First Tuesday's 'The Guildford Time Bomb'.

July 2: Home Sec announces review of the Guildford case.

July: Chris Mullin, MP, publishes 'Error of Judgement' in which he says the Six are innocent.

October: Robert Kee publishes 'Trial and Error', arguing for the innocence of the Guildford Four and Maguires.

December 1: Granada broadcasts policeman's claims that the Birmingham Six were ill-treated.

1987

January 20: Home Secretary refers Birmingham back to the Court of Appeal and orders police inquiry.

March 3: First Tuesday's 'A Case that won't go away.'

March 4: Home Secretary agrees to examine new evidence in the Guildford case.

August 14: Home Secretary agrees to police inquiry into Guildford.

1988

January 28: Birmingham Six appeal rejected.

1989

January 16: Home Secretary refers Guildford back to the Court of Appeal.

October 19: Guildford Four freed; May inquiry announced.

1990

March 21: Home Secretary orders new police inquiry into Birmingham.

March 28: Granada names four men allegedly responsible for Birmingham bombings.

August 29: Home Secretary refers Birmingham back to the Court of Appeal.

1991

March 14: Birmingham Six freed.

June 25: Maguire convictions quashed.

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The following background files are available - a copyright form must be returned with an order:

Immigration law and deportations (Doc.No. 0191)

Documents on the detention and deportation of Iraqis during the Gulf War. Total: 20 pages. Cost: £2.50 inc p&p.

Gladio (Doc.No. 0391)

Statewatch briefing, introduction and background country-by-country; Guardian article (2pp); *State Research*, article from 1977 (1p). Total: 16 pages. Cost: £2.00 inc. p&p.

Positive vetting for civil servants, guidelines announced in 1985 (4pp) and **Home Office Guidelines for the Special Branch**, announced in 1984, 2pp. Total 6 pages. Cost £1.50 inc. p&p. (Doc.No. 0491)

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Published by Statewatch, PO Box 1516, London N16 0EW

Tel: 081-802-1882

Fax: 081-880-1727

E-mail: GEO2: Statewatch-Off

Printed by Russell Press,
Radford Mill,
Norton Street,
Nottingham NG7 3HN

ISSN 0961-7280

Overseas subscriptions: Europe: must paid by Eurocheque, international money order or with a sterling cheque drawn on a UK bank. Outside Europe: in US dollars (\$), the bulletin will be sent by Air Mail at printed paper rate.